COMPETITION TRIBUNAL
TRIBUNAL DE LA CONCURRENCE

FILED / PRODUIT
Date: June 9, 2025
CT- 2025-002

Sarah Sharp-Smith for / pour
REGISTRAR / REGISTRAIRE

OTTAWA, ONT. | # 1

CT-2025-

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:

COMMISSIONER OF COMPETITION

Applicant

- and -

DOORDASH, INC. AND DOORDASH TECHNOLOGIES CANADA, INC.

Respondents

NOTICE OF APPLICATION

TAKE NOTICE that the Commissioner of Competition (the "**Commissioner**") will make an application (the "**Application**") to the Competition Tribunal (the "**Tribunal**") for one or more orders pursuant to section 74.1 of the *Competition Act,* R.S.C. 1985, c. C-34, as amended (the "**Act**") for conduct reviewable under paragraph 74.01(1)(a), subsection 74.01(1.1), and section 74.011 of the Act.

AND TAKE NOTICE that the Commissioner relies on the following Concise Statement of Grounds and Material Facts in support of this Application and on such further or other material as counsel may advise and the Tribunal may permit.

AND TAKE NOTICE that if you do not file a Response with the Registrar of the Tribunal within 45 days of the date upon which this Application is served upon you, the Tribunal may, upon application by the Commissioner and without further notice, make any such order or orders as it may consider just, including those sought in this Application.

THE ADDRESSES FOR SERVICE ARE:

<u>For Doordash, Inc., and Doordash Technologies Canada, Inc.</u>

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APPLICATION

1. The Commissioner makes this Application pursuant to section 74.1 of the *Competition Act* (the "**Act**") for:

   a. a declaration that the Respondents, DoorDash, Inc. and DoorDash Technologies Canada, Inc. (collectively, "**DoorDash**"), have engaged in, and continue to engage in reviewable conduct contrary to:

      i. paragraph 74.01(1)(a) of the Act;

      ii. subsection 74.01(1.1) of the Act; and

      iii. section 74.011 of the Act.

   b. an order prohibiting DoorDash from engaging in reviewable conduct, or substantially similar conduct in Canada, for a period of ten years from the date of such order;

   c. an order requiring DoorDash to publish or otherwise disseminate notices of the determination made herein pursuant to paragraph 74.1(1)(b) of the Act in such manner and at such time as the Commissioner may advise and the Tribunal deems appropriate;

   d. an order requiring DoorDash to pay such an administrative monetary penalty as the Tribunal deems appropriate;

   e. an order requiring DoorDash to pay an amount, not exceeding the total amounts paid to DoorDash for the products in respect of which the reviewable conduct was engaged in, to be distributed among those persons to whom the products were sold, in an amount to be assessed by the Tribunal;

   f. costs; and

   g. such further and other relief as the Commissioner may advise and this Tribunal may permit.

CONCISE STATEMENT OF GROUNDS AND MATERIAL FACTS

I. OVERVIEW

2. Online food delivery has rapidly evolved into an essential fixture of modern life. When consumers go online to order, they expect these services to deliver not just food, but also honest pricing. Consumers expect that the price they see advertised will match what they ultimately pay. When prices are transparent, consumers can make well-informed purchasing decisions, which ensures the proper functioning of the market for the benefit of both consumers and businesses.

3. DoorDash operates an on-demand online food delivery service that connects consumers with local merchants. DoorDash enables consumers to order food and other items from local restaurants, grocery stores and convenience stores through its websites DoorDash.com and TryCaviar.com (the "**Websites**") and mobile apps DoorDash – Food Delivery and Caviar – Order Food Delivery (the "**Apps**") and facilitates delivery of those orders.

4. DoorDash has made, and continues to make, representations to the public that are false or misleading in a material respect. These false or misleading representations fall into three categories:

   a. misrepresentations regarding prices for delivery that are not attainable due to fixed obligatory charges or fees;

   b. misrepresentations regarding fees that are portrayed as government-imposed; and

   c. misrepresentations regarding potential discounts consumers could achieve.

5. DoorDash makes these false or misleading representations for the purpose of promoting the supply or use of its food and retail delivery

services through its Websites and Apps and to promote its business interests more generally.

II. THE PARTIES

6. The Commissioner is an officer appointed by the Governor in Council under section 7 of the Act and is responsible for the administration and enforcement of the Act.

7. DoorDash, Inc. is headquartered in San Francisco, California, United States. DoorDash, Inc. was founded in 2013 and became a publicly traded company in December 2020.

8. DoorDash Technologies Canada, Inc. is a wholly owned subsidiary of DoorDash, Inc., and was incorporated in 2015 under the British Columbia *Business Corporations Act*.

III. DOORDASH'S DECEPTIVE MARKETING PRACTICES

9. DoorDash has made, and continues to make materially false or misleading misrepresentations to the Canadian public for purposes of promoting the supply or use of its food and retail delivery services through its Websites and Apps and to promote its business interests more generally, contrary to paragraph 74.01(1)(a), subsection 74.01(1.1), as well as subsections 74.011(1) and 74.011(2) of the Act.

10. DoorDash's false or misleading representations fall into three categories:

    a. misrepresentations regarding prices for delivery that are not attainable due to fixed obligatory charges or fees;

    b. misrepresentations regarding fees that are portrayed as government-imposed; and

c. misrepresentations regarding potential discounts consumers could achieve.

11. Even absent subsection 74.01(1.1) of the Act, the unattainable price representations were and continue to be materially false or misleading contrary to paragraph 74.01(1)(a) of the Act.

A. The Unattainable Price Representations

12. DoorDash has made and continues to make materially false or misleading representations to the Canadian public for the purposes of promoting the supply or use of its food and retail delivery services and its business interests more generally, contrary to paragraph 74.01(1)(a) of the Act.

13. Specifically, DoorDash makes materially false or misleading representations regarding prices that are not attainable due to fixed obligatory charges or fees under subsection 74.01(1.1) of the Act ("the **Unattainable Price Representations**").

14. Drip pricing is now expressly prohibited under the law. On June 23, 2022, Parliament clarified paragraph 74.01(1)(a) of the Act in relation to drip pricing. Subsection 74.01(1.1) provides greater certainty that the making of a representation of a price that is not attainable due to fixed obligatory charges or fees constitutes a false or misleading representation, unless the obligatory charges or fees represent only an amount imposed on a purchaser of the product referred to in subsection 74.01(1) by or under an Act of Parliament or the legislature of a province.

15. DoorDash has engaged in the reviewable conduct at issue since at least June 23, 2022, and has made a series of similar representations going back nearly a decade. DoorDash entered the Canadian market in November 2015 and has generated nearly $1 billion in revenues from its fixed obligatory fees since then.

16. These fixed obligatory fees include: service fees, delivery fees, expanded range fees, BC regulatory response fees, and small order fees (the "**Obligatory Fees**").

17. The Obligatory Fees are obligatory because DoorDash requires consumers to pay the fees in order to complete a purchase of an order for delivery on its Websites or Apps, unless one or more fees are waived by DoorDash or the merchant.

18. A consumer who seeks to purchase food or retail items for delivery to the consumer-selected address cannot opt out of the fees. In order to have their order delivered, the consumer's only options are to pay the Obligatory Fees or abandon the order all together. Therefore, the Obligatory Fees are obligatory for purchases of orders for delivery.

19. For consumers who do not wish to use DoorDash's default delivery services, DoorDash has a separate service where consumers can place an order with participating merchants and pick up the order from the merchant themselves. Obligatory Fees are not charged on pick up orders.

20. The Commissioner's application relates only to DoorDash's promotion of the supply or use of its delivery services, and for this reason, DoorDash's pick up services are not the subject of this application.

21. The following five sections describe each of the Obligatory Fees and explain why they are fixed within the meaning of the Act.

i. Service Fees

22. DoorDash charges its customers service fees for its delivery services. DoorDash applies a fixed percentage service fee to all delivery orders depending on the province of the customer and membership status.

23. Service fees are calculated at a fixed rate:

a. Consumers ordering for delivery from restaurants in British Columbia are charged at a rate of 12%;

b. Consumers ordering for delivery from restaurants in the rest of Canada are charged at a rate of 11%;

c. Consumers ordering for delivery from convenience stores are charged at a rate in the range of 11-21% depending on where the order is delivered and which merchant is selected; and

d. DashPass members are charged at a reduced rate.

24. The following table provides a summary of DoorDash's service fees:

Service Fees	**Rest of Canada**	**British Columbia**	**Quebec**	**DashPass**
Restaurants	11% $1.99 min	12% $1.99 min	11% $1.99 min / $3.99 max	*reduced service fee under certain circumstances*
Convenience stores	range of 11% - 21%	range of 11% - 21%	range of 11% - 21%	*reduced service fee under certain circumstances*
Grocery stores	11% $3.99 min / $8.99 max	13% $3.99 min / $8.99 max	11% $3.99 min / $8.99 max	*reduced service fee under certain circumstances*

25. The amount of the service fee is determined by applying the pre-determined percentage to the price of the item. The applicable percentage is pre-determined prior to the consumer placing an order with the merchant.

26. Maximum and minimum service fees are described in the chart above. A minimum or maximum/cap on the service fee does not change whether the fee itself is “fixed” within the meaning of the Act.

27. DoorDash knows the amount of the service fee prior to making its initial price representation and therefore it is fixed.

ii. Delivery Fees

28. DoorDash also charges delivery fees. DoorDash applies a flat delivery fee on all delivery orders, with certain exceptions. The exceptions include first-time users who pay a $0 delivery fee, and DashPass members who are eligible for $0 delivery fees on certain orders.

29. The amount of the delivery fee depends on the distance of the consumer from the merchant and the terms of the contract between DoorDash and the merchant.

30. DoorDash has designed its Websites and Apps so that consumers are required to input a location prior to selecting a merchant. It has also designed its Apps so that consumers are required to log in prior to selecting a merchant. Therefore, DoorDash knows the distance between the consumer’s delivery location and the merchant prior to the consumer making an order.

31. DoorDash knows the amount of the delivery fee prior to making its initial price representation. The delivery fee is pre-determined prior to the consumer placing an order with the merchant. Therefore, it is fixed.

iii. Expanded Range Fees

32. DoorDash charges the expanded range fees when an order is outside of a merchant's regular service zone, based on the address of the merchant and the client’s delivery location. DoorDash’s expanded range fees are a flat fee charged on all delivery orders that originate outside of what DoorDash determines to be the consumer’s delivery area.

