

RECEIVED / REÇU

Date: July 24, 2025
CT- 2025-002

Badih Abboud for / pour
REGISTRAR / REGISTRARE

CT-2025-002

OTTAWA, ONT.

3

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 74.1 of the *Competition Act* regarding conduct reviewable under paragraph 74.01(1)(a), subsection 74.01(1.1), and section 74.011 of the Act;

BETWEEN

THE COMMISSIONER OF COMPETITION

Applicant

- and -

DOORDASH, INC. AND DOORDASH TECHNOLOGIES CANADA, INC.

Respondents

**RESPONSE OF THE RESPONDENTS TO THE
NOTICE OF APPLICATION**

TABLE OF CONTENTS

	Page
PART I: OVERVIEW	1
PART II: FACTS ADMITTED AND DENIED	5
PART III: MATERIAL FACTS	5
A. Background	5
B. Delivery Fee	6
C. Service Fee	10
D. Small Order Fee	13
E. Expanded Range Fee.....	15
F. BC Regulatory Response Fee	17
G. Terms & Conditions	22
H. Post-Transaction Representations	23
I. DoorDash’s Promotional Offer Representations	25
PART IV: GROUNDS ON WHICH THE APPLICATION IS OPPOSED	29
A. DoorDash’s Fees Are Not Obligatory	29
B. DoorDash’s Fees Are Not Fixed	30
C. DoorDash’s Fee Representations Are Not False or Misleading.....	31
D. All-In Pricing for Items Would Mislead DoorDash Users.....	33
E. The Commissioner’s Alleged Failures in the DoorDash Fee Representations Are Not Material	34
F. DoorDash Does Not Represent Its Fees as Being Government-Imposed	35
G. DoorDash’s Promotional Representations Are Not False or Misleading.....	36
H. Request for Relief Is Inappropriate and Unwarranted.....	37
PART V: RELIEF SOUGHT	41
PART VI: LOCATION AND CONDUCT OF HEARING	42

PART I: OVERVIEW

1. The Respondents, DoorDash, Inc. and DoorDash Technologies Canada, Inc. (collectively, “**DoorDash**”), oppose the Commissioner’s Notice of Application (“**Application**”) pursuant to section 74.01(1)(a), subsection 74.01(1.1), and section 74.011 of the *Competition Act* (“**Act**”), and deny that the Commissioner is entitled to any of the relief sought in his Application. The Application should be dismissed in its entirety.
2. The Application brought by the Commissioner alleges that DoorDash has engaged, and continues to engage, in conduct contrary to paragraph 74.01(1)(a), subsection 74.01(1.1), and section 74.011 of the Act with respect to purchases for delivery orders placed on DoorDash.com (the “**Website**”) and TryCaviar.com (“**Caviar**”),¹ and DoorDash – Food Delivery (the “**App**”) and Caviar – Order Food Delivery (the Website and App together, the “**Marketplaces**”), and certain representations related to the “**Delivery Fee**”, the “**Service Fee**”, the “**Small Order Fee**”, the “**Expanded Range Fee**” and/or the “**BC Regulatory Response Fee**” (collectively, the “**Fees**”). The Commissioner mischaracterizes DoorDash’s fee structure and representations made regarding that fee structure, and incorrectly asserts that DoorDash’s fee representations are false and misleading in a material respect.
3. DoorDash’s Fees are displayed throughout the Marketplaces, including through representations placed prominently and unavoidably on merchant store pages and at checkout. When users enter the Marketplaces, they commonly encounter DashPass ads on the initial landing page (the “**Explore Page**”), which ads emphasize a key benefit of that subscription service: “\$0 Delivery Fee and Reduced Service Fees on Eligible Orders”. In addition, within each merchant tile on the Explore Page is a prominent reference to the Delivery Fee, which representation enables users to immediately comparison shop between available merchants listed on the Marketplaces. Then each store page (“**Merchant Page**”) unavoidably displays the applicable Delivery Fee (again) and Service

¹ While the Commissioner’s Notice of Application refers to Caviar, it provides no examples of representations on either the Caviar website or app. Since 2021, fewer than 800 orders have been placed on the Caviar website or app in Canada. Regardless, the representations on those marketplaces largely mirror those on DoorDash.

Fee (as well as any Expanded Range Fee² (if applicable)), and also provides detailed descriptions of each fee that may be collected on a delivery order via the “Pricing and Fees” hyperlinked text. Then, once a user has finished selecting items for purchase, they move to the cart page (“**Cart Page**”) which displays a breakdown of applicable charges (again, with additional fee details available via tooltips). Assuming the user wishes to complete the transaction, they click “continue” and move to checkout (the “**Checkout Page**”) where once again, DoorDash displays a breakdown of applicable charges (also with additional details available via tooltip). In addition to the above, the full, all-in price that a DoorDash user will pay for pickup or delivery, inclusive of the costs of the items selected for purchase, is displayed prior to tapping “Place Order”.

4. DoorDash users are not misled. DoorDash users are highly familiar with DoorDash’s fee structure, as well as the fee structures of competing platforms. It is not possible for DoorDash users to navigate the Marketplaces without being fully aware of DoorDash’s Fees and its fee structure. Furthermore, the overwhelming majority of DoorDash users are repeat users who have seen DoorDash’s suite of fee representations multiple times. And they continue to, repeatedly, use the Marketplaces to connect with their favourite merchants after having made their way through these representations and having agreed to pay the “all-in” price.

5. DoorDash’s Fees and its fee structure play an important role in helping DoorDash provide choice and affordable options to each DoorDash user. DoorDash’s fee structure is customer first, providing DoorDash users with the ability to comparison shop between merchants on the basis of the Delivery Fees displayed on the Explore Page, and ensuring that total Fees are commensurate with the order subtotal, as users expect, thereby making lower subtotal orders more affordable.

6. In his Application, the Commissioner is pursuing an unprecedented and unsupported interpretation of the “drip pricing” provisions of the Act as requiring all-in

² DoorDash is rolling out modifications to the ERF across Canada, including renaming the ERF to the “Long Distance Fee”. For consistency with the Commissioner’s Application DoorDash will refer to the ERF in this Response.

pricing, even for an entity such as DoorDash which does not sell or set the prices for any third-party merchants on its Marketplaces.³ The purpose of the Act's misleading representation provisions is to ensure that pricing (and other) representations are not materially misleading, i.e., that a person has all of the information they need to make an informed purchase decision and understand the total cost of the goods or services sought. If Parliament had intended to require all-in pricing, it would have mandated it in the recent amendments to section 74 of the Act. It did not.

7. An order under section 74.01 of the Act is not warranted against DoorDash because:

- (a) DoorDash's fee representations do not constitute "drip pricing" under subsection 74.01(1.1) of the Act.
 - (i) None of DoorDash's Fees are obligatory or "unavoidable" within the meaning of subsection 74.01(1.1) of the Act, including because DoorDash users can select pickup instead of delivery and collect their items at the item prices indicated (plus taxes) with no fees.
 - (ii) Further, the Small Order Fee and Expanded Range Fee are only applicable to certain orders when certain subtotal and distance conditions are met (respectively) such that these fees are not fixed or obligatory within the meaning of subsection 74.01(1.1) of the Act;
 - (iii) There are several circumstances under which the Delivery Fee can be waived – including for DashPass subscribers and when DoorDash or merchants offer promotions (e.g., \$0 Delivery Fee campaigns to drive traffic to their stores) such that the Delivery Fee is not "fixed" or obligatory within the meaning of subsection 74.01(1.1) of the Act.

³ For completeness, DoorDash does sell and set the prices for items in its "DashMart" store.

- (iv) DoorDash's Service Fee is not a "fixed" fee within the meaning of subsection 74.01(1.1) of the Act. It is a variable fee, subject to minimums and caps in certain circumstances, and reduced for DashPass subscribers on eligible orders. The amount of this fee is not knowable until the DoorDash user finalizes their cart and proceeds to checkout.
- (b) Regardless of whether the "drip pricing" conditions in subsection 74.01(1.1) are met, DoorDash's Fee representations are not misleading (or false), and certainly are not materially misleading (or false). Rather, the Fees are consistently displayed throughout the Marketplaces and ordinary DoorDash users are not misled;
- (c) DoorDash does not represent that any of its Fees are imposed by government; each Fee is clearly described at multiple points in a DoorDash user's ordering journey and appropriately labelled as "fees".
- (d) DoorDash's discount and promotional representations are not exaggerated or false and misleading. The terms of the discounts and promotions are displayed at multiple points in a DoorDash user's ordering journey, and the wording of the discounts and promotions clearly refer to a discount or promotion based on the item price, not applying to applicable fees. These representations are consistent with those on other third-party pickup and delivery platforms, and conform to users' expectations.
- (e) The DoorDash Fee representations that the Application asserts are inadequate, and the representations impliedly sought by the Application, are not material to DoorDash users' purchase decisions. The ordinary DoorDash user is a tech savvy, repeat user who is highly familiar with DoorDash's Fees and fee structure, and their purchase decisions are not affected by DoorDash's Fee representations or its fee schedule. Consequently, DoorDash derives no benefit and neither an administrative

monetary penalty nor compensation to DoorDash users is warranted regardless of the Tribunal's findings under sections 74.01(1)(a), 74.01(1.1) or 74.011 of the Act.

PART II: FACTS ADMITTED AND DENIED

8. Except for the allegations in paragraphs 3, 6-8, and 38-40 of the Application, DoorDash denies all the Commissioner's allegations. DoorDash further expressly denies that the Commissioner is entitled to the relief sought in paragraphs 1 and 136 of the Application, or any relief whatsoever.

PART III: MATERIAL FACTS

A. Background

9. DoorDash, Inc. is a publicly traded technology company listed on the NASDAQ Stock Exchange, and headquartered in San Francisco, California, U.S.A. DoorDash's mission is to grow and empower local economies by providing services that reduce friction in local commerce and helping merchants and customers to better connect. DoorDash's flagship product are the web and mobile-app based platforms (i.e., the Marketplaces) that connect merchants and customers for item purchase and pickup and merchants, couriers (Dashers) and customers for item purchase and delivery.

10. DoorDash's Fees are displayed prominently and repeatedly throughout the Marketplaces and in its terms and conditions, as discussed in more detail below. The ordinary user that visits the Marketplaces is well aware of DoorDash's Fees and fee structure. The overwhelming majority of DoorDash users are repeat users who have seen the suite of DoorDash's Fee representations multiple times.

11. Further, DoorDash's Fee representations (and fee structure) are consistent with other competing platforms with which DoorDash users are also familiar. For example, DoorDash's Delivery Fee is displayed in a similar manner as the delivery fees charged by UberEats and SkipTheDishes. Indeed, DoorDash's Fee representations are more detailed than other platforms, including, for example, UberEats, which does not provide

users with the same unavoidable display of Service Fees on Merchant Pages, and provides more limited tooltip disclosures regarding the nature and purpose of its fees. The ubiquitous presence of similar fee structures across other pickup and delivery platforms informs how the ordinary consumer would understand DoorDash's Fee representations and fee structure and the general impression they would take away from DoorDash's Fee representations and fee structure.

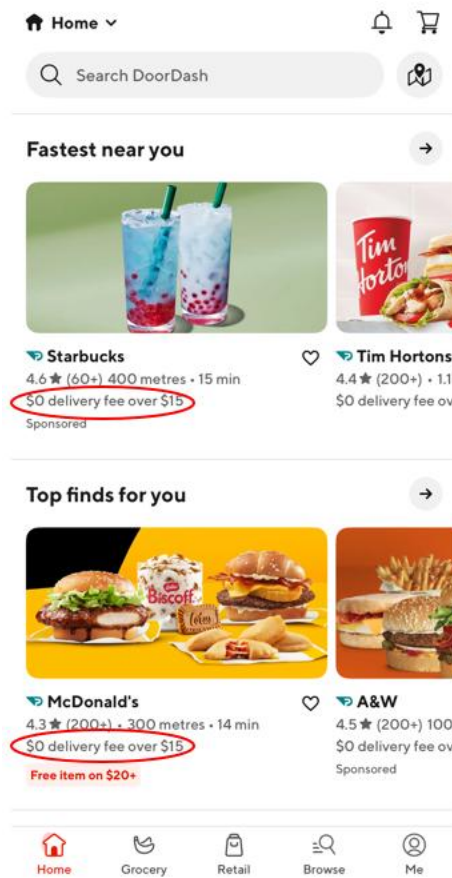
B. Delivery Fee

12. DoorDash's Delivery Fee is a flat fee which is set based on various factors, including (1) the merchant and DoorDash's contract with the merchant; and (2) the merchant's distance from the particular DoorDash user, determined by delivery address. The amount of this fee, for each merchant, is displayed on the Explore Page as soon as a user confirms their delivery address, or opens the App or Website with an address pre-selected. DoorDash users who enroll in DoorDash's "DashPass" subscription service pay \$0 Delivery Fees on all eligible orders. DoorDash's Delivery Fee representations give DoorDash users the ability to comparison shop between merchants up front because the amount of the Delivery Fee charged by each merchant is prominently displayed on each merchant's tile on the Explore Page. DoorDash users who are fee-conscious can prioritize merchants with \$0 or lower Delivery Fees, while others may prioritize particular merchants, regardless of the associated Delivery Fee.