33. DoorDash knows the amount of the expanded range fee prior to making its initial price representation. The expanded range fee is pre-determined prior to the consumer placing an order with the merchant. Therefore, this fee is fixed on applicable orders.

iv. BC Regulatory Response Fees

34. DoorDash commenced charging a BC Regulatory Response Fee in October 2024. DoorDash’s BC Regulatory Response Fee is a pre-determined flat fee charged on all orders delivered within British Columbia. The fee for restaurant orders is $0.99; for alcohol, retail and Dollarama orders is $1.99; and for grocery orders is $2.99.

35. DoorDash knows the amount of this fee prior to making its initial price representation. It is pre-determined prior to the consumer placing an order with the merchant. Therefore, the BC Regulatory Response Fee is fixed.

v. Small Order Fees

36. DoorDash’s small order fees are a pre-determined flat fee applied to convenience delivery orders that fall below a certain threshold. The flat fee is a fixed amount of either $2.00 or $3.00 that applies when orders fall below the applicable threshold of either $12.00 or $15.00.

37. DoorDash has set the amount of the small order fee prior to making its initial price representation and therefore it is fixed.

B. Examples of the Unattainable Price Representations

38. DoorDash's representations differ slightly depending on which province the consumer orders from, and consumer membership status.

39. Consumers must input a location before they can select a merchant. A consumer who logs into their DoorDash account will have an address already inputted and will therefore be able to select a merchant right away.

40. While a consumer does not need to log in to select items from a merchant, a consumer must log in at checkout in order to complete the transaction.

41. DoorDash displays prices on its Websites and Apps that are not attainable when consumers order for delivery. Below are three examples to illustrate DoorDash's Unattainable Price Representations. In these examples, the consumer has already selected a merchant from DoorDash's homepage. On its homepage, DoorDash displays a small print disclaimer beneath each merchant that states either the amount of the delivery fee applicable to that merchant or a message along the lines of '*$0 delivery fee on $XX+*'. However, this disclaimer is insufficient to cure the false or misleading nature of the Unattainable Price Representations.

Example 1

42. In this example, a consumer is ordering for delivery from a restaurant located in British Columbia on the DoorDash App. This example displays the false or misleading nature of DoorDash's price representations as DoorDash omits the service fee, delivery fee, expanded range fee, and BC Regulatory Response Fee in its price representations, making its price representations unattainable.

43. Below, at Figure 1, is the menu page of the merchant, Sfinaki Greek Taverna, on the DoorDash App.

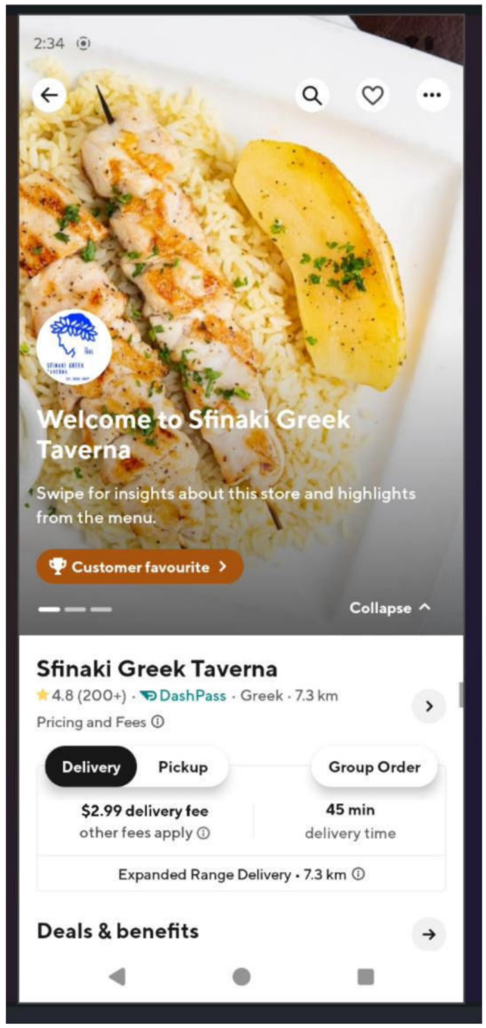

Figure 1 – Image from the DoorDash App, May 21, 2025

44. As shown in Figure 1, DoorDash displays a disclaimer near the bottom of the screen that states "$2.99 delivery fee". DoorDash typically either displays the amount of the delivery fees or a message along the lines of '*$0 delivery fee on $XX+*'. When the consumer scrolls down to view item prices, the delivery fee is no longer visible.

45. Figure 1 also shows DoorDash's small print disclaimers in pale grey that state "Pricing and Fees" and further down "other fees apply". The

disclaimers are not located in close proximity to the price representations. When a consumer scrolls down to view item prices, the disclaimers are no longer visible.

46. When a consumer scrolls down, as they browse through Sfinaki Greek Taverna, DoorDash displays numerous food items with prices listed beneath them, as represented below:

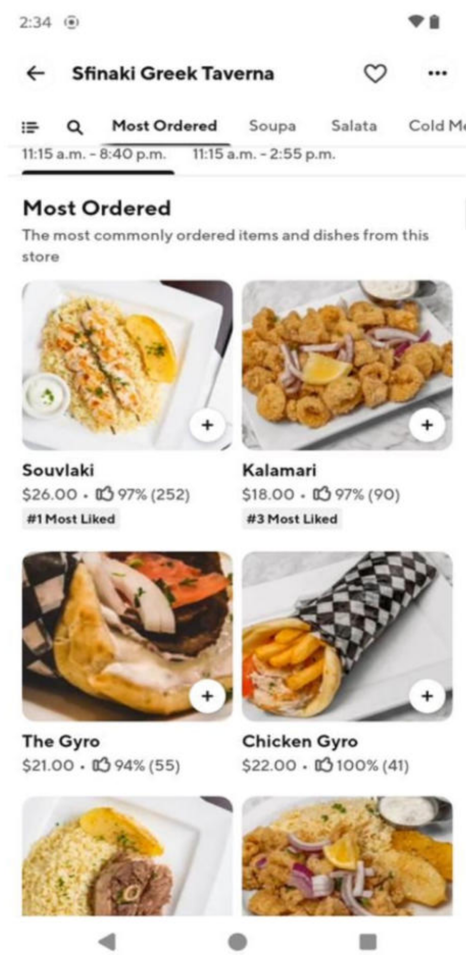

Figure 2 – Image from the DoorDash App, May 21, 2025

47. For a consumer who wishes to order a Souvlaki from Sfinaki Greek Taverna in British Columbia, the price is advertised at $26.00, as shown in Figure 2.

48. However, a consumer cannot purchase the menu item for delivery without paying the Obligatory Fees. Therefore, the $26.00 price representation is rendered unattainable by multiple Obligatory Fees charged by DoorDash, namely the service fee, delivery fee, expanded range fee, and BC Regulatory Response Fee in this case.

49. When the consumer selects the Souvlaki, a popup is displayed as follows:

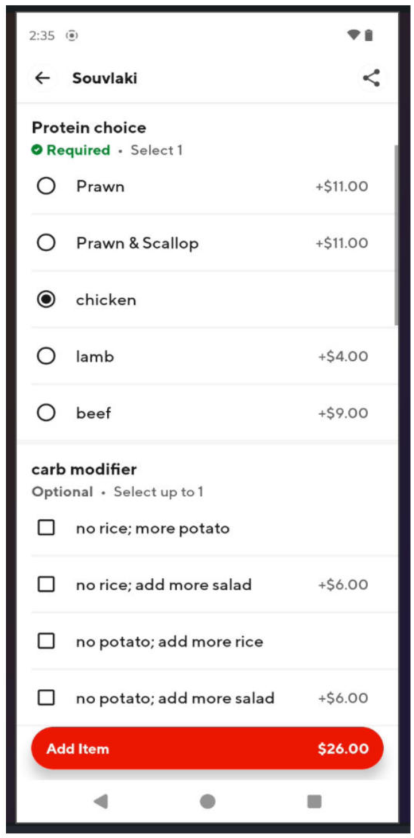

Figure 3 – Image from the DoorDash App, May 21, 2025

50. As seen in this example, the consumer is once again shown an unattainable price of $26.00. The price DoorDash is displaying does not take into account the Obligatory Fees that DoorDash charges on this order.

51. After adding items to their cart, consumers click on a red "View Cart" button to view their cart. When they do, the following screen (the "**Cart Stage**") is displayed:

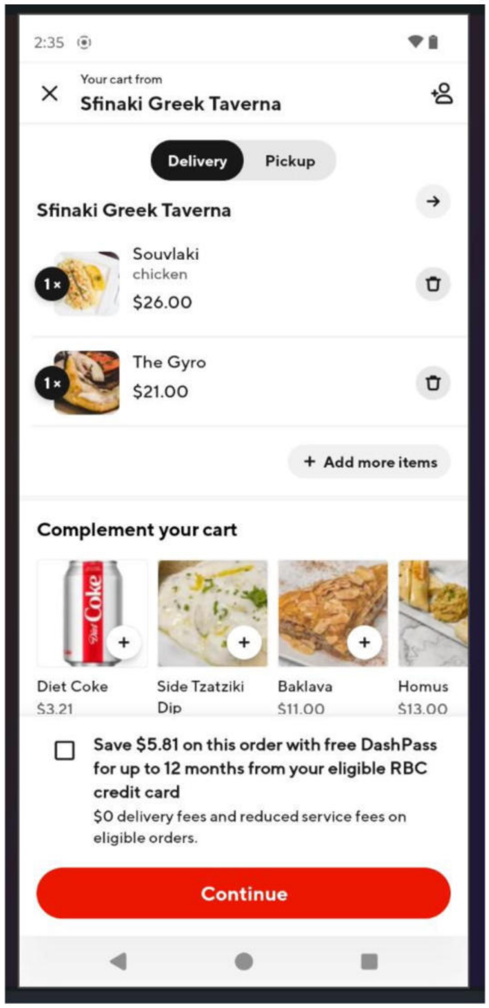

Figure 4 – Image from the DoorDash App, May 21, 2025

52. At this point, a consumer may click on the red "Continue" button at the bottom of the consumer's screen and immediately proceed to the checkout page. The "Continue" button functions as a call to action, enticing the consumer to click through to the next page without scrolling down.

53. Again, the price representations in the above Figure 4 are not attainable because, in addition to the advertised price, the consumer must also pay Obligatory Fees.