13. In addition to DashPass subscribers paying \$0 Delivery Fees on eligible orders, merchants may offer \$0 Delivery Fee promotions to any DoorDash user. Offering such promotions helps merchants distinguish themselves from one another and attract new customers.

14. DoorDash's Delivery Fees are displayed to DoorDash users throughout the Marketplaces. When a DoorDash user enters the Marketplaces (and either inputs a delivery address, or has their previous delivery address automatically selected), the applicable Delivery Fee (dollar amount) is prominently displayed on each merchant's tile on the Explore Page, as is demonstrated by Figure 1(a) below.

Figure 1(a): Delivery Fees Displayed on Explore Page (Ontario)⁴



15. As is demonstrated by Figures 1(b) and 1(c) below, once a DoorDash user selects a merchant, the Delivery Fee amount is prominently displayed again at the top of the selected Merchant Page, in bold font, in a larger size than item prices. Once the DoorDash user finishes selecting items for purchase, the Delivery Fee is again displayed as a separate line item on the Cart Page, and again on the Checkout Page. Further, DoorDash advertises its DashPass subscription service at various points throughout the purchase process, which further displays the existence of the Delivery Fee (and Service Fee), as shown in Figure 1(c) below.

⁴ The location indicated in this parenthetical, and like parentheticals throughout, indicate the province from which the illustrative screenshot was taken.

Figure 1(b): Delivery Fee Displayed on Specific Merchant's Page (Ontario)

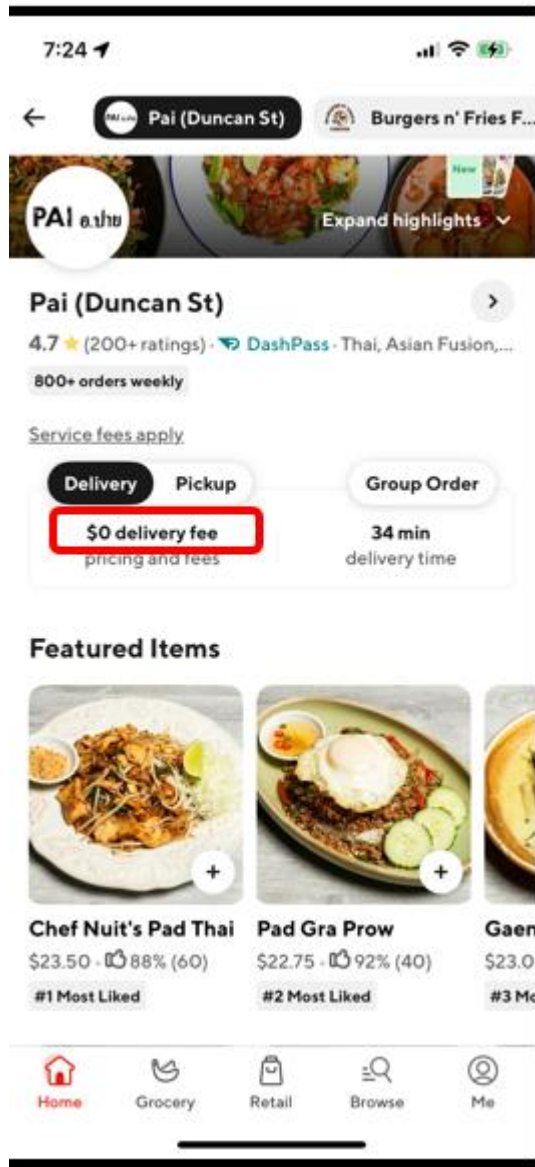
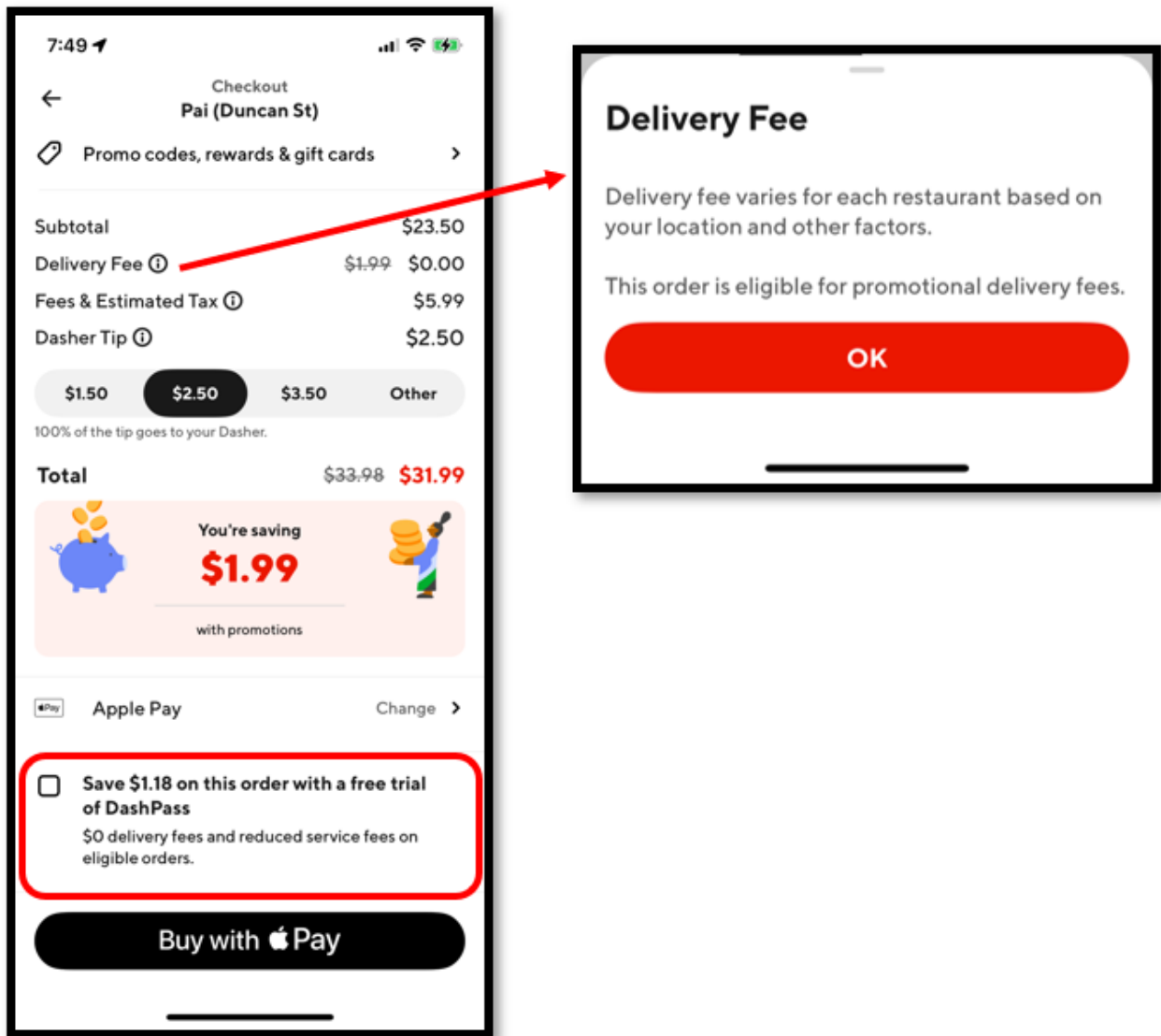


Figure 1(c): Delivery Fees Displayed as Separate Line Item on Checkout Page + DashPass Promotion (Ontario)



16. The Delivery Fee is also included as a separate line item under the “Order Details” tab for in-progress orders, and on the receipts for all orders that are available on the “Orders” page of the Marketplaces. A link to the “Orders” page is included in an email receipt sent to DoorDash users immediately after completing an order.

C. Service Fee

17. The Service Fee is typically a percentage-based fee that varies based on order subtotal. The Service Fee is subject to minimum amounts for restaurant, grocery, retail and alcohol orders across Canada (and convenience orders in Quebec), and maximum amounts for all orders in Quebec and grocery orders across Canada. As a result, it is impossible to know what the amount (quantum) will be before a DoorDash user finishes building their cart. Since the spring of 2022, there has been a flat minimum Service Fee for certain low-subtotal orders under a certain threshold (e.g., \$10 or \$12) to help make it economically possible to facilitate such orders, and to ensure that low-subtotal orders do not disproportionately shoulder the costs of operating the DoorDash platform and facilitating delivery. This replaced Small Order Fees (discussed below) on certain orders.

18. The Service Fee typically scales with the subtotal of a DoorDash user's order. This is a common convention in many industries, including but not limited to third-party pickup and delivery, and is consistent with DoorDash users' expectations that the amount of fees they pay scale with the size of their subtotal. Further, pairing a flat fee (i.e., Delivery Fee) with a fee that typically scales with the order subtotal (i.e., the Service Fee) helps to ensure that DoorDash users do not pay an outsized fee relative to their order subtotal. This helps make DoorDash's platform accessible to users who place low-subtotal orders and/or are cost-conscious.

19. The existence of the Service Fee is prominently displayed at the top of each Merchant Page. The text "Service fee applies" is hyperlinked or has a tooltip,⁵ which, when clicked, displays the nature and percentage amount (and minimum amount) of the Service Fee, as shown in Figure 2(a), below. New users also receive unavoidable notice of the Service Fee when they move to the Cart Page and Checkout Page, as they are presented with an offer to sign up for DashPass, which offers users \$0 Delivery Fees and reduced Service Fees on qualifying orders.

⁵ This text can read "Other fees apply" or "Pricing & Fees (other fees apply)" depending on the province and channel (e.g., for convenience or grocery orders in BC).

20. Once a DoorDash user has finished selecting items for purchase, the amount of the Service Fee is known and displayed within the “Fees & Estimated Tax” line item (with the amount and a description viewable by clicking the associated tooltip) on the Cart Page and again on the Checkout Page as shown in Figure 2(b), below.

Figure 2(a): Service Fee Displayed Under “Services fees apply” Hyperlink on Merchant’s Page (Ontario)

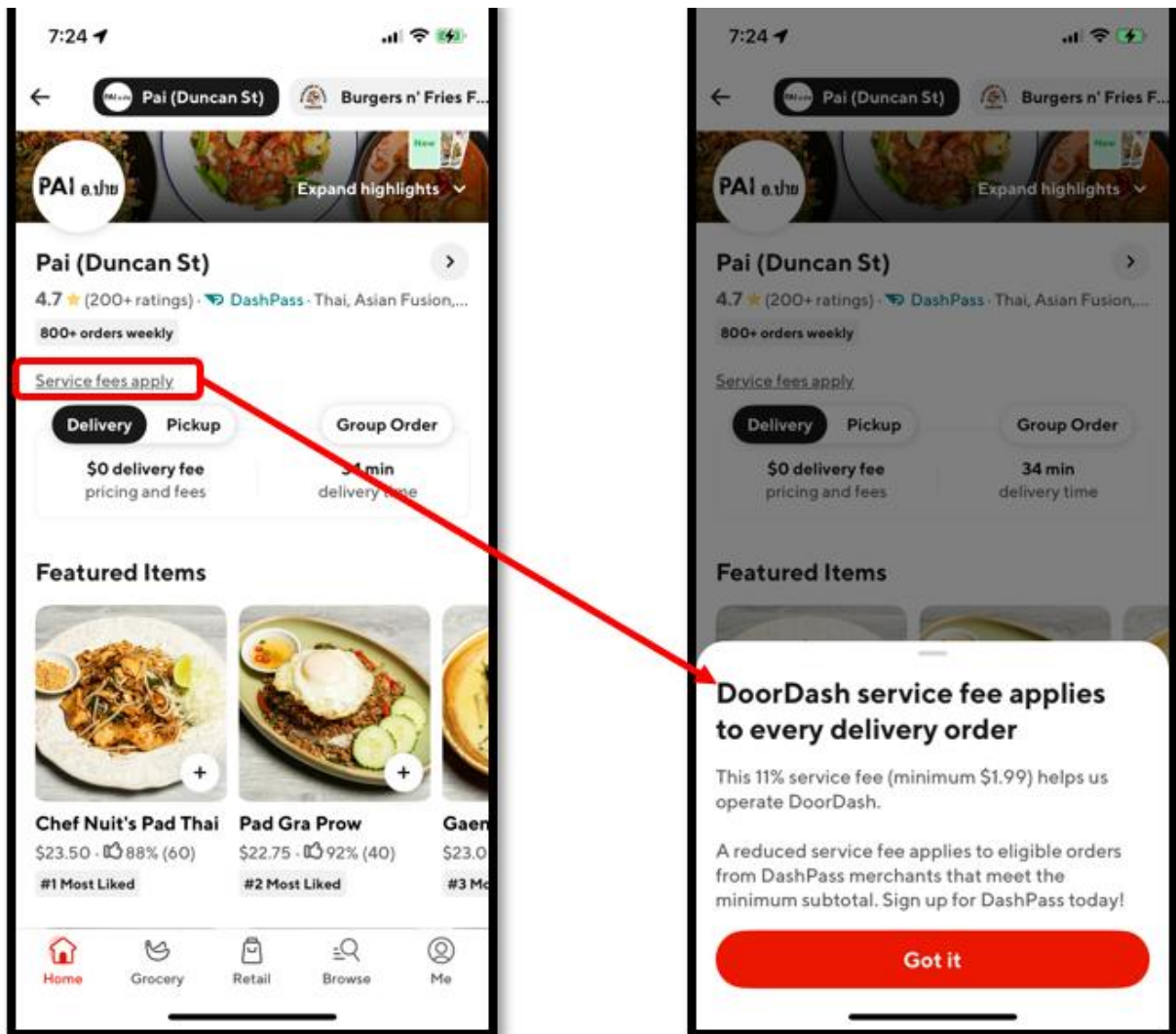
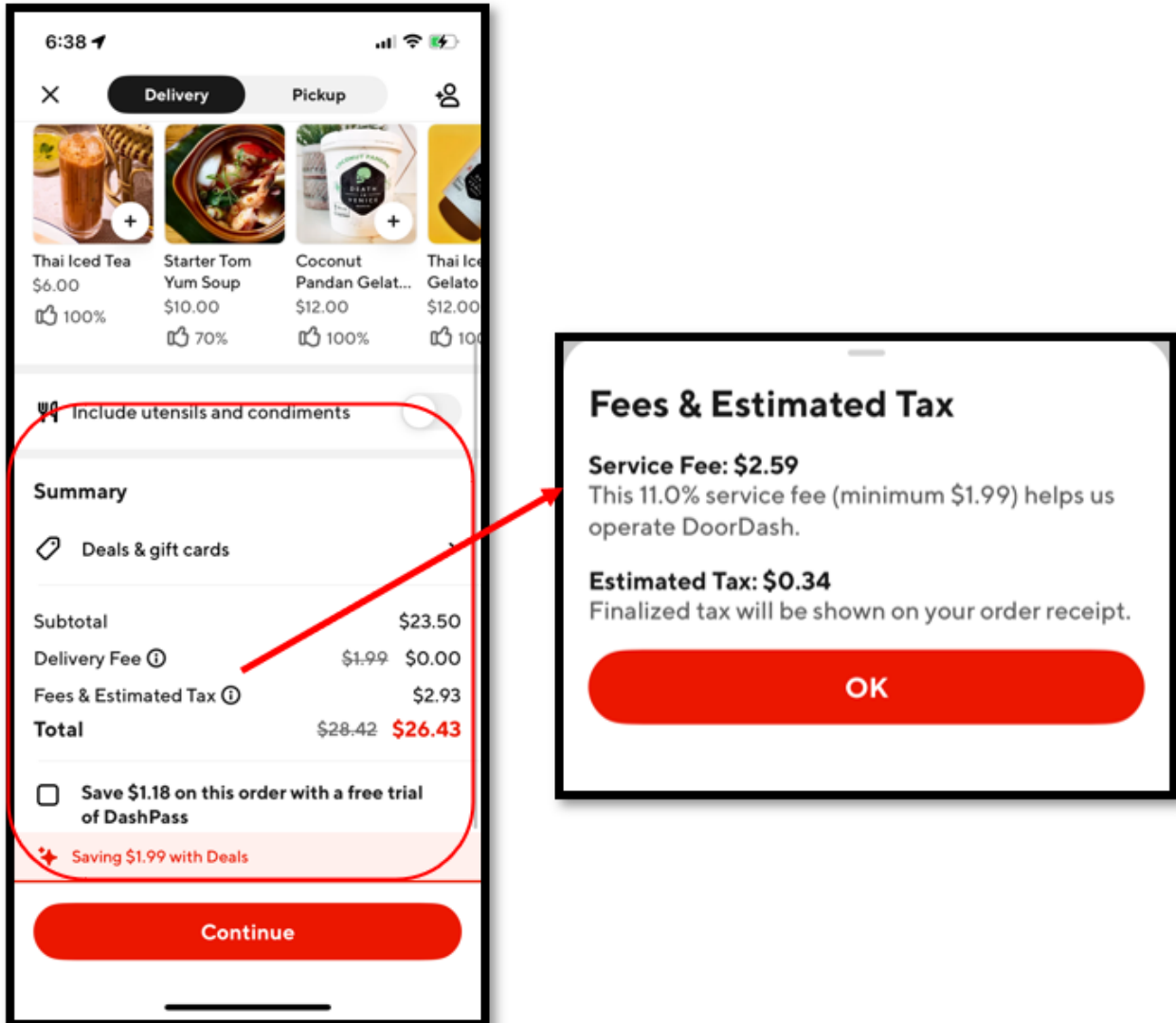


Figure 2(b): Service Fee Displayed Under “Fees & Estimated Tax” Hyperlink on Cart Page (Ontario)



21. In Quebec, DoorDash prominently displays the range of possible Service Fees at the top of each Merchant Page for all channels other than Grocery (where the Service Fee is disclosed under “ Pricing and Fees” and “Service fees apply” text) and the Service Fee also is disclosed as a separate line item on the Cart Page and again on the Checkout Page for all orders.

22. Further, the existence of the Service Fee is displayed throughout a user's ordering journey in DoorDash's advertising for its DashPass subscription service, including on the Checkout and Cart page, as illustrated in Figure 1(c), above, which offers reduced Service Fees to members.

23. The Service Fee is also included as a separate line item under the "Order Details" tab for in-progress orders, and on the receipts for all orders that are available on the "Orders" page of the Marketplaces. A link to the "Orders" page is included in an email receipt sent to DoorDash users immediately after completing an order.

D. Small Order Fee

24. DoorDash's Small Order Fee was implemented between 2016 and 2019 (varying by province/territory) to help cover the costs of facilitating the delivery of low-subtotal orders, while keeping the overall fees charged to DoorDash users progressive and low. DoorDash stopped charging the Small Order Fee on restaurant delivery orders in early 2022.

25. DoorDash introduced the Small Order Fee for convenience and grocery orders in the latter half of 2021 for orders that did not exceed \$15 before taxes. Currently the Small Order Fee is a \$2.00 fee that applies to an order that does not meet a minimum subtotal threshold of \$12, and only applies to convenience orders.

26. The Small Order Fee is not fixed or obligatory – it is avoidable by adding additional items to a user's cart so that the subtotal exceeds the threshold. It is also not a known fee until the user moves to the Checkout Page; until that point, a user could continue to add items to their cart so that the subtotal exceeds the threshold thereby eliminating the Small Order Fee.

27. The Small Order Fee is displayed and explained in the "Pricing and Fees" hyperlink prominently located at the top of each Merchant Page, again on the Cart Page within the "Fees and Estimated Tax" line item, and again on the Checkout Page as demonstrated

by Figures 3(a) and 3(b) below. In Quebec, the Small Order Fee is broken out as a separate line item on the Cart Page and again on the Checkout Page.

Figure 3(a): Small Order Fee Displayed Under “Pricing and Fees” Hyperlink on Merchant’s Page (Ontario)

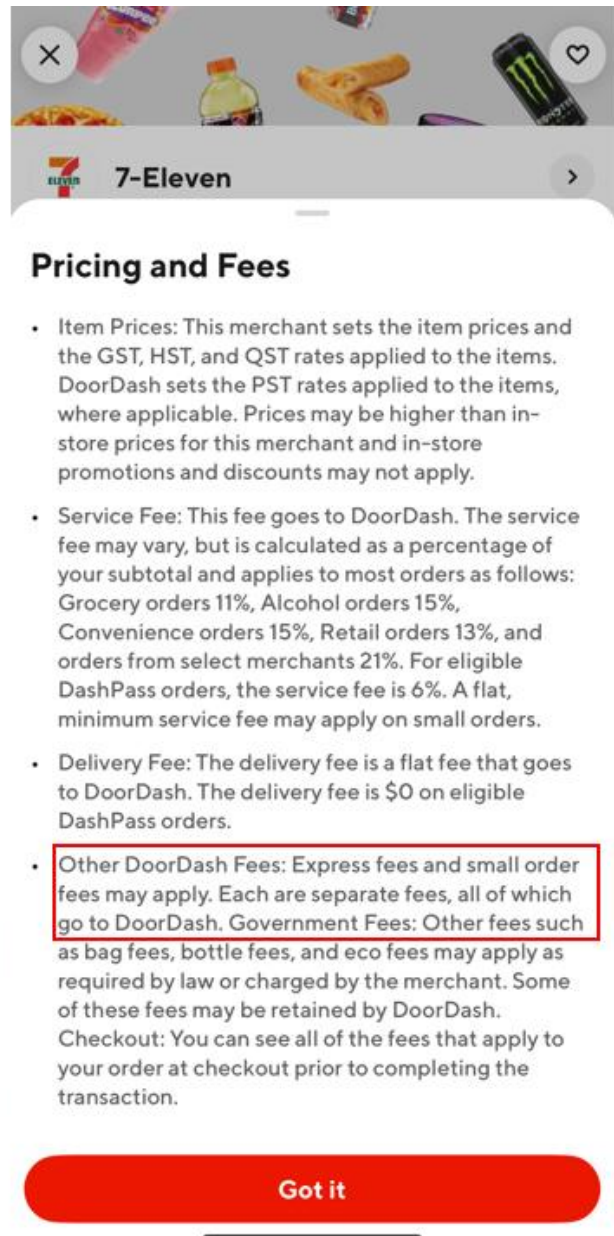
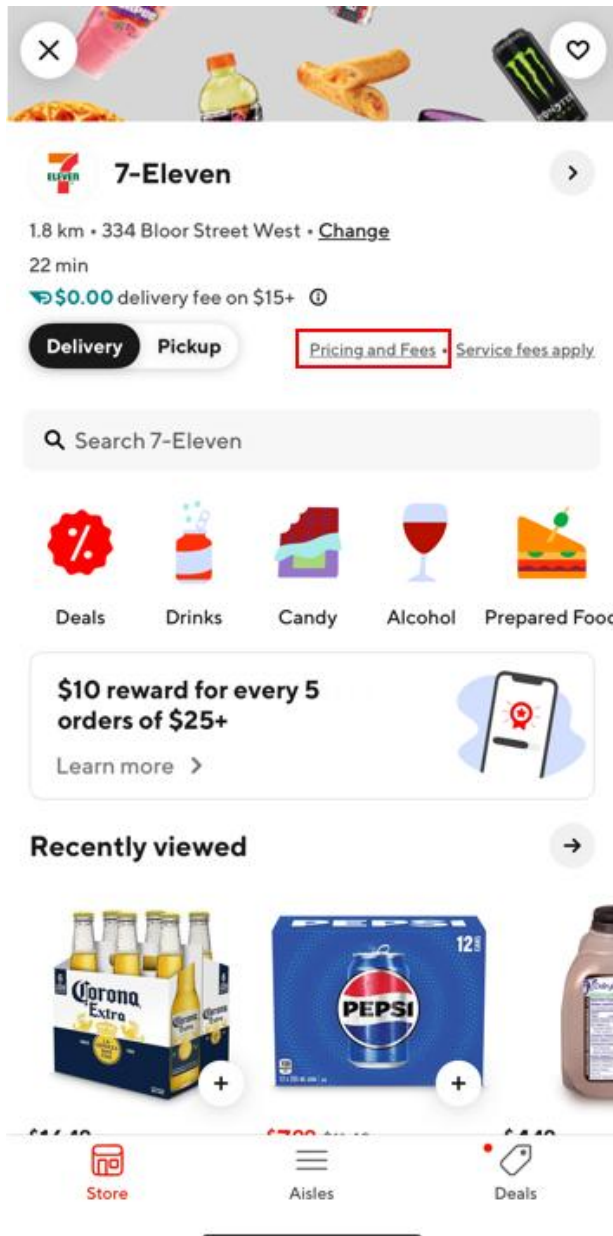
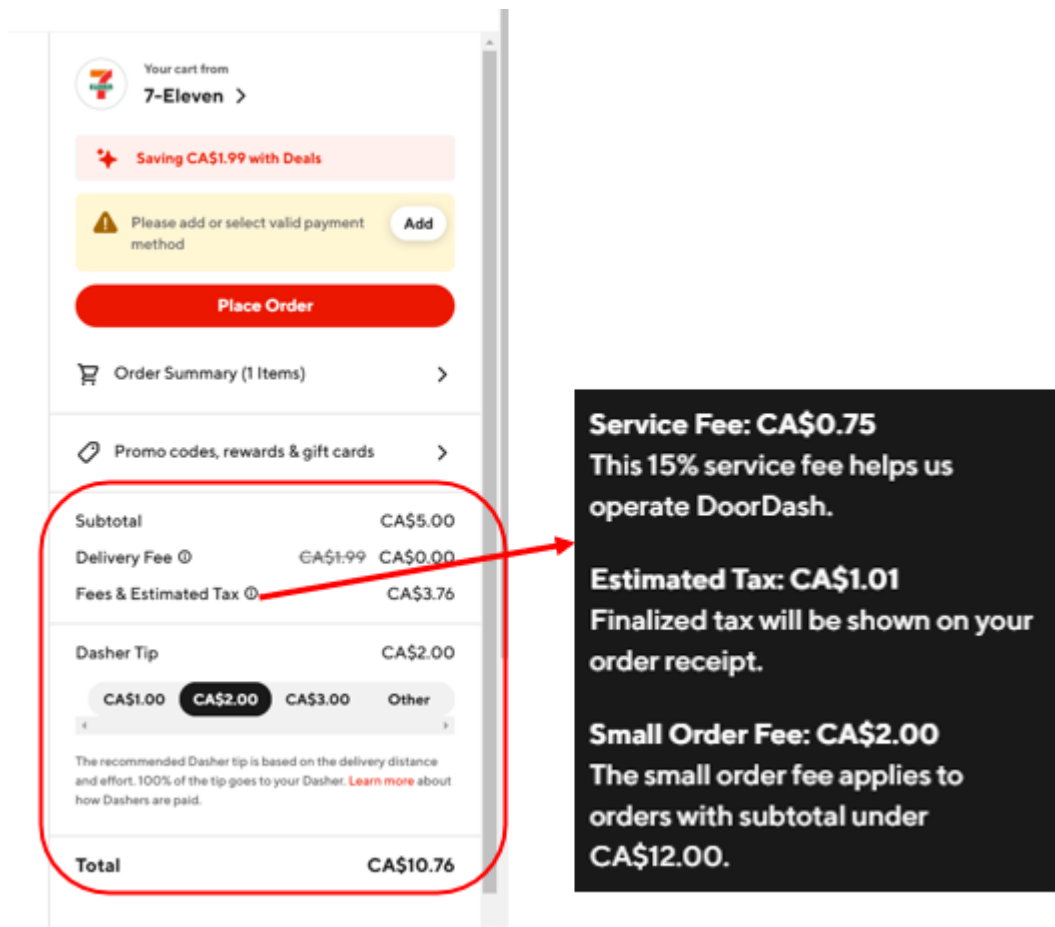