54. If a consumer decides to scroll down past the "Continue” button, the screen will display some of the Obligatory Fees applicable to this order:

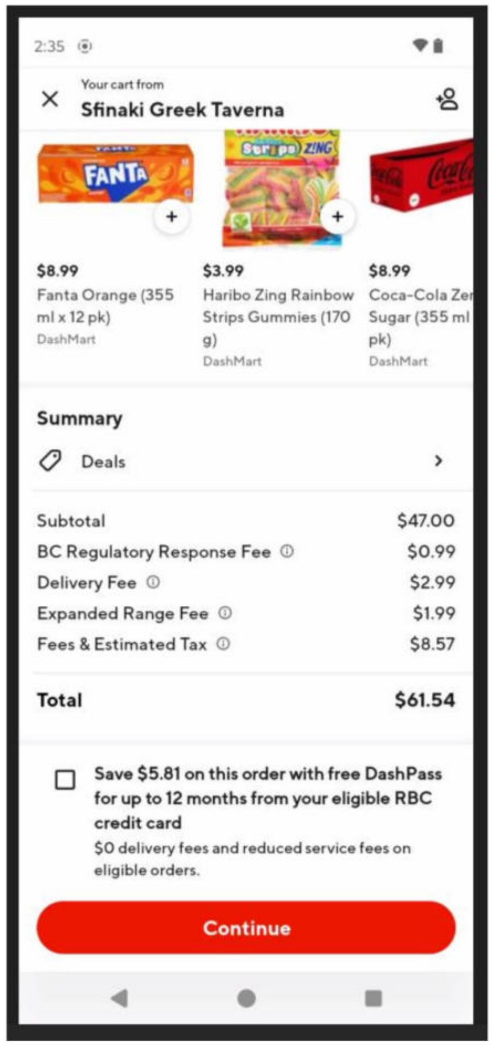

Figure 5 – Image from the DoorDash App, May 21, 2025

55. As seen in this example, DoorDash adds a fixed BC Regulatory Response Fee of $0.99, a fixed delivery fee of $2.99 and a fixed expanded range fee of $1.99 on top of the prices advertised, making the advertised prices unattainable. A consumer who seeks to have this order

delivered cannot complete the purchase without paying the Obligatory Fees.

56. At this point, DoorDash has not disclosed the amount of the service fee, or the fact that it has been applied to the consumer's order. DoorDash discloses the service fee amount for the first time in the purchasing process if the consumer actually clicks the small "i" icon next to Fees & Estimated Tax.[1] Once clicked, the following information is displayed:

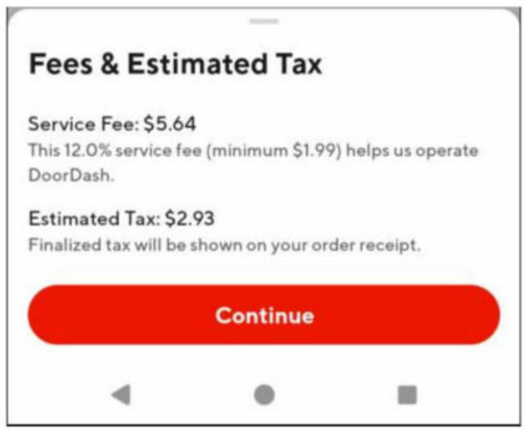

Figure 6 – Image from the DoorDash App, May 21, 2025

57. The combining of the service fees and taxes into a single line item is false or misleading as it requires an extra click for the consumer to actually see that the "fees and estimated taxes" are two separate charges, only one of which is imposed by the government on the purchaser and not the other.

58. This deception is further solidified by the delivery fee, expanded range fee and the BC Regulatory Response Fee having a separate line item. This implies that DoorDash lists out its fees separately and therefore the consumer does not need to further scrutinize the other charges. In fact, the layout of the charges at checkout gives the consumer the false or misleading impression that the only fees DoorDash has applied in this

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[1] In Quebec, the consumer would see a separate line item for service fees.

scenario are the Delivery Fee, Expanded Range Fee and the BC Regulatory Response Fee, and that the "Fees & Estimated Tax" are government-imposed charges that do not require further scrutiny.

59. When the consumer clicks "Continue", they are taken to checkout.

60. At the checkout stage, DoorDash displays five line items for this order: subtotal, BC Regulatory Response Fee, Delivery Fee, Expanded Range Fee and Fees & Estimated Tax:[2]

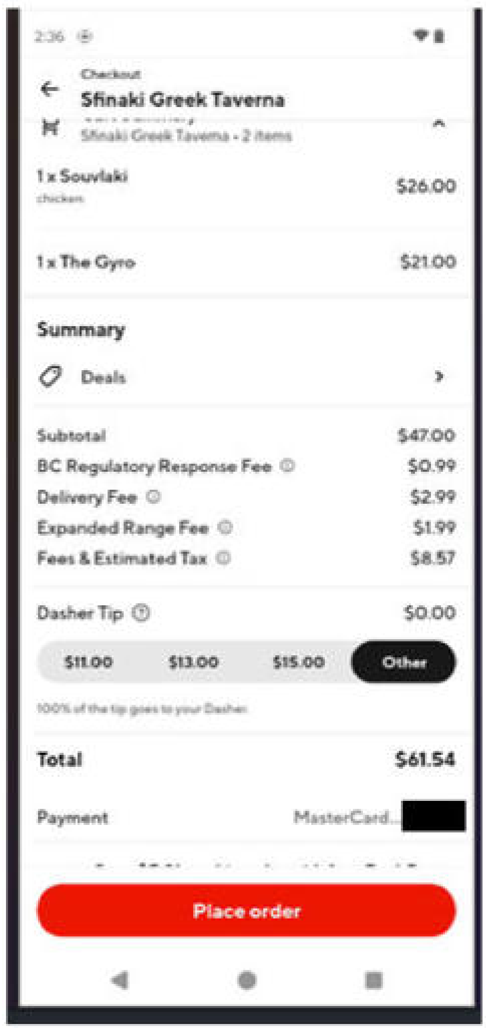

Figure 7 – Image from the DoorDash App, May 21, 2025

[2] In Quebec, DoorDash displays service fees as a separate line item.

61. Once again, the consumer must click the small "i" icon next to "Fees & Estimated Tax" to see the Service Fee amount or the fact that it has been applied.

62. The prices DoorDash displays for items ordered for delivery are unattainable until either the Cart Stage or the checkout stage. Because DoorDash subsequently charges Obligatory Fees, in addition to the advertised prices for delivery, its advertised prices are unattainable.

63. As a result of the Obligatory Fees charged by DoorDash, the consumer ends up paying nearly 25% more than the advertised prices in this example.

Example 2

64. In this example, a consumer is ordering for delivery from a restaurant located in Quebec on the DoorDash website. This example displays the false or misleading nature of DoorDash's price representations as DoorDash subsequently charges a Delivery Fee and Service Fee in addition to its advertised prices for delivery, rendering the advertised prices unattainable.

65. Below, at Figure 8, is the menu page of the merchant, Onigiri Shop, on DoorDash.com. For a consumer who wishes to order a Poulet Frit Coréen from Onigiri Shop in Quebec, the price is advertised at $6.25.

66. However, a consumer cannot purchase the menu item for delivery without paying the Obligatory Fees. DoorDash knows at the time of making the $6.25 price representation what Service Fee and Delivery Fee will apply. However, DoorDash omits these Obligatory Fees from the price representation until the checkout stage. Therefore, the $6.25 price representation is unattainable.

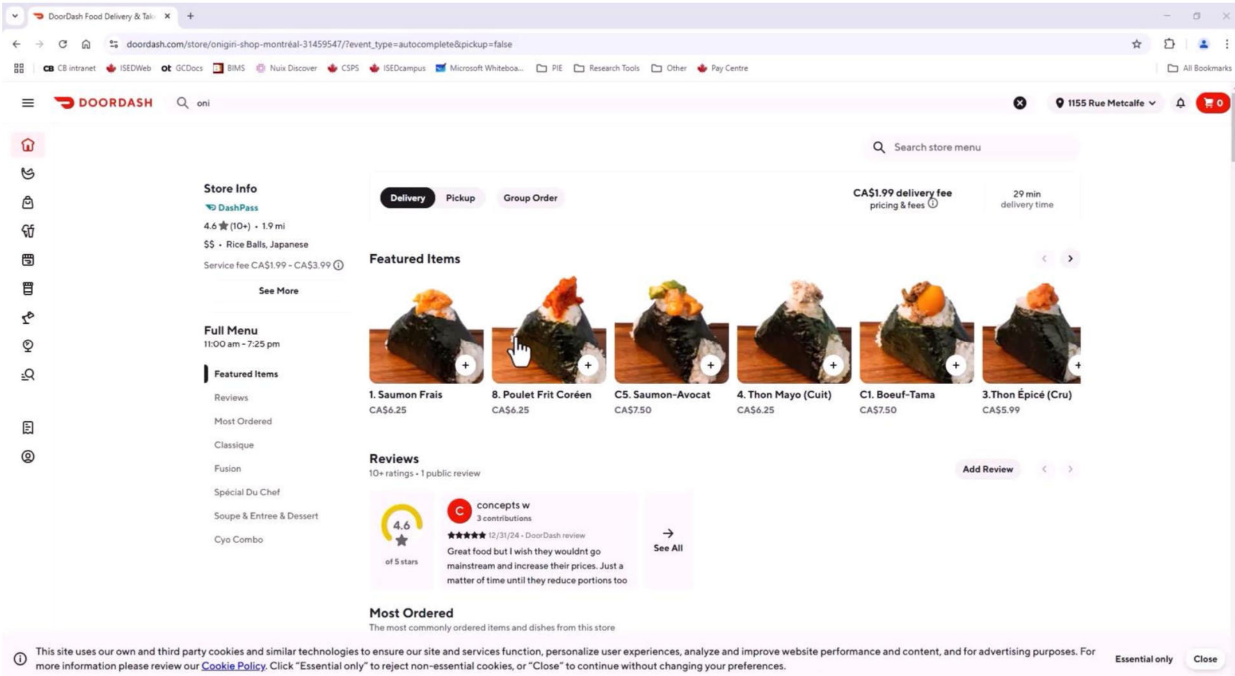

Figure 8 – Image from Website, January 29, 2025

67. As shown in Figure 8, DoorDash displays a disclaimer at the top right of the page that states “CA$1.99 delivery fee”.

68. The image also shows DoorDash’s small print disclaimer at the far left of the webpage that states “Service fee CA$1.99 – CA$3.99”.

69. The small print disclaimers are not in close proximity to the price representations. Furthermore, when a consumer scrolls down to view item prices, the disclaimers are no longer visible.

70. Of note, outside Quebec, consumers will typically either see a disclaimer in small print of “Service Fees Apply” or “Pricing & Fees” instead of “Service fee CA$1.99 – CA$3.99”.

71. As will be seen below, the Delivery Fee and the Service Fee are charged to the consumer in addition to the $6.25 price representation.