Figure 3(b): Small Order Fee Displayed Under “Fees and Estimated Tax” Hyperlink on Checkout Page (Ontario)



28. As with other DoorDash Fees, the Small Order Fee is also included as a separate line item under the “Order Details” tab for in-progress orders, and on the receipts for all orders that are available on the “Orders” page of the Marketplaces. A link to the “Orders” page is included in an email receipt sent to DoorDash users immediately after completing an order.

E. Expanded Range Fee

29. The Expanded Range Fee (“ERF”) is a flat fee charged to a DoorDash user who places an order from a merchant that is amongst those farthest away from the user; it helps to ensure that DoorDash users continue to have the option of ordering from

merchants farther away. When it applies, the ERF is prominently displayed, among other places, at the top of applicable Merchant Pages, with the amount and an explainer visible via tooltip, as shown in Figure 4(b), below. It also is displayed as a separate line item on the Cart Page and again on the Checkout Page, as shown in Figure 4(b), below.

Figure 4(a): Expanded Range Fee Displayed on Merchant's Page and Tooltip (Ontario)

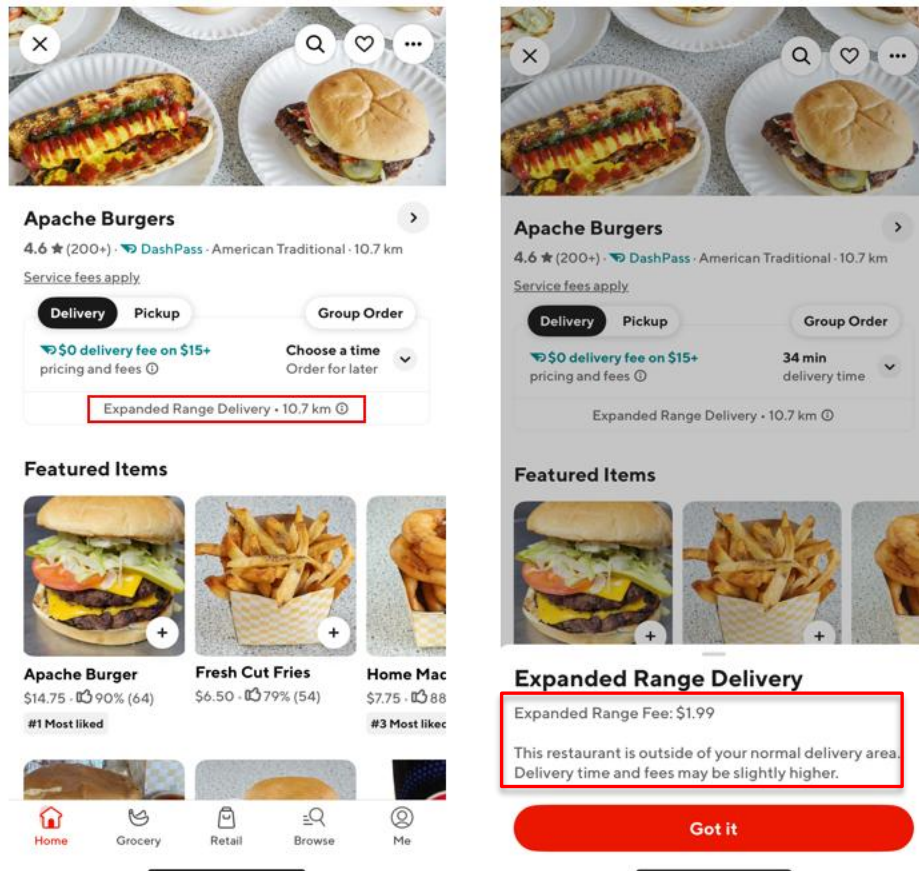


Figure 4(b): Expanded Range Fee Displayed at Checkout (Ontario)

Order Summary (1 Items)	>
Deals & gift cards	>
Subtotal	CA\$14.75
Delivery Fee ⓘ	CA\$5.99 CA\$0.00
Expanded Range Fee ⓘ	CA\$1.99
Fees & taxes	CA\$4.42
Dasher Tip	CA\$4.50
<p>CA\$3.50 CA\$4.50 CA\$5.50 Other</p>	
<p>The recommended Dasher tip is based on the delivery distance and effort. 100% of the tip goes to your Dasher. Learn more about how Dashers are paid.</p>	

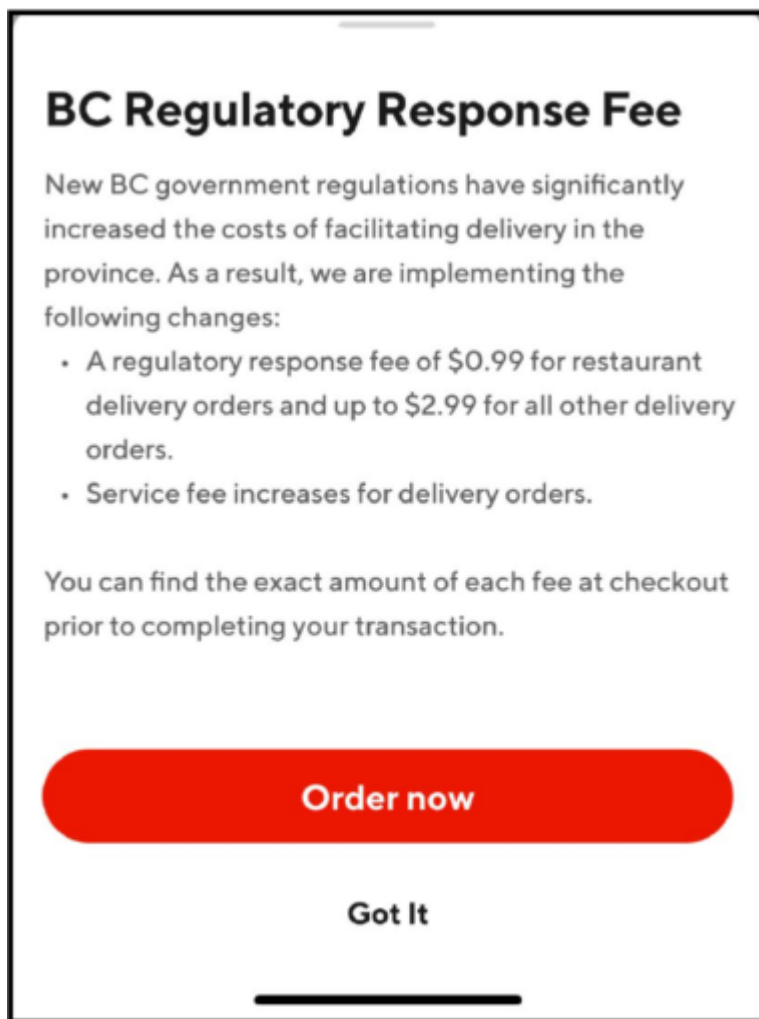
30. As with other DoorDash Fees, the ERF is also included as a separate line item under the “Order Details” tab for in-progress orders, and on the receipts for all orders that are available on the “Orders” page of the Marketplaces. A link to the “Orders” page is included in an email receipt sent to DoorDash users immediately after completing an order.

F. BC Regulatory Response Fee

31. On October 1, 2024, DoorDash introduced the BC Regulatory Response Fee (“**BC RRF**”) on delivery orders placed within British Columbia, in response to provincial legislation related to Dashers’ (delivery couriers’) earnings which substantially increased DoorDash’s operating costs in British Columbia.

32. To ensure that DoorDash users were properly informed of the introduction of the BC RRF, for the first three months after the BC RRF was implemented (from September 27, 2024, four days before implementation, to December 31, 2024), when a user entered an address located in British Columbia for the first time or logged in with a preset British Columbia address, they were required to review an unavoidable one-time message that set forth the amount and nature of the RRF. In order to exit the message and begin exploring merchants, users in BC were required to tap either “Order now” or “Got It”. An image of this one-time message is set out in Figure 5(a), below.

Figure 5(a): One-Time BC RRF Message



33. The BC RRF is further displayed and explained when a DoorDash user clicks the prominently displayed “other fees apply” tooltip at the top of each Merchant Page, as shown in Figure 5(b) and 5(c) below.

Figure 5(b): “Pricing and Fees” Representations for BC RRF

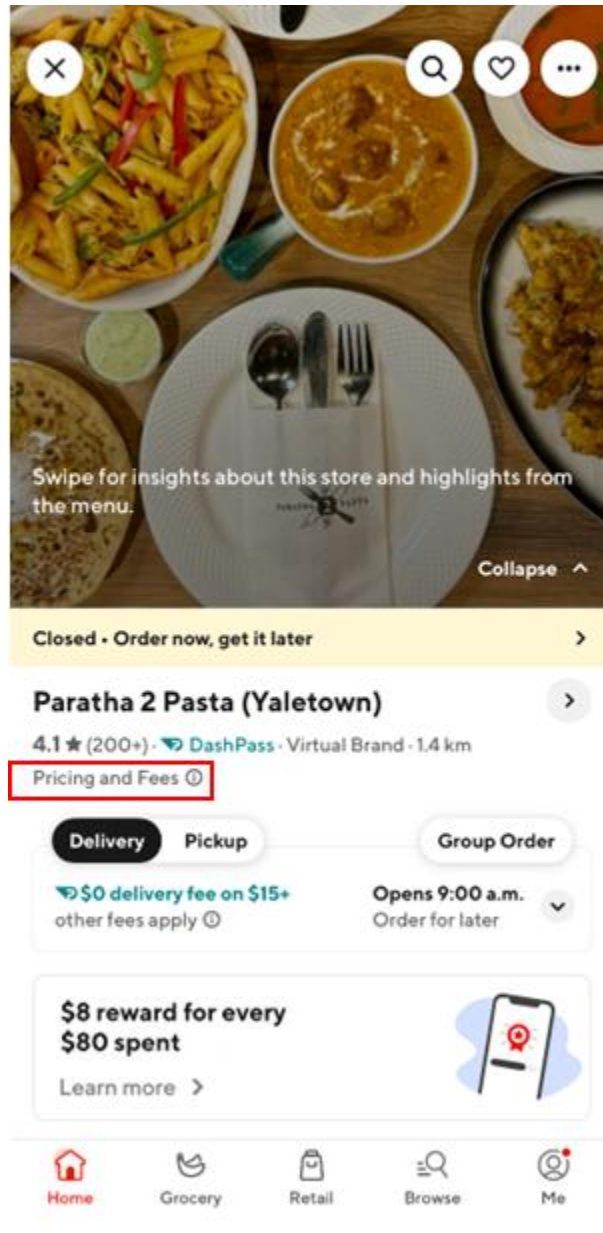
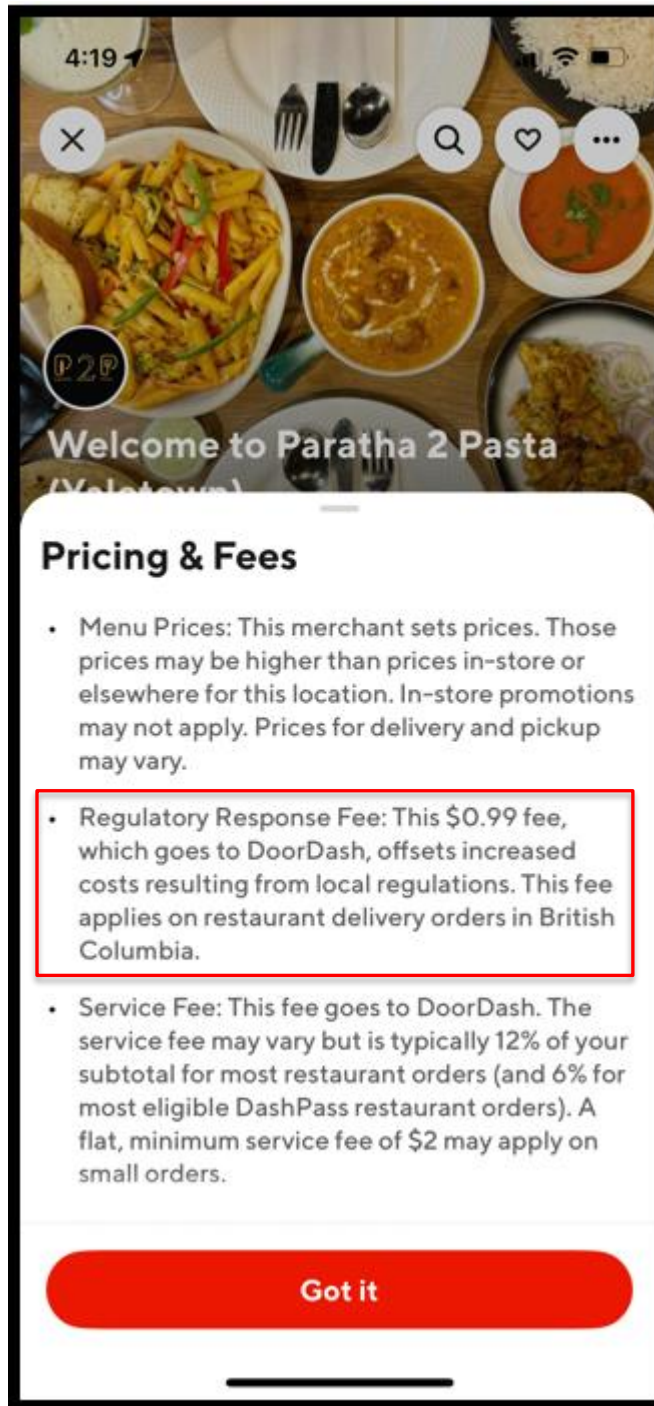
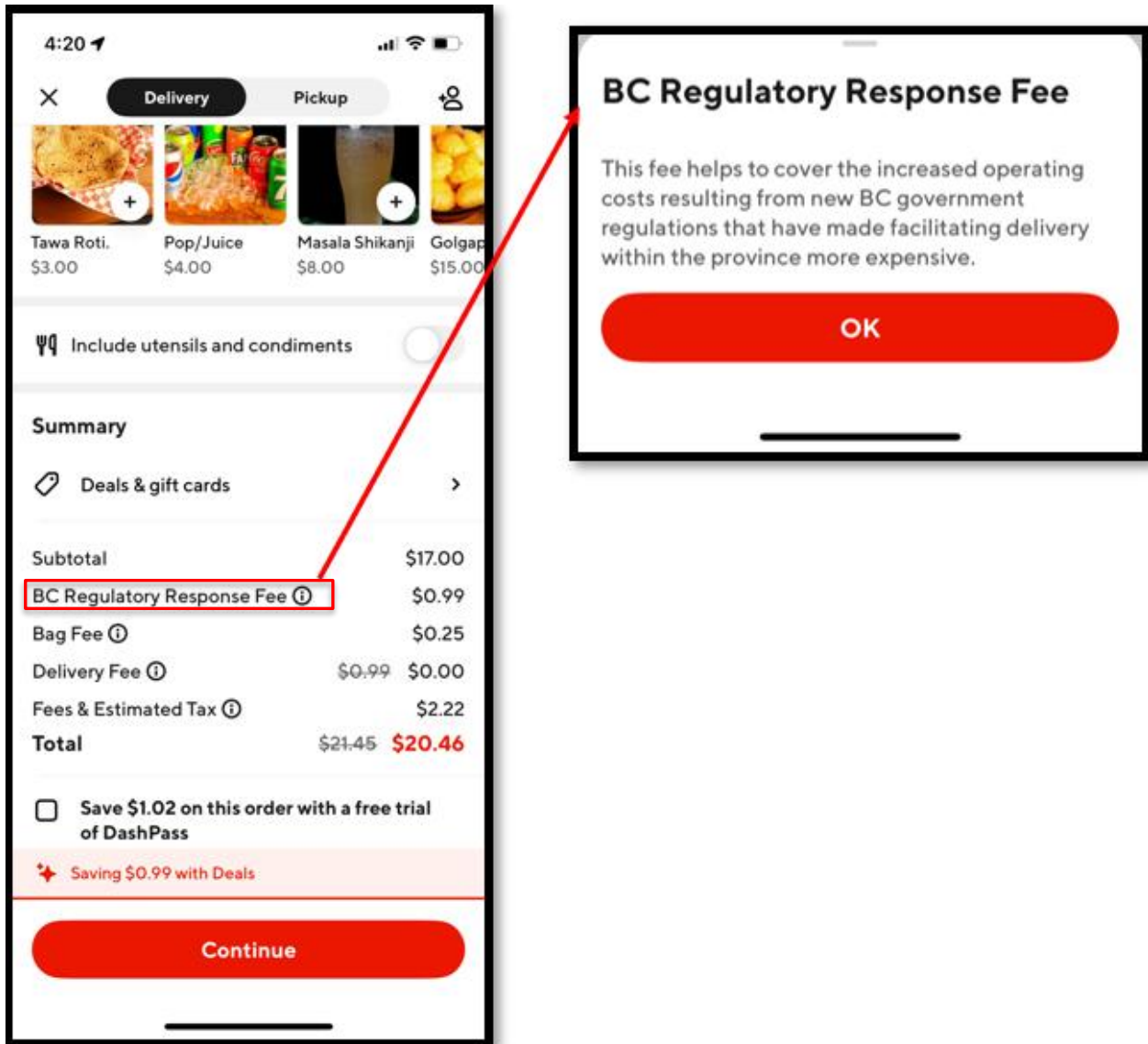


Figure 5(c): BC RRF Hyperlink on Merchant Page



34. Once a DoorDash user finalizes their order, the BC RRF is further displayed as a separate line item on the Cart Page and again on the Checkout Page, with a further tooltip disclosure regarding the nature of the fee, as evidenced by Figure 5(d) below.

Figure 5(d): BC RRF Displayed at Checkout

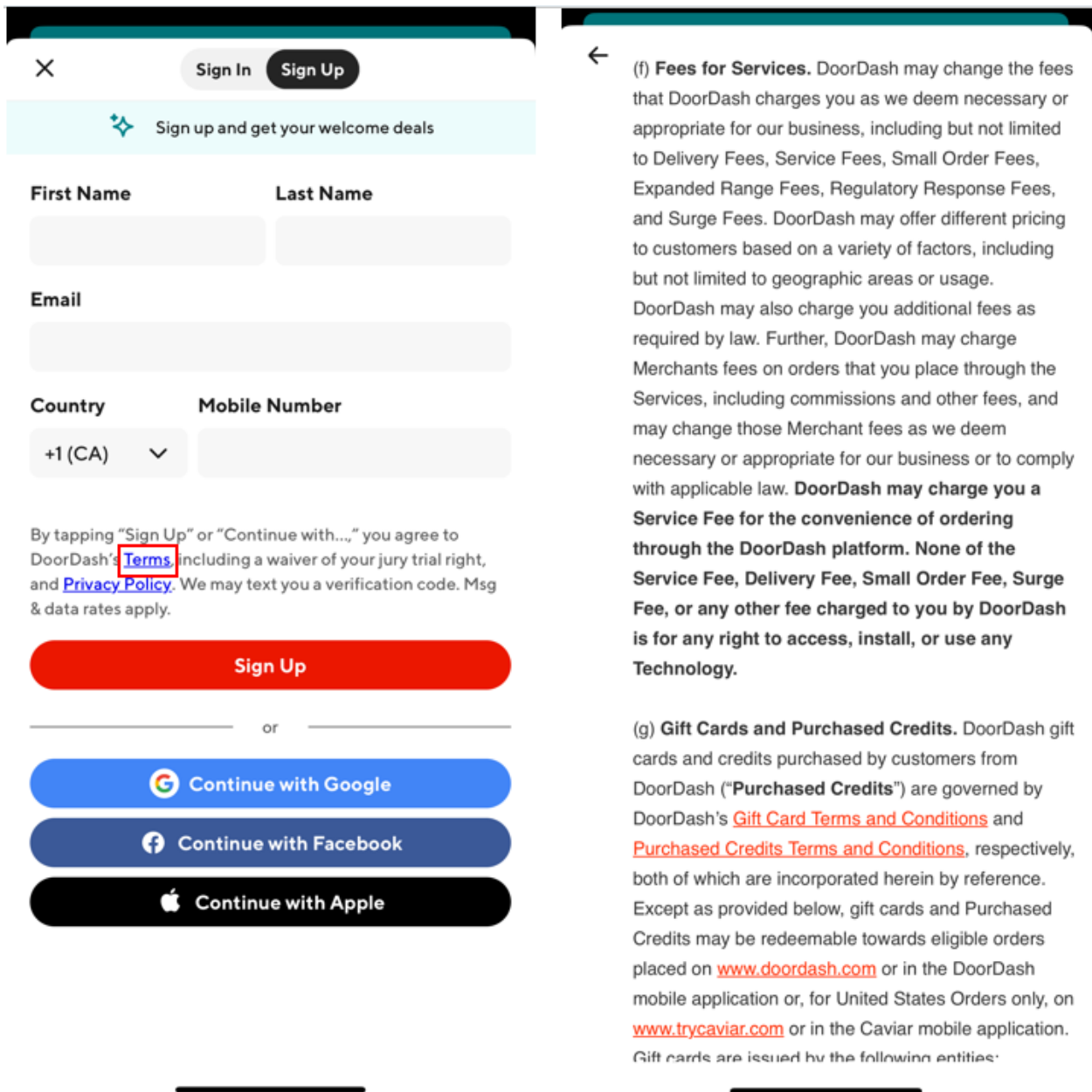


35. As with other DoorDash Fees, the BC RRF is also included as a separate line item under the “Order Details” tab for in-progress orders, and on the receipts for all orders that are available on the “Orders” page of the Marketplaces. A link to the “Orders” page is included in an email receipt sent to DoorDash users immediately after completing an order.