72. When the Quebec consumer selects the Poulet Frit Coréen, a popup is displayed as follows:

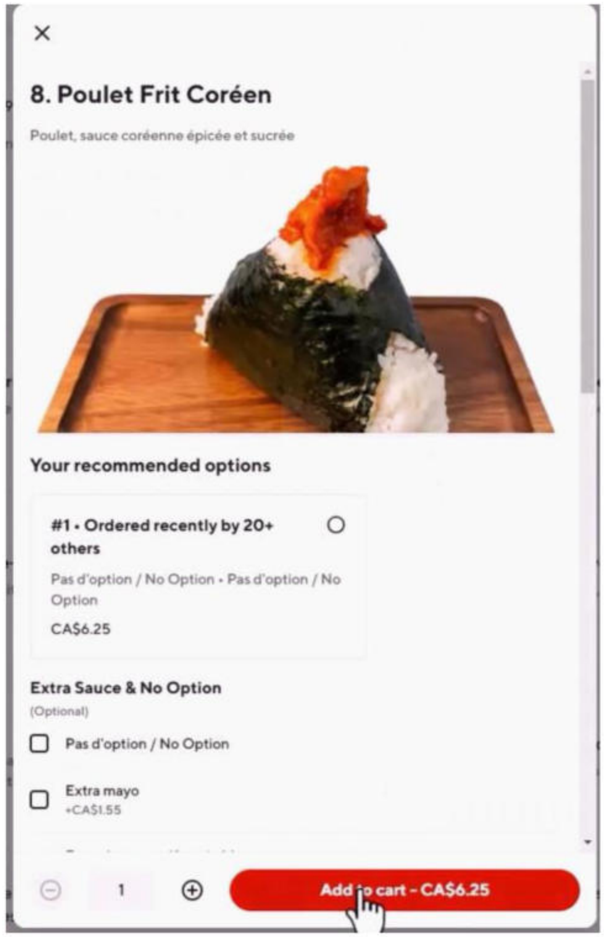

Figure 9 – Image from Website, January 29, 2025

73. As seen in this example, the Quebec consumer is, once again, shown a price of $6.25. The price DoorDash is displaying is unattainable as DoorDash charges Obligatory Fees in addition to the $6.25 price representation.

74. This is true regardless of which item a consumer selects. For example, DoorDash displays numerous food items with prices listed beneath them, as displayed below:

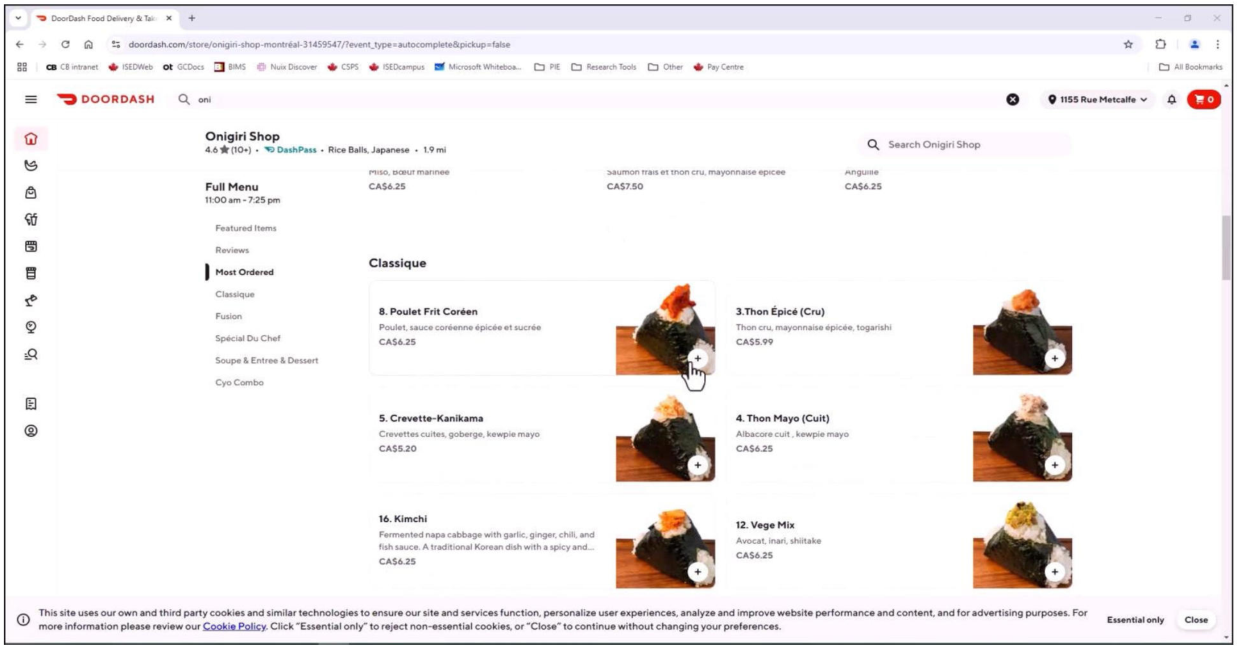

Figure 10 – Image from Website, January 29, 2025

75. The price representations in the above Figure are not attainable because, in addition to the advertised prices, the consumer ordering for delivery must also pay a Service Fee and a Delivery Fee.

76. When a consumer is ready to proceed to checkout, first they click on the red cart button at the top right. When they do, the following popup is displayed before being taken to the checkout page.

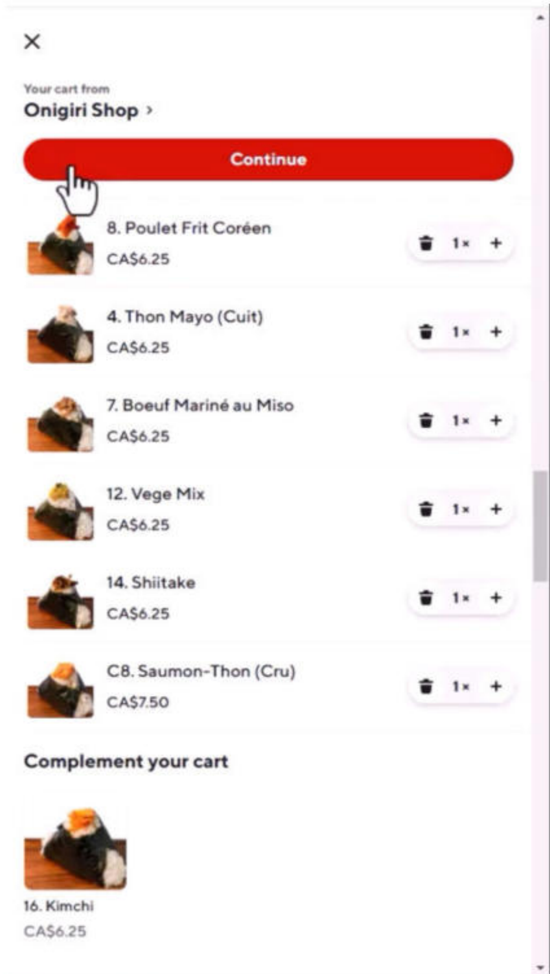

Figure 11 – Image from Website, January 29. 2025

77. Again, the price representations in the above Figure are not attainable because, in addition to the advertised prices, the consumer must also pay a Service Fee and a Delivery Fee.

78. When the consumer clicks "Continue", they are taken to checkout.

79. At the checkout stage, DoorDash displays four line items for this order: subtotal, Delivery Fee, Service Fee and Estimated Tax:[3]

[3] Customers outside of Quebec do not see a separate line item for service fees. Instead, service fees are combined with taxes in a line item titled "Fees & Estimated Tax".

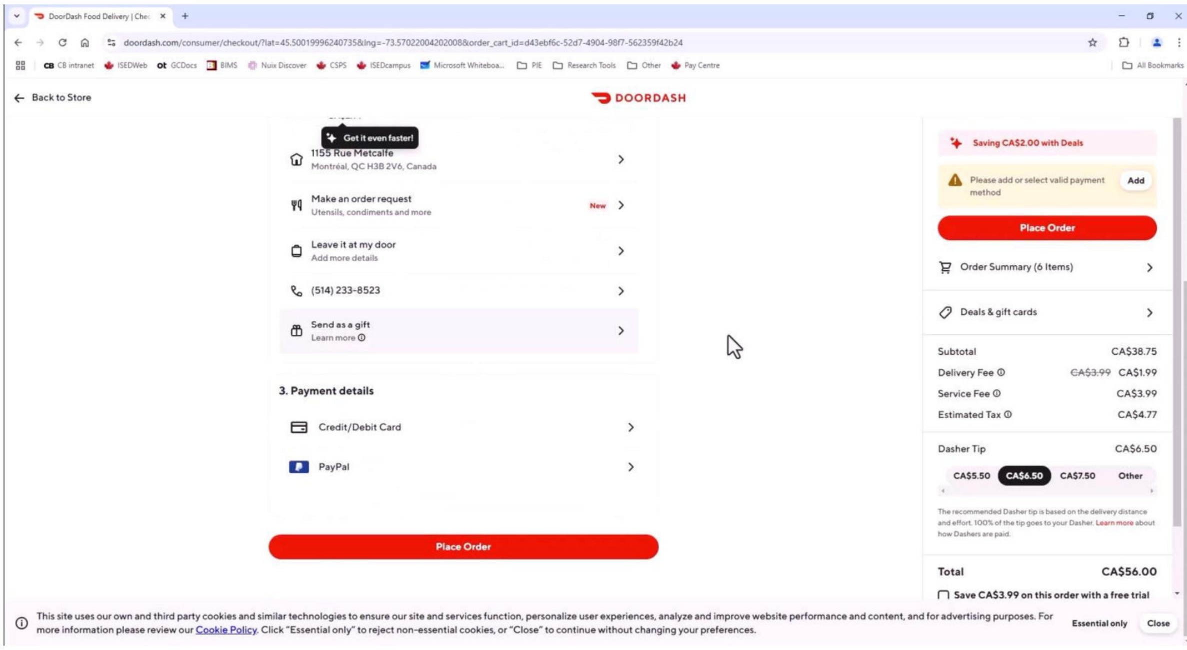

Figure 12 – Image from Website, January 29, 2025

80. As seen in this example, DoorDash adds a delivery fee of $1.99 and a service fee of $3.99[4] to the advertised prices, making the advertised prices unattainable. A consumer who seeks to have this order delivered cannot complete the purchase without paying the delivery and service fees.

81. As a result of the Obligatory Fees charged by DoorDash, the consumer ends up paying 15% more than the advertised prices in this example.