G. Terms & Conditions

36. DoorDash discloses the existence of its fees in its terms and conditions, which all users are required to accept before signing up to DoorDash. The terms and conditions are linked on the Sign Up page as exemplified in Figure 6(a) below, and are also accessible via the “Legal” section of its Marketplaces under “Settings”.

Figure 6(a): Terms and Conditions



H. Post-Transaction Representations

37. After a user has placed their order, while it is being prepared (for pickup or delivery) or being delivered, they are able to view all fees broken out as separate line items by selecting the "Order details" tab, as shown in Figure 7(a) below.

Figure 7(a): Order Details (Ontario)

Order placed

On time 4:20 p.m. - 4:30 p.m. ⓘ

We sent you a confirmation to McDonald's for final confirmation.

[Order details](#) [+ Add items](#)

McDonald's
1 Item

1 x Happy Meal 4 McNuggets with Small Fries [480-660 Cals]
Chocolate Milk Bottle [170.0 Cals] · No Sauce [0.0 Cals] · Happy Meal Toy
\$6.69

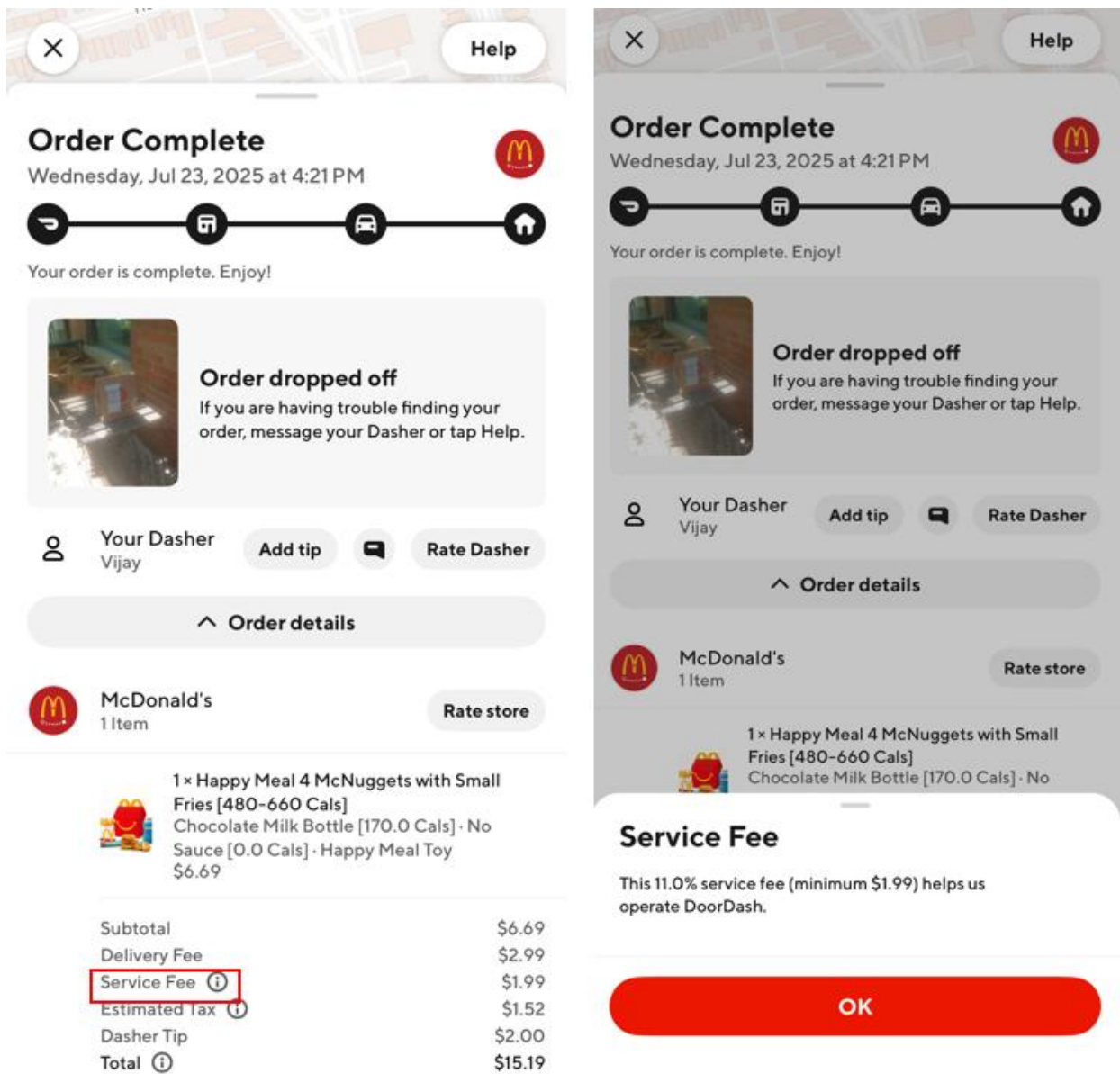
Subtotal	\$6.69
Delivery Fee	\$2.99
Service Fee ⓘ	\$1.99
Estimated Tax ⓘ	\$1.52
Dasher Tip	\$2.00
Total ⓘ	\$15.19

7/23/25, 4:08 PM \$15.19

[Change payment method](#)

38. Once a user has completed their order, they are able to view all fees charged, including the Service Fee broken out as a separate line item on the receipts for all orders that are available on the “Orders” page of the Marketplaces, as illustrated in Figure 7(b), below.

Figure 7(b): Service Fee Displayed on Receipt on “Orders” Page (Ontario)

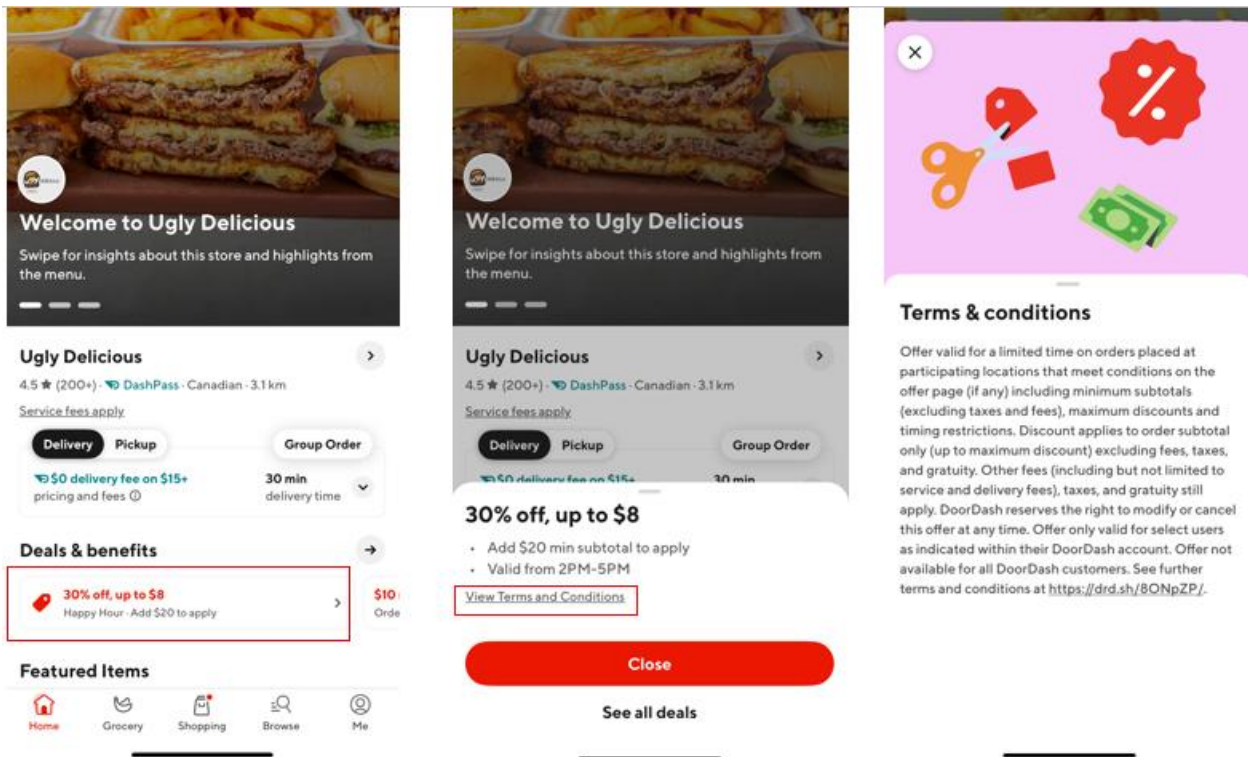


I. DoorDash’s Promotional Offer Representations

39. DoorDash and its merchants offer a number of promotions to users on the Marketplaces. These offers serve to provide DoorDash users with additional savings and value, and also as a mechanism through which merchants compete for additional sales.

40. One form of promotion offered by DoorDash and its merchants is a percentage discount off of the item price available on the DoorDash platform (e.g., 25% off). Taxes and fees continue to apply. The terms of DoorDash's promotions are displayed in all relevant channels, including direct mail (as shown in paragraphs 122-123 of the Commissioner's Application), in-app, and on the DoorDash Website. In the example below in Figure 8(a), the promotion is displayed prominently at the top of the Merchant Page, which, when clicked, takes the user to the terms and conditions for the promotion.

Figure 8(a): 30% Off Up to \$8 Representation (Ontario)



41. Further, after a DoorDash user finalizes their cart, the amount of the discount they are receiving is displayed as a separate line item on the Cart Page and again on the Checkout Page, as shown below in Figures 8(b) and 8(c).

Figure 8(b): Discount Representation on Cart Page (Ontario)

The screenshot displays a food delivery cart interface. At the top, there are two tabs: "Delivery" (selected) and "Pickup". The cart contains several items:

- Sunset Grill:** 3 Eggs, Home fries, Toast & Bacon (4 Slices) for \$16.24.
- Whiskas Meaty Selections Dry Cat Food (2 kg):** \$11.69.
- Coca Cola Diet Coke Cans (355 ml x 18 ct):** \$9.49.
- PC Blue Menu Orange Sparkling Water Bottles (355.0 ml x 12):** \$6.49.

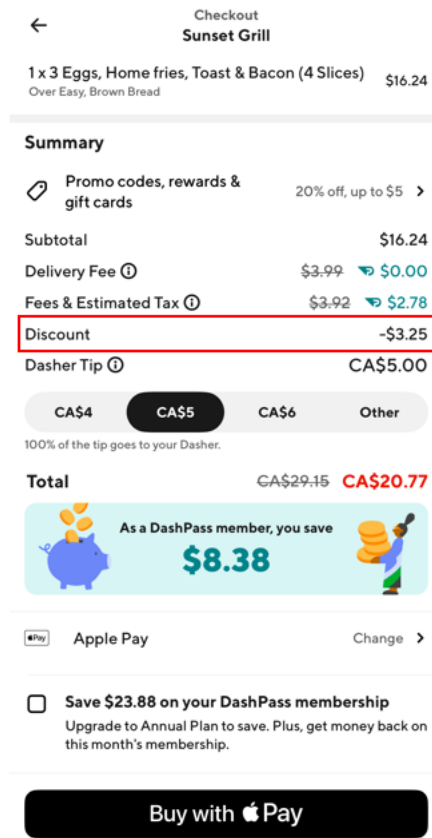
Below the items is a "Complement your cart" section with four suggestions: Toast & Jam (\$3.74), Soft Drink (\$2.25), Eggs (3 Pieces) (\$4.99), and Home Fries (8 Oz.) (\$5.94). A toggle for "Include utensils and condiments" is present.