82. While DoorDash's Websites and Apps state that DoorDash imposes a cap of $3.99 on its Services Fees only for Quebec consumers, DoorDash does not apply the $3.99 cap to DoubleDash orders, which are subsequent orders in which a consumer adds additional items to a paid-for order that has not been delivered to the consumer yet.

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[4] $3.99 is DoorDash's stated cap for service fees charged to consumers ordering from restaurants in Quebec. If this order was made from a restaurant in Ontario, for example, where there are no service fee caps, the service fee would have been $4.26, which is 11% of the subtotal.

83. As shown in Figure 13 below, a consumer who added additional items to their original DoorDash order, i.e. a DoubleDash, was required to pay a $4.26 service fee:

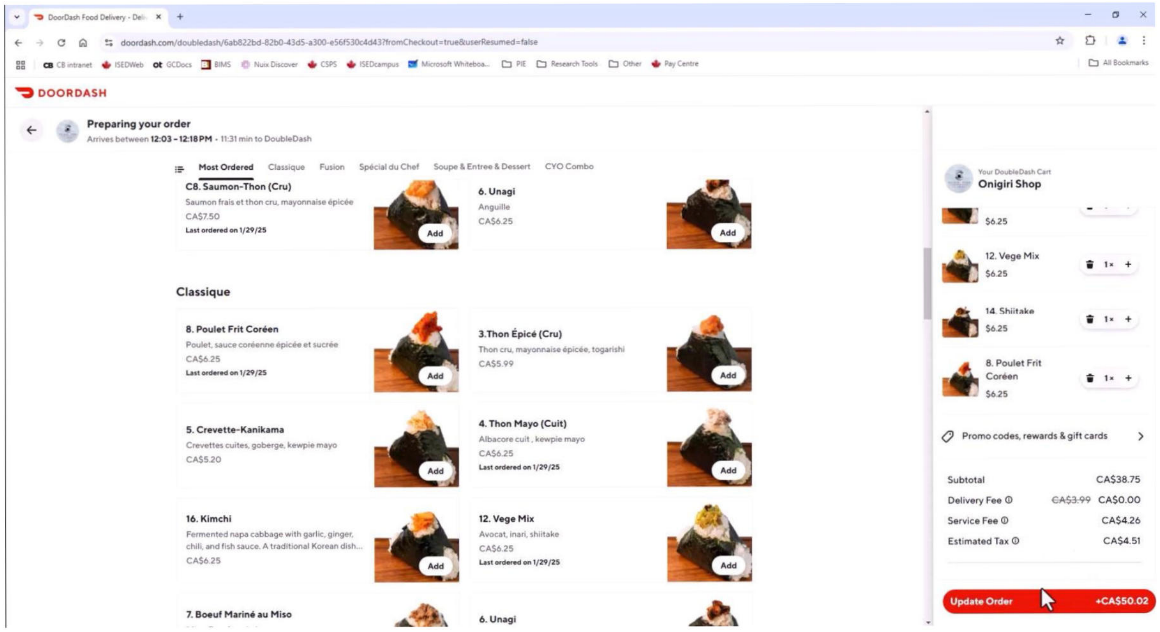

Figure 13 – Image from Website, January 29, 2025

84. In addition to paying a $3.99 service fee on the original order, the consumer paid a $4.26 service fee for the additional items the consumer added to the original order. As such, a consumer ordering a DoubleDash in Quebec may be charged service fees above the $3.99 cap, rendering DoorDash's representations about the maximum Service Fee false or misleading.

Example 3

85. The above examples display representations for delivery orders from restaurants. The same issue exists for delivery orders from other types of merchants, such as convenience stores, as will be shown in this next example.

86. This example illustrates what occurs when a consumer, who is a DashPass member, orders items for delivery from a Dollarama in British Columbia through the DoorDash App. As will be shown, DoorDash displays prices that are unattainable due to its Obligatory Fees, which in this case, are the BC Regulatory Response Fee, Delivery Fee, Service Fee, and Small Order Fee.

87. When the consumer arrives at the Dollarama merchant page, the following screen is displayed:

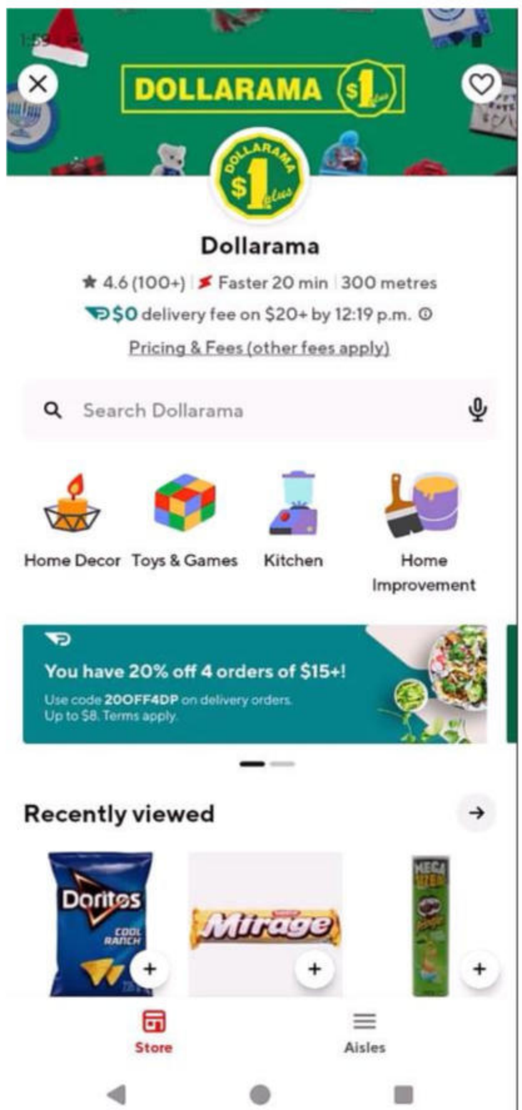

Figure 14 – Image from DoorDash App, March 28, 2025

88. At the top of the above image, it displays “$0 delivery fee on $20+” and below it, the words “Pricing & Fees (other fees apply)”. DoorDash does not disclose the amount of the applicable Delivery Fee for orders below $20 in the above example. If “Pricing & Fees” is clicked, the following popup is displayed:

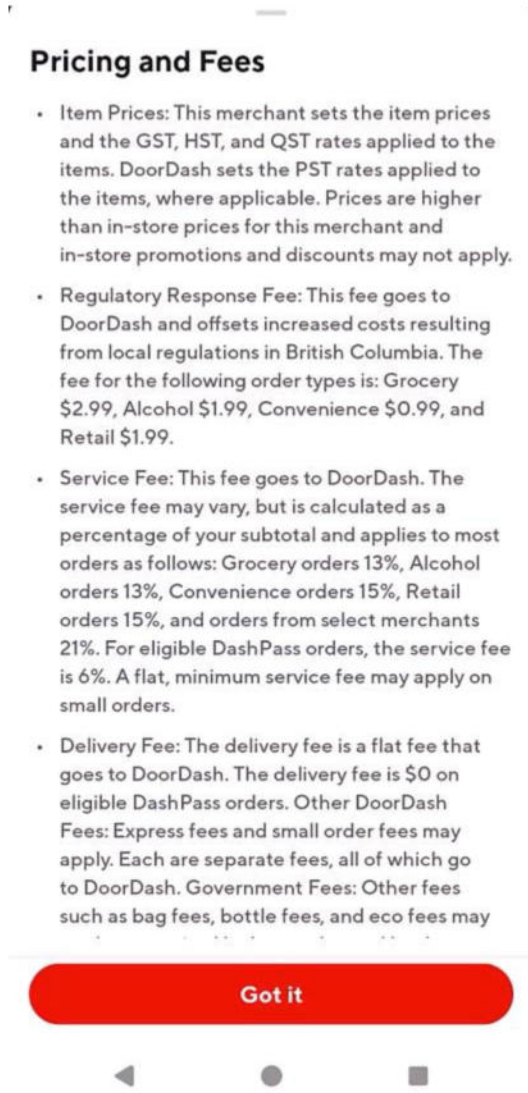

Figure 15 – Image from DoorDash App, March 28, 2025[5]

[5] The bottom section is not visible until the consumer scrolls down. The missing text from the screenshot states: “Government Fees: Other fees such as bag fees, bottle fees, and eco fees may apply as required by law or charged by the merchant. Some of these fees may be retained by DoorDash. Checkout: You can see all of the fees that apply to your order at checkout prior to completing the transaction.”

89. As a consumer scrolls down in the App, they are invited to select items. As in the example above, none of the advertised prices in Figure 16 below are attainable as DoorDash charges Obligatory Fees in addition to the advertised prices:

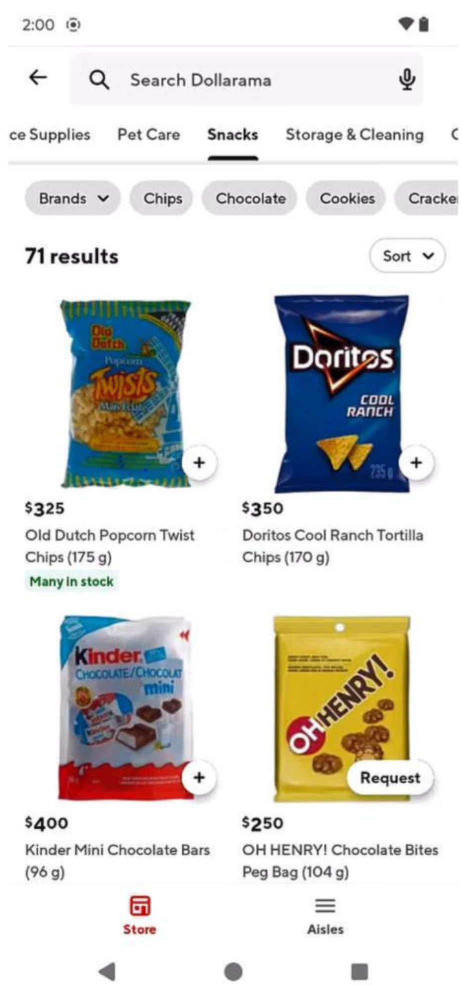

Figure 16 – Image from DoorDash App, March 28, 2025

90. When a consumer selects items, those items are added to their cart. At the Cart Stage, the consumer is shown a banner that allows them to view their cart:

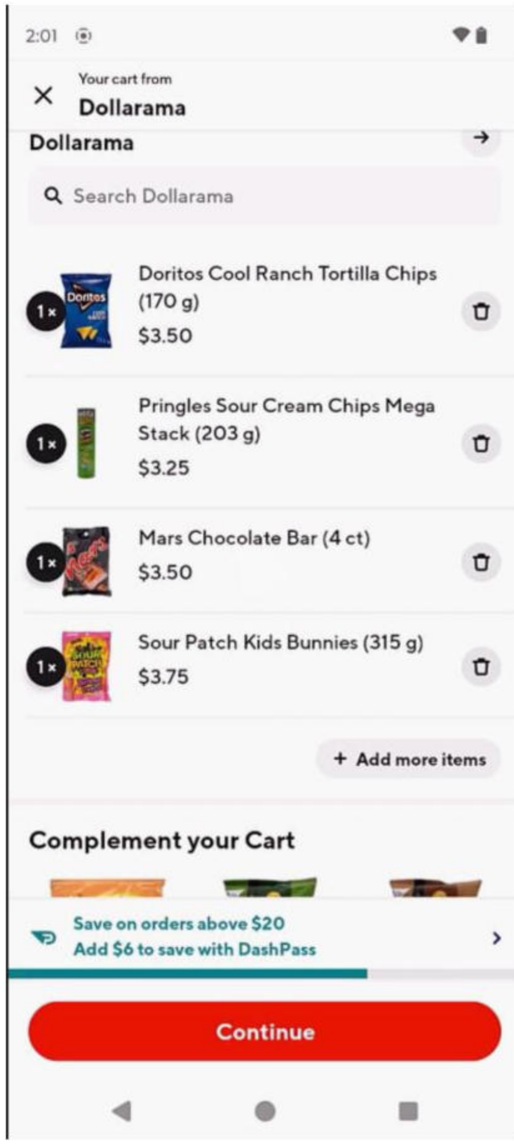

Figure 17 – Image from DoorDash App, March 28, 2025

91. In this example, there are four items that were selected: Doritos Chips at $3.50, Pringles Chips at $3.25, Mars Chocolate Bar at $3.50, and Sour Patch Kids Bunnies at $3.75. These prices are not attainable on orders for delivery as DoorDash charges Obligatory Fees in addition to these prices.

92. At this point, the consumer can once again click the red “Continue” button. However, if the consumer chooses to scroll down past the

"Continue" button, the following information about the Obligatory Fees is displayed:

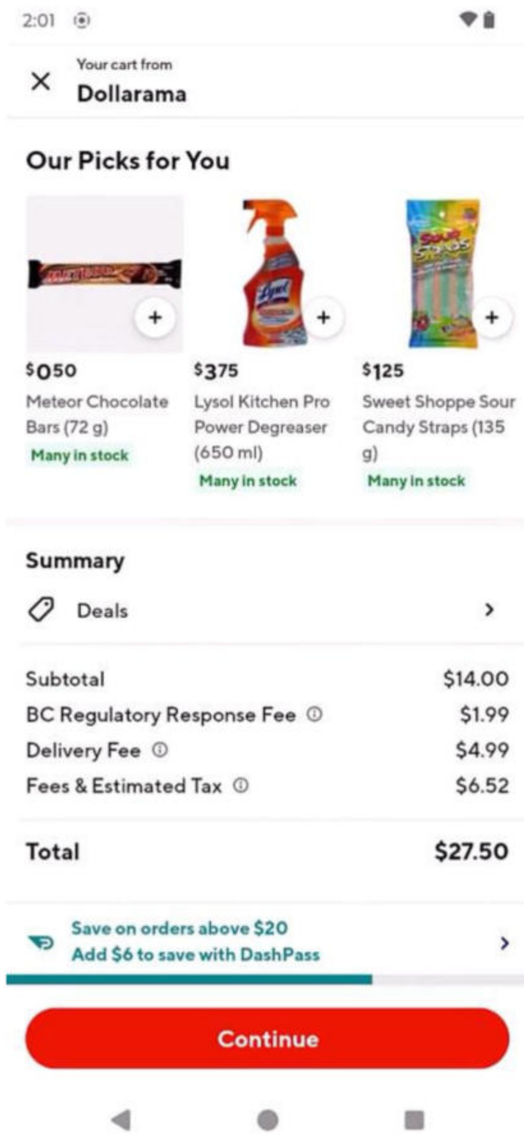

Figure 18 – Image from DoorDash App, March 28, 2025

93. At this point, DoorDash displays a subtotal, the BC Regulatory Response Fee amount, the Delivery Fee amount, and "Fees and Estimated Tax" amount,[6] along with the final total. Therefore, if a

[6] In Quebec, the consumer would see a separate line item for service fees.

consumer chooses to scroll down past the "Continue" button while viewing their cart, that will be the first time they see the applicable Delivery Fee and BC Regulatory Response Fee amounts.

94. If the consumer clicks the (i) next to "Fees & Estimated Tax", the following popup is shown:

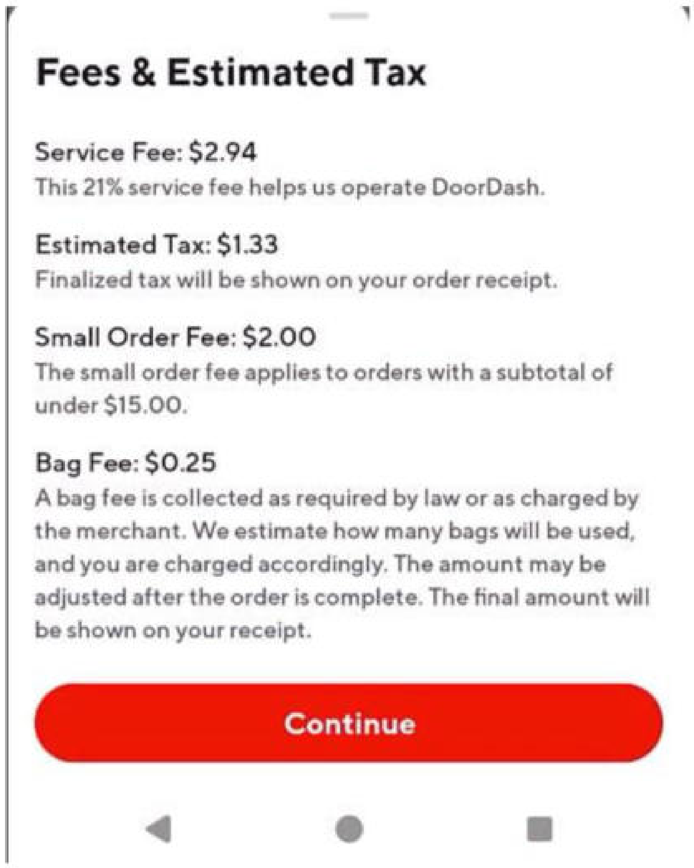

Figure 19 – Image from DoorDash App, March 28, 2025

95. If a consumer chooses to scroll down while viewing the cart and chooses to click on the (i) next to "Fees & Estimated Tax", DoorDash discloses, for the first time, the amount of the Service Fee ($2.94, which is 21% of the subtotal) and the Small Order Fee (which is $2.00).

96. When the consumer clicks the red "Continue" button, they will be taken to the next page, which provides the consumer with an opportunity to

order more items. Again, none of the prices represented at this stage are attainable on orders for delivery due to Obligatory Fees:

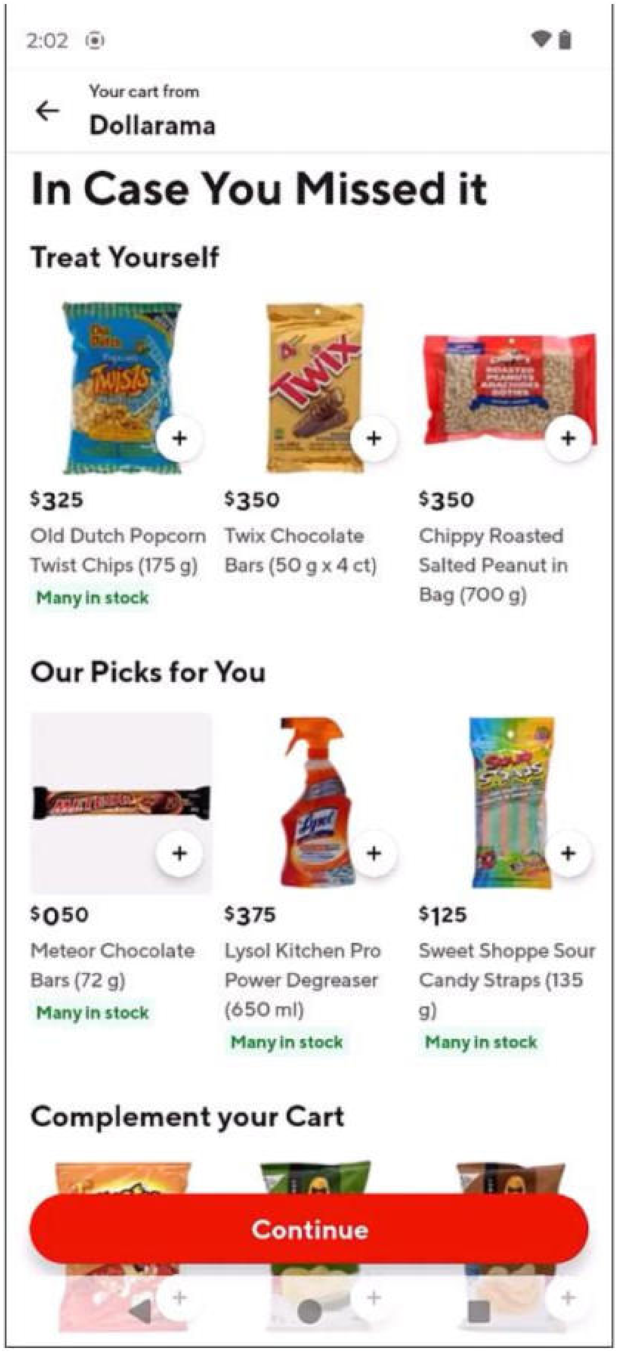

Figure 20 – Image from DoorDash App, March 28, 2025

97. Clicking “Continue” again takes the consumer to the next page, which is the “Delivery details” page:

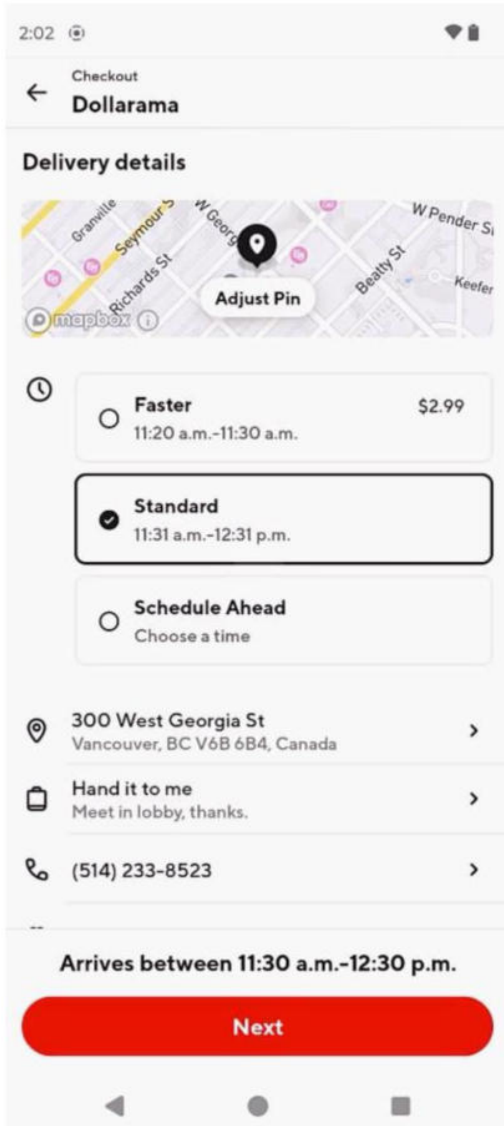

Figure 21 – Image from DoorDash App, March 28, 2025

98. At this point, the consumer has the option to either click “Next” or scroll down to view a summary of their order:

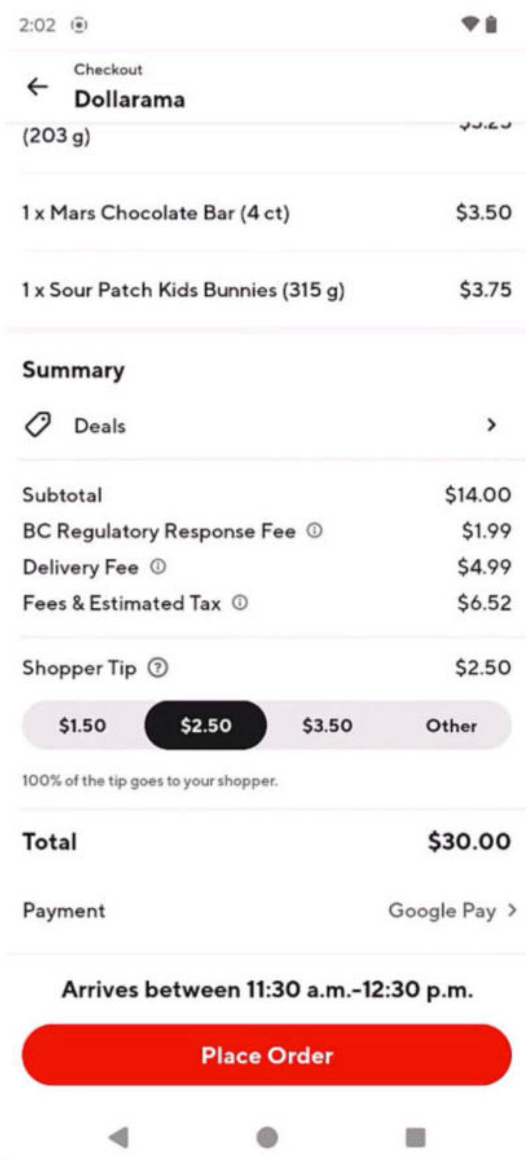

Figure 22 – Image from DoorDash App, March 28, 2025

99. If the consumer had not scrolled down while viewing their cart, the checkout stage will be the first time DoorDash disclosed any applicable Obligatory Fee amounts.

100. A customer cannot purchase the Doritos Chips, Pringles Chips, Mars Chocolate Bar, and Sour Patch Kids Bunnies without paying the BC Regulatory Response Fee, Delivery Fee, Service Fee and Small Order Fee in this example.

101. Further, with respect to the Small Order Fee, had the order exceeded the pre-determined threshold, the fee would no longer have applied – however, the threshold was not exceeded and therefore DoorDash knew the amount of the Small Order Fee that applied.

102. DoorDash does not display an attainable price until at least the Cart Stage, and only if the consumer actually scrolls down.

103. As a result of the Obligatory Fees charged by DoorDash, the consumer ends up paying 85% more than the advertised prices in this example.

C. Not an amount imposed by or under an act of parliament or the legislature of a province

104. The Obligatory Fees are described on DoorDash's Websites and Apps as fees that help DoorDash operate its platform and cover DoorDash's costs. They are created and controlled by DoorDash. The Obligatory Fees are <u>not</u> fees imposed on purchasers of a product by or under an Act of Parliament or the legislature of a province.

D. The Unattainable Price Representations are False or Misleading to Consumers

105. The Unattainable Price Representations are false or misleading under paragraph 74.01(1)(a) even absent the application of subsection 74.01(1.1), and subsequent disclosure of the Obligatory Fees is inadequate to cure the deception that ensues to the consumer.

E. DoorDash's Disclosures are Inadequate

106. As noted in part in the above examples, DoorDash makes some disclosures about the existence of Obligatory Fees on its Websites and Apps. However, DoorDash's disclosures are wholly inadequate to cure the false or misleading nature of the representations that raise concerns

under paragraph 74.01(1)(a) and subsection 74.01(1.1) of the Act. DoorDash's disclosures do not render the Unattainable Price Representations attainable.

F. The Unattainable Price Representations are Material

107. Price is an essential element in every consumer purchase transaction because, ultimately, the price determines the affordability and attractiveness of a product or service. As such, it is invariably material to a consumer's decision-making process. This includes decisions on whether to order a meal or another item for delivery from DoorDash or another supplier.

108. As observed in the examples presented above, Obligatory Fees represent a significant proportion of prices.

109. The Unattainable Price Representations are a material influence on the mind of consumers as they encourage consumers to further engage with the Websites and Apps and can influence their decision to purchase a meal or another item for delivery from DoorDash.

110. DoorDash has designed its Websites and Apps in such a way that consumers are only shown the final attainable price near the end of the purchase process — a deliberate design choice by DoorDash in regards to its Websites and Apps.

G. DoorDash Misleads Consumers that Certain Fees are Government-imposed

111. DoorDash has made, and continues to make, materially false or misleading representations that create the general impression that certain fees are government imposed even though the fees are controlled and imposed by DoorDash, contrary to paragraph 74.01(1)(a) of the Act.

112. As noted above, DoorDash combines Service Fees, Small Order Fees and Taxes into a single line item titled "Fees & Estimated Tax", as shown in Figures 18 and 19, reproduced below:

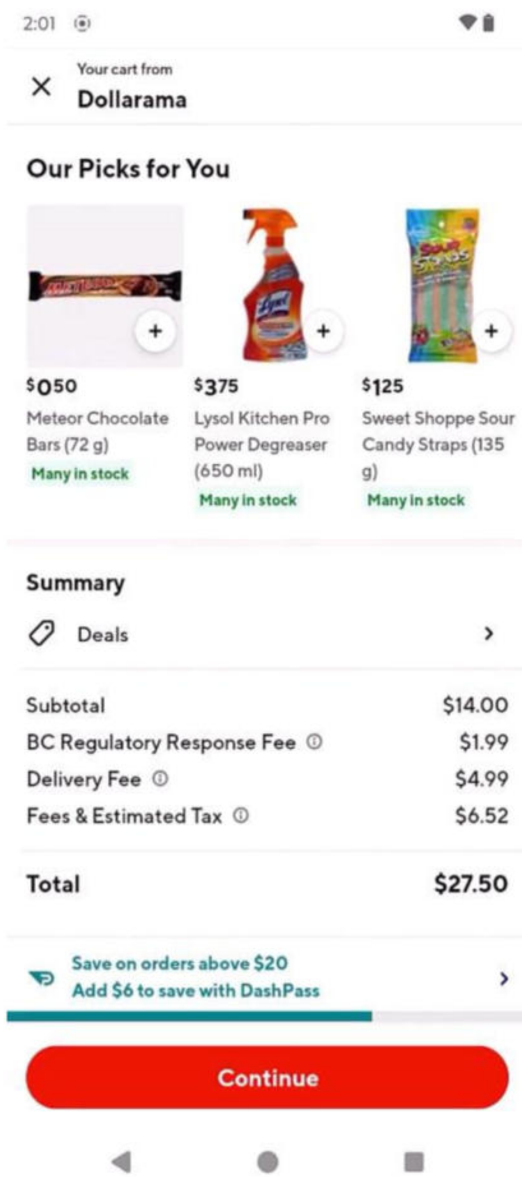

Figure 18 – Image from DoorDash App, March 28, 2025

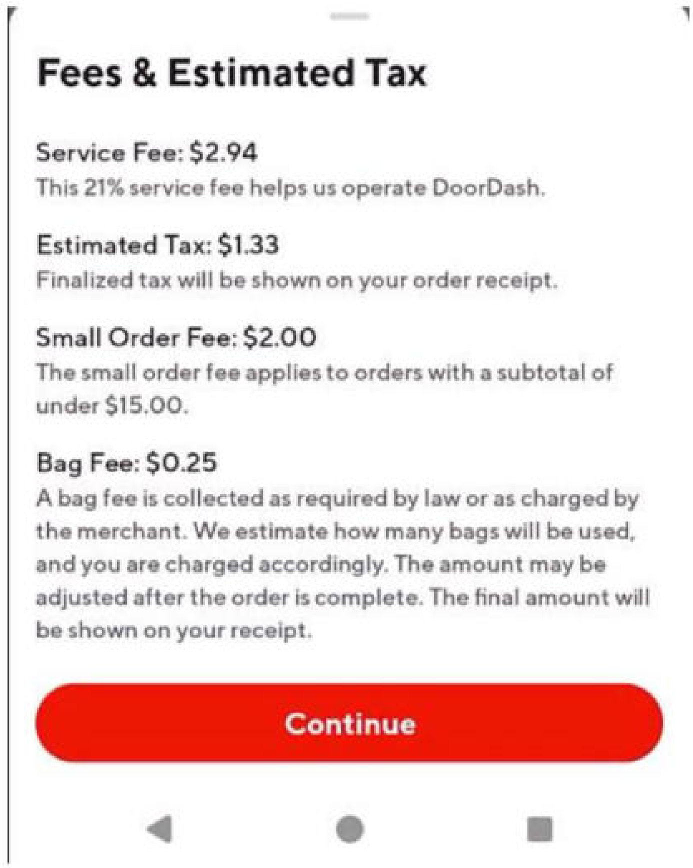

Figure 19 – Image from DoorDash App, March 28, 2025

113. DoorDash's decision to arbitrarily combine certain of its Obligatory Fees with government taxes gives the general impression that “Fees & Estimated Tax” only refers to government-imposed fees and taxes, as opposed to what is in fact a combination of DoorDash’s Service Fees, Small Order Fees and Government Taxes.