The "Summary" table is as follows:

Promo codes, rewards & gift cards	20% off, up to \$5
Subtotal	\$16.24
Delivery Fee	\$3.99 \$0.00
Fees & Estimated Tax	\$3.92 \$2.78
Discount	-\$3.25
Total	CA\$24.15 CA\$15.77

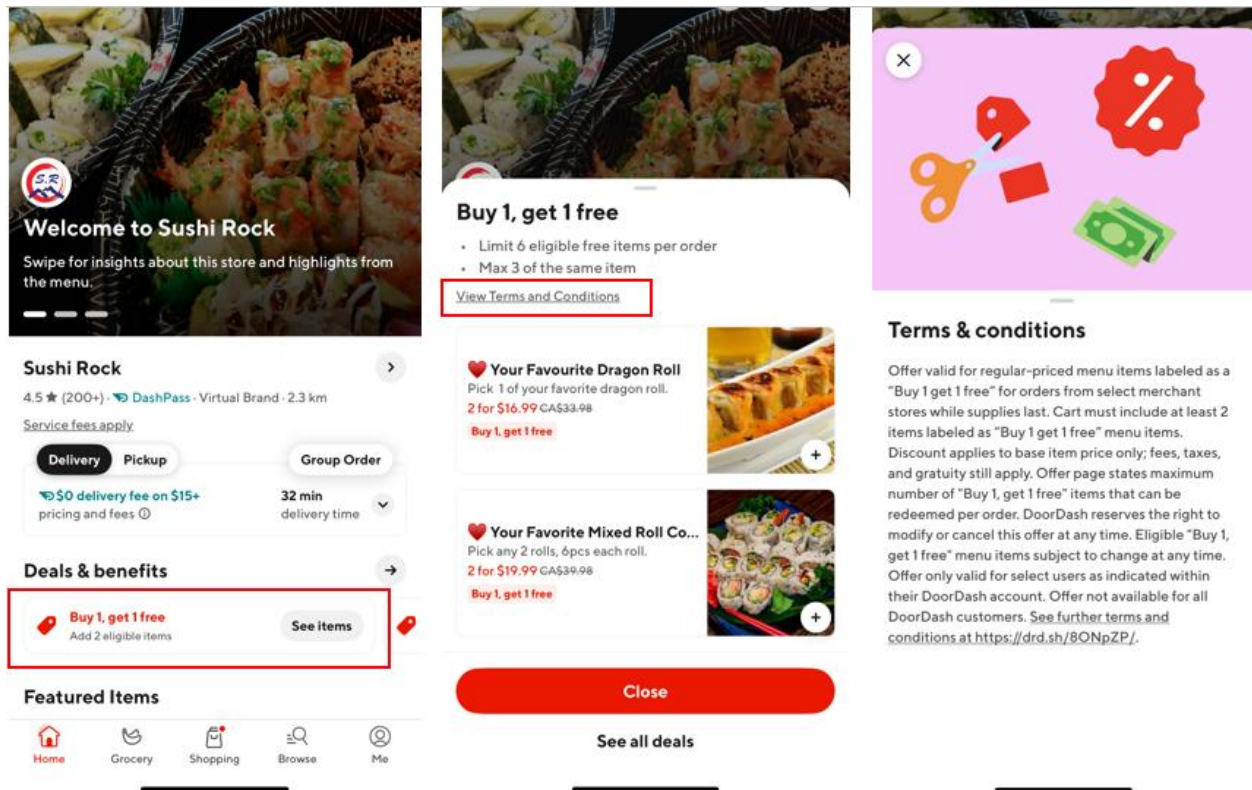
At the bottom, there are two promotional offers to "Save \$23.88 on your DashPass membership" and two red "Continue" buttons.

Figure 8(c): Discount Representation at Checkout (Ontario)



42. DoorDash and its merchants also offer “Buy One Get One Free” type promotions. The reference “Buy One Get One Free” clearly relates to the item to be purchased from the merchant offering the promotion and not the fees related to facilitating delivery or operating the DoorDash platform. The promotion is prominently displayed in the “Deals & Benefits” banner at the top of the Merchant Page, which, which clicked, takes the user to the terms of the promotion, as shown below in Figure 8(d).

Figure 8(d): “Buy One Get One” Terms and Conditions (Ontario)



43. DoorDash users understand that discount and promotions representations apply to the subtotal of their orders, and that fees apply regardless. This promotions and discount structure is employed by third-party pickup and delivery platforms with which DoorDash competes and with which DoorDash users are very familiar, including UberEats and SkipTheDishes, and is consistent with DoorDash users’ expectations.

PART IV: GROUNDS ON WHICH THE APPLICATION IS OPPOSED

A. DoorDash’s Fees Are Not Obligatory

44. The Commissioner’s Application arbitrarily separates DoorDash’s Marketplace in two, attempting to create an artificial distinction between “pickup” and “delivery”. Rather, DoorDash provides one service – it operates a platform that connects merchants and customers. For DoorDash users who do not wish to pay for delivery, DoorDash offers

pickup, an option selectable throughout the Marketplaces by a prominent toggle at the top of each Merchant Page, and again via prominent toggle at the top of each Cart Page. DoorDash users who select the pickup option pay no DoorDash Fees. As a result, none of DoorDash's Fees are obligatory, and all are avoidable.

45. Further, even for DoorDash users who choose to place a delivery order, the Small Order Fee and Expanded Range Fee are not obligatory or "unavoidable", as both only apply in limited circumstances which can be avoided if the user does not wish to pay the fee. Small Order Fees are avoidable by building a cart with a subtotal that exceeds the minimum threshold. Expanded Range Fees are avoidable by selecting a merchant that is not amongst the merchants farthest from the user.

46. In addition, DoorDash's Delivery Fee is also avoidable by subscribing to DashPass, DoorDash's subscription service which offers \$0 Delivery Fee on eligible orders.

47. Given the above, none of DoorDash's Fees meet the "drip pricing" criteria in subsection 74.01(1.1) of the Act.

B. DoorDash's Fees Are Not Fixed

48. Similarly, DoorDash's Fees are not fixed, as contemplated by section 74.01(1.1) of the Act. They vary in amount and applicability based on the conditions of the order, the particular DoorDash user and channel (restaurant, convenience, grocery, etc.), among other factors.

49. DoorDash's Delivery Fee is not fixed. It varies depending on the distance of the users to the merchant, and the terms of the contract between DoorDash and the merchant. Further, DashPass subscribers pay \$0 Delivery Fee on applicable orders, and merchants routinely offer \$0 Delivery Fee promotions to attract users.

50. The Service Fee is not fixed. It is typically a percentage-based fee and the amount varies depending on the final subtotal. Further, the Service Fee has a set minimum for

restaurant, grocery, retail, and alcohol orders across Canada, as well as for convenience orders in Quebec, and a maximum for restaurant orders in Quebec and grocery store orders across Canada. It is not knowable whether the minimum or maximum will apply until a DoorDash user finalizes their item selection and proceeds to checkout. Further, the amount of the Service Fee varies depending on whether a user is a DashPass subscriber (as DashPass subscribers pay reduced Service Fees on applicable orders), by province, and by channel.

51. DoorDash's Small Order Fee is not fixed. It applies only to orders that fall below the applicable subtotal threshold.

52. DoorDash's Expanded Range Fee is not fixed. It only applies to orders by users outside a merchant's delivery zone, which varies by province.

53. DoorDash's BC Regulatory Response Fee is not fixed. It varies in amount depending on the merchant-type. It is \$0.99 for restaurant orders; \$0.99 for convenience and DashMart orders; \$1.99 for alcohol and retail orders; and \$2.99 for grocery orders.

54. Given the above, none of DoorDash's Fees are "fixed" under the "drip pricing" criteria in subsection 74.01(1.1) of the Act.

C. DoorDash's Fee Representations Are Not False or Misleading

55. In addition to not meeting the criteria for drip pricing under sub section 74.01(1.1), DoorDash's Fee representations are not false or misleading under section 74.01(a), and certainly not materially false or misleading. As demonstrated above, DoorDash's Fees are prominently and unavoidably displayed throughout the Marketplaces ordering process, and all DoorDash users are shown the full, all-in price of their order prior to checkout and submitting their orders.

56. DoorDash's Fee representations are ubiquitous throughout the Marketplaces. Fee representations are placed prominently and unavoidably on the Explore Page, Merchant Page, Cart Page, Checkout Page, and post-order in the Orders section and email

receipts. Indeed, DoorDash users are inundated with fee representations throughout the Marketplaces, with additional details available via tooltip, and line-by-line breakdowns of applicable fees on the Cart and Checkout Pages. Further, throughout a user's ordering journey, DoorDash refers to its Delivery and Service Fees through advertisements for DashPass, which offers \$0 Delivery Fees and reduced Service Fees on eligible orders. It is not possible for DoorDash users to navigate the ordering process without being made fully aware of DoorDash's Fees and its fee structure.

57. In particular:

- (a) The existence and amount of the Delivery Fee is prominently displayed on the Explore Page as a DoorDash user chooses between merchants; the amount of the Delivery Fee is again displayed prominently on the top of the Merchant Page, and its purpose explained via tooltip. Contrary to the Commissioner's concerns in his Application, DoorDash users, who have seen the amount of this fee at least twice, do not "forget" about the fee once they begin building their cart. The existence and amount of the Delivery Fee is further displayed as a separate line item on both the Cart and Checkout Pages, with specific terms, amount and purpose further explained via tooltip.
- (b) The existence of the Service Fee is prominently displayed via "Service fees apply" text (or the "other fees apply" text in BC) at the top of the Merchant Page with the specific terms, amount and its purpose displayed in even further detail via hyperlinked text. The Service Fee is further displayed and its specific terms, amount and its purpose explained via the "Fees & Estimated Tax" line item and tooltip on both the Cart and Checkout Pages. In Quebec, the Service Fee is presented as a range (minimum – maximum) and as a separate line item on the Cart and Checkout Pages.
- (c) The existence and amount of the Small Order Fee is displayed via the "Pricing and Fees" hyperlinked text at the top of each Merchant Page. The

amount and purpose of the Small Order Fee is further displayed via the “Fees & Estimated Tax” line item and tooltip on the Cart and Checkout Pages.

- (d) The existence of the ERF is first displayed when a DoorDash user selects a merchant that is amongst those merchants farthest away from the user via a prominent representation at the top of the Merchant Page. The amount and purpose of the fee is explained in even further detail via the tooltip associated with that representation. The amount of the fee is displayed as a separate line item and tooltip on the Cart and Checkout Pages.
- (e) The BC RRF was disclosed to all DoorDash users for the first three months of its implementation upon entering a BC address or logging in with a pre-set BC address via an unavoidable pop-up display. The message required the DoorDash user to acknowledge the BC RRF in order to proceed to place their order. The amount and purpose of the BC RRF is further displayed in the “other fees apply” tooltip at the top of the Merchant Page, and the amount of the fee is displayed again as a separate line item and tooltip on the Cart and Checkout Pages.
- (f) DoorDash users can also view the amount of all DoorDash Fees paid, with each fee broken out as a separate line item and described via tooltip, under the “Orders” page of the Marketplaces. A link to the “Orders” page is included in email receipts sent to DoorDash users post completion of their order, and all orders, including Fees paid, are viewable in the “Order History” section of the Marketplaces.

D. All-In Pricing for Items Would Mislead DoorDash Users

- (a) DoorDash does not set the item prices for any third-party merchants on its Marketplaces.⁶ DoorDash connects these merchants with customers and

⁶ For completeness, the DoorDash does sell and set the prices for items in its “DashMart” store.

facilitates the pickup or delivery of items purchased; that is its service. Adopting the Commissioner's apparent requirement⁷ that all fees be included in item prices would mislead DoorDash users by suggesting that the price for each item is charged by the merchant. Moreover, it would obscure the amount the DoorDash user will be paying in fees in total and to DoorDash by lumping fees in with menu prices. This would not only hamper DoorDash users' ability to discern what the merchant charges for the item as compared to other merchants, it would also hamper the DoorDash users' ability to discern the fees that DoorDash charges to facilitate delivery as compared to other competing platforms (or that could be avoided by selecting the "pickup" option). Furthermore, the inclusion of fees in the item prices would lead to overall higher costs for DoorDash users, because DoorDash would not be able to implement fee caps for larger orders or to set minimum fees as it does with the Service Fee, which helps to make low-subtotal orders viable for delivery.

E. The Commissioner's Alleged Failures in the DoorDash Fee Representations Are Not Material

58. DoorDash users are familiar with the DoorDash Fees and fee structure, and are not misled by any DoorDash Fee representations impugned in the Application or the absence of any additional disclosures impliedly sought in the Application. As such, the Commissioner's alleged failures in DoorDash's Fee representations are not "material" and therefore are not contrary to section 74.01(a) of the Act. Indeed, even if the Tribunal concludes that DoorDash's Fee representations constitute drip pricing under subsection 74.01(1.1), materiality remains an essential and required element for a breach of section 74.01(1)(a). The Commissioner bears the burden of proof with respect to materiality and he cannot meet and has not met his burden in this Application.

59. Ordinary DoorDash users are familiar with fee-based pricing structures, app and web use, and are easily able to identify DoorDash's Fee representations and fee structure

⁷ See Commissioner Application, para 13.

and to understand DoorDash's Fees and the prices charged on DoorDash's platforms. The overwhelming majority of purchases made by DoorDash users are made by repeat users with indisputable full knowledge of DoorDash's Fees and fee structure. Further, the majority of orders on DoorDash also are placed by DashPass subscribers, who are highly familiar power users of the platform, and benefit regularly from the reduced fee offerings of DashPass. Even non-DashPass and occasional users are platform savvy and cost-conscious, as are new users. DoorDash users consistently respond to changes in Fee amounts (increasing their order size when Fees decrease, and reducing their order size when Fees increase), demonstrating that they are fully aware of the Fees they are paying and make purchasing decisions based on the all-in price of their delivery order. Moreover, the ordinary DoorDash user utilizes multiple competing platforms (such as UberEats and SkipTheDishes) which employ similar fees and fee structures.

60. Further, DoorDash users are never "locked in" to their order. They are able to abandon their cart at any time in the ordering process with no cost. DoorDash users place a minimal time investment in building a cart and can easily change to a different third-party delivery or pickup platform or alternative food option if they are dissatisfied with the DoorDash Fees prominently displayed by DoorDash or the all-in price of their order displayed to them prior to completing their purchase.

F. DoorDash Does Not Represent Its Fees as Being Government-Imposed

61. The Commissioner alleges that DoorDash represents its Service Fee and Small Order Fee as being imposed by the government by including these fees in its "Fees & Estimated Tax" tooltip display at checkout, and that DoorDash represents that the BC RRF is imposed by government due to the naming of the fee. DoorDash denies these allegations; they are without merit simply by reference to DoorDash's representations and description of these Fees.

62. The term "Fees and Estimated Tax" is, on its face, not misleading. It clearly contemplates that there are both fees, which are payable to DoorDash, and "estimated tax" which is payable to the government. Both fees and taxes are included, but the

differentiation between them clearly creates a general impression that fees, as distinct from taxes, are included in the amount listed. Further, the only items labelled as “fees” anywhere on the DoorDash platform are amounts payable to DoorDash. Taxes are described separately and labelled as “taxes”. Further the Service Fee and Small Order Fee are described in detail, as set out above, in the “pricing and fees” hyperlinked display on each Merchant Page, and again within the tooltip associated with the “Fees & Estimated Tax” line item, which is displayed on both the Cart and Checkout Pages. For example, the Service Fee tooltip display states “This... service fee helps us operate DoorDash”. The Small Order Fee tooltip display for Ontario convenience orders states “The small order fee applies to all orders with a subtotal below \$12.00”. These descriptions make no representation, express or implied, that these Fees are government-imposed.

63. Similarly, “BC Regulatory Response Fee” is not misleading. This term alone describes it as a fee not as a tax, levy or other government charge, moreover it is described as a “response” fee. Further, the nature and purpose of the BC RRF was unavoidably displayed to all users who input or had preselected a BC address upon its implementation for a period of 3 months. This unavoidable announcement states (as shown in Figure 5(a) above) that due to the increased costs resulting from the BC regulations, “we” (DoorDash) are implementing the BC RRF. The BC RRF is further described in the “other fees apply” hyperlinked text prominently displayed at the top of each Merchant Page, and via the tooltip associated with this line item on the Cart and Checkout Pages as helping “to cover the increased operating costs resulting from new BC government regulations that have made facilitating delivery within the province more expensive”. These descriptions make no representation, express or implied, that this Fee is government-imposed.

G. DoorDash’s Promotional Representations Are Not False or Misleading

64. The Commissioner alleges that certain of DoorDash’s discount and promotional offers are false and misleading, as they create the general impression that fees do not apply to the items subject to the promotion. DoorDash denies these allegations. None of

DoorDash's discount and promotional representations are false or misleading, and certainly not materially so.

65. As outlined above, the terms of DoorDash's discount and promotional offers are clearly displayed in all channels, including direct mail and in-app offers. This applies to "percentage off" offers, as well as "Buy one Get one Free" offers as identified by the Commissioner in his Application.

66. The reference to DoorDash's discounts and promotions clearly relate to the item to be purchased or the item subtotal and not the fees related to facilitating delivery, as shown in Figures 8(a)-(d) above. This is further explained in the terms and conditions that are displayed to users as exemplified in Figure 8(d) above. The direct mail example cited by the Commissioner in paragraphs 120-123 of his Application includes representations in the terms and conditions that the promotion applies to the item price only, and that relevant fees apply.

67. More importantly, DoorDash users are predominantly repeat users, who are familiar with the form and terms of DoorDash's discount and promotional offers, and are aware that fees continue to apply to their orders, both due to the above noted representations but most importantly by being prominently shown the amount of the discount or promotional offer they are receiving and the all-in price of their order prior to completing their purchase. Of course, the costs of providing DoorDash's services are not lower in the context of a discount or promotional offer so it is logical that applicable fees continue to apply to the discounted items. Finally, ordinary DoorDash users are accustomed to these promotional offers because they are also users of competing third-party delivery and pickup platforms, such as UberEats, which likewise apply their discounts and promotions to item prices only.

H. Request for Relief Is Inappropriate and Unwarranted

68. The Commissioner's requests for declaratory relief, a prohibition order, public notices, an administrative monetary penalty, and reimbursement should not be granted.

DoorDash has not engaged in reviewable conduct under paragraph 74.01(1)(a), subsection 74.01(1.1), or 74.011 of the Act.

69. Even if the Tribunal were to find that DoorDash engaged in reviewable conduct (which is denied), the Tribunal should exercise its discretion not to order the relief sought by the Commissioner. The relief sought by the Commissioner is inappropriate and unwarranted given, in particular, DoorDash's diligence and conduct, the absence of any need for an order to promote conformity by DoorDash with the purposes of Part VII.1 of the Act, and all of the other circumstances set out in this Response.

i) No Jurisdiction to Grant Declaratory Relief

70. Section 74.1 of the Act does not authorize the Tribunal to order declaratory relief, and since the Tribunal is a statutory tribunal, it does not have any inherent jurisdiction to order such relief. As such, the declaratory relief sought by the Commissioner is not available.

ii) DoorDash Exercised Due Diligence

71. At all times material to this Application, DoorDash took reasonable and diligent steps to ensure that DoorDash users would not be misled by its Fee representations or fee structure and to prevent any reviewable conduct from occurring. As a result, in accordance with subsection 74.1(3) of the Act, no order under paragraphs 74.1(1)(b), (c), or (d) can be ordered against DoorDash.

iii) Corrective Notice Order Is Unwarranted

72. Even if the Tribunal is not precluded under subsection 74.1(3) from making an order requiring DoorDash to disseminate corrective notices under paragraph 74.1(1)(b) (which is denied), it should nonetheless decline to make such an order in the circumstances.

73. DoorDash has not displayed any inaccurate information to the public that requires correction. All of its fees are clearly displayed throughout a DoorDash user's ordering process, and, as set out above, the DoorDash user is a savvy, repeat user that is familiar

with the DoorDash Fees and fee structure. In the alternative, if any inaccurate information was put into the marketplace (which is denied), it was of a limited or isolated nature and does not warrant or necessitate the dissemination of corrective notices.

iv) No Administrative Monetary Penalty Is Warranted

74. The Commissioner's request for an administrative monetary penalty against DoorDash should be rejected. The DoorDash representations impugned by the Application are neither false nor misleading, and all fees are prominently displayed throughout a DoorDash user's ordering journey. Regardless, DoorDash's Fees and discount and promotional representations were not material to any DoorDash users' purchase decisions. As noted, DoorDash users are overwhelmingly repeat users, highly familiar with DoorDash's Fees and discount/promotional representations. As a result, DoorDash derived no benefit from the allegedly misleading representations as compared to the representations impliedly sought by the Commissioner in his Application, as DoorDash users would have made the same purchase decision regardless of how the DoorDash Fees or discounts/promotions were displayed.

75. Further, DoorDash denies each of the alleged aggravating factors at paragraph 36 of the Application, and in addition to the facts pleaded herein, relies, in particular, on the following as relevant factors under subsection 74.1(5) of the Act:

- (a) *Vulnerability of the DoorDash users:* There is no indication that the DoorDash user is particularly vulnerable, nor is there any indication of actual harm or confusion. DoorDash users are tech savvy, repeat users who are familiar with DoorDash, the DoorDash Fees and fee structure (and other similar fees and fee structures in the industry).
- (b) *Materiality of any representations:* Any representations or omissions at issue were not material, as all relevant fee and pricing information was clearly displayed throughout the ordering process on the Marketplaces and could not reasonably be expected to influence a DoorDash user's purchasing decision.

- (c) *Likelihood of self-correction*: No administrative monetary penalty is necessary to ensure compliance with any finding of the Tribunal regarding the impugned representations.
- (d) *DoorDash's history of compliance with the Act*: DoorDash has no history of conduct contrary to the Act or enforcement actions against DoorDash, which further supports that an administrative monetary penalty is not warranted in the circumstances.

76. As an additional relevant factor, this matter raises novel issues involving unsettled areas of law. The absence of clear guidance or established precedent in this context militates against the imposition of an administrative monetary penalty. In particular:

- (a) The Commissioner is adopting a new, unprecedented and legally unsubstantiated position in this Application, namely that every representation of a price of an item to the public must be all-inclusive (except for taxes) and no manner of representation of associated fees can suffice to comply with the Act; and
- (b) DoorDash (and parties generally) should not be penalized for conduct undertaken in good faith where the legal requirements were not clearly defined or settled at the material time and, in particular, where there have been evolving and conflicting interpretations from the Commissioner himself, and no deterrence can result in such circumstances.

77. In the circumstances, there is no basis upon which the Tribunal should grant an order requiring DoorDash to pay any administrative monetary penalty, and no specific deterrence is required with respect to DoorDash. As a result, any AMP award would be penal in nature, contrary to the requirement set out in section 74.1(4), and raise serious concerns regarding the consistency of the Act's administrative monetary penalty provisions with DoorDash's constitutional rights and/or the constitutionality of any such Tribunal order.

v) *No Compensation Order Is Warranted*

78. If the Tribunal finds it has discretion to make an order requiring DoorDash to pay an amount under paragraph 74.1(d) (which is denied), the Commissioner's request for such an order should also be denied.

79. In addition to the foregoing pleaded herein:

(a) DoorDash's Fee and discount/promotional representations are neither false nor misleading, and regardless are not materially so. Moreover, the representations impugned by or impliedly sought in the Application are not material to DoorDash users' purchasing decisions. As a result, DoorDash users would have placed the same order even if the prices, Fees and discount/promotional offers were represented in the manner sought by the Application, and DoorDash derived no benefit from any Fee and discount/promotional representations that do not comport with what the Application seeks.

(b) Paragraph 74.1(1)(d) of the Act exists to reimburse for losses, for example in relation to the purchase of products that do not work as represented. DoorDash users received the DoorDash services (and the items) that they chose to purchase at a total price that was fully represented to them prior to purchase, and they received a benefit and suffered no loss or detriment from the transaction. It would be inappropriate for DoorDash users to receive any compensation award in these circumstances.

80. For all of these reasons outlined above, should the Tribunal find any violation of the Act, it should exercise its discretion not to order any relief under subsection 74.1(1).

PART V: RELIEF SOUGHT

81. DoorDash requests an order dismissing the Application in its entirety.

PART VI: LOCATION AND CONDUCT OF HEARING

82. DoorDash agrees that the Application may be heard in Ottawa, Ontario, and agrees with the Commissioner's proposal that the proceedings be conducted in English.

Dated at Toronto, Ontario, this 24 day of July, 2025.



BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Randall Hofley

Tel: (416) 863-2387

Email: randall.hofley@blakes.com

Josh Hutchinson

Tel: (604) 631-4178

Email: joshua.hutchinson@blakes.com

Joe McGrade

Tel: (416) 863-4182

Email: joe.mcgrade@blakes.com

Counsel for the Respondents
DoorDash, Inc. and DoorDash
Technologies Canada, Inc.

TO: For the Commissioner of Competition

Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau, QC K1A 0C9

Attention: Ellé Nekiari
Jasveen Puri
Miriam Varelalizardi