114. DoorDash does have a small clickable “i” which sets out the Service Fee (Small Order Fee, if applicable) and taxes separately; however, it requires an extra click from the consumer to find it.

115. Furthermore, DoorDash listing Delivery Fees and the BC Regulatory Response Fee as separate line items while combining Service Fees (and Small Order Fees, if applicable) with taxes under “Fees & Estimated Tax” likely reduces consumer awareness of the fees they are

being charged. Since DoorDash lists Delivery Fees and the BC Regulatory Response Fee separately, consumers may be less likely to further scrutinize the “Fees & Estimated Tax” line item as DoorDash gives the false or misleading impression that the listed Obligatory Fees represent the entirety of applicable DoorDash fees.

116. Furthermore, the fee titled “BC Regulatory Response Fee” gives the impression that the fee is regulatory in nature and therefore imposed by the government. However, this fee was created, and is controlled, solely by DoorDash.

117. As noted above, Figure 15 displays a small disclaimer which explains the origins of the BC Regulatory Response Fee. However, this disclaimer is wholly inadequate to cure the false or misleading nature of the representations that raise concerns under paragraph 74.01(1)(a) of the Act. Figure 15 is reproduced below:

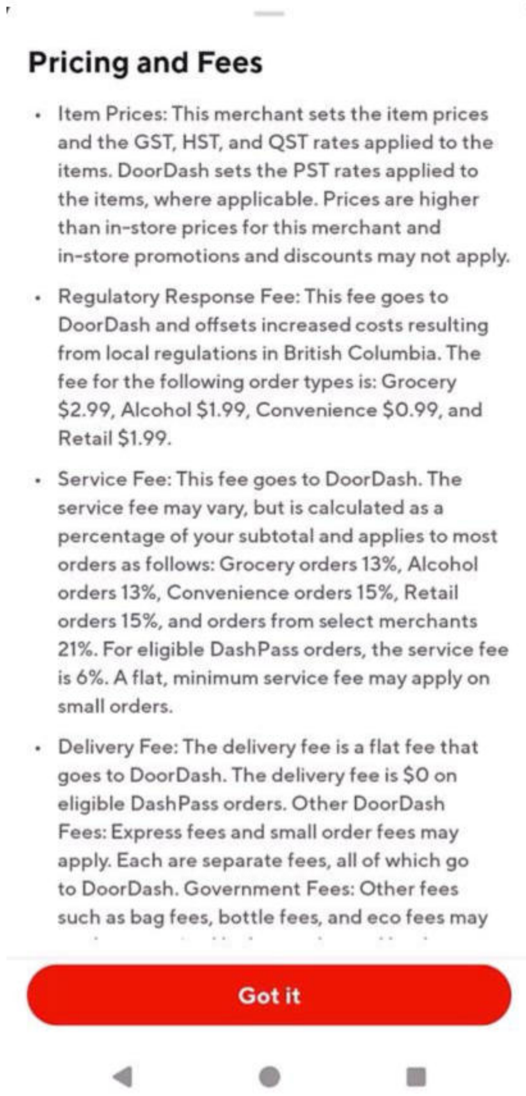

Figure 15 – Image from DoorDash App, March 28, 2025

118. Representations that convey the false or misleading general impression that Obligatory Fees are government-imposed are material.

H. DoorDash Misleads Consumers with Exaggerated Discounts

119. DoorDash has made, and continues to make, materially false or misleading representations about the discounts that consumers will receive, contrary to paragraph 74.01(1)(a) of the Act.

120. Below is an example of an email advertisement a consumer may receive with respect to DoorDash's discounts:

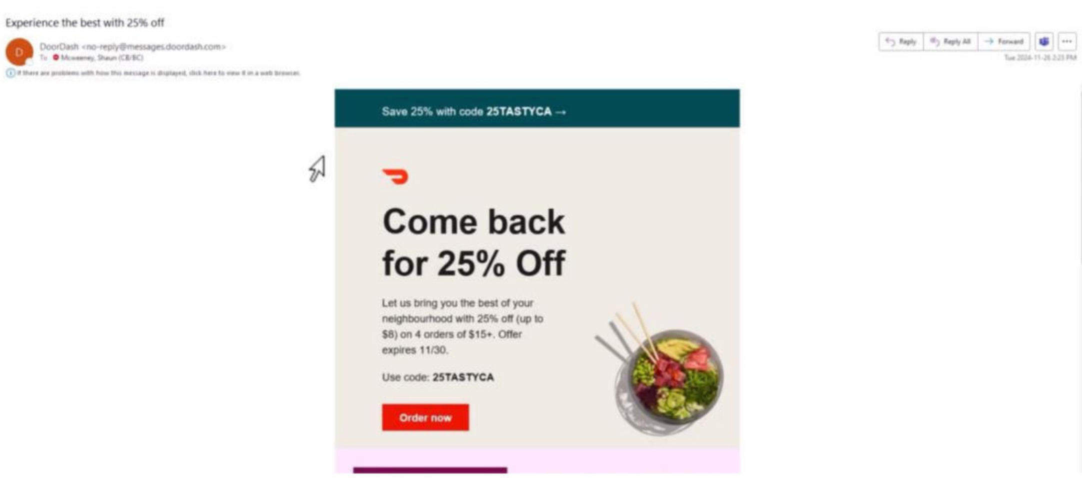

Figure 23 – Image from Email, November 26, 2024

121. This advertisement, contained in the subject matter information and in the body of the email, conveys the general impression that the consumer will receive 25% off their entire order. However, the discount does not actually apply to the Obligatory Fees. DoorDash only applies the 25% discount to the subtotal, which is the sum of advertised prices without any Obligatory Fees or other charges.

122. If the consumer scrolls down a bit, DoorDash displays a note that states "Terms and restrictions apply. See app for more details." If the consumer scrolls all the way to the bottom, past the icons and miscellaneous information, DoorDash displays a disclaimer in dark grey print on grey that "Other fees (including service fee), taxes and gratuity still apply".

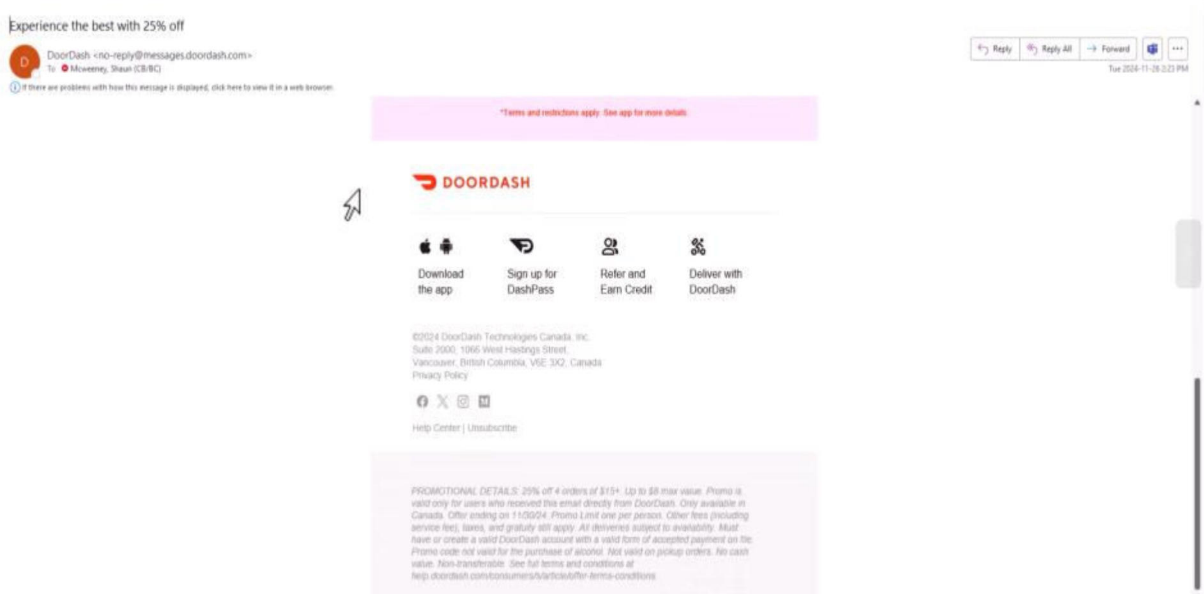

Figure 24 – Image from Email, November 26, 2024

123. The text zoomed in:

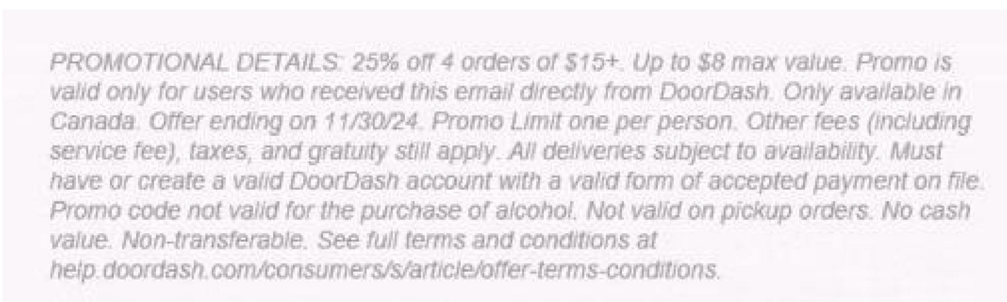
PROMOTIONAL DETAILS: 25% off 4 orders of $15+. Up to $8 max value. Promo is valid only for users who received this email directly from DoorDash. Only available in Canada. Offer ending on 11/30/24. Promo Limit one per person. Other fees (including service fee), taxes, and gratuity still apply. All deliveries subject to availability. Must have or create a valid DoorDash account with a valid form of accepted payment on file. Promo code not valid for the purchase of alcohol. Not valid on pickup orders. No cash value. Non-transferable. See full terms and conditions at help.doordash.com/consumers/s/article/offer-terms-conditions.

Figure 25 – Image from Email, November 26, 2024

124. The disclaimer is not sufficient to cure the false or misleading representations made in the subject matter information and body of the email.

125. When clicking on “Order Now”, consumers are taken to DoorDash’s homepage where they are invited to enter a location or sign-in. After having done so, consumers are invited to select a merchant. The discount is advertised once again on the merchant selection page, as shown below.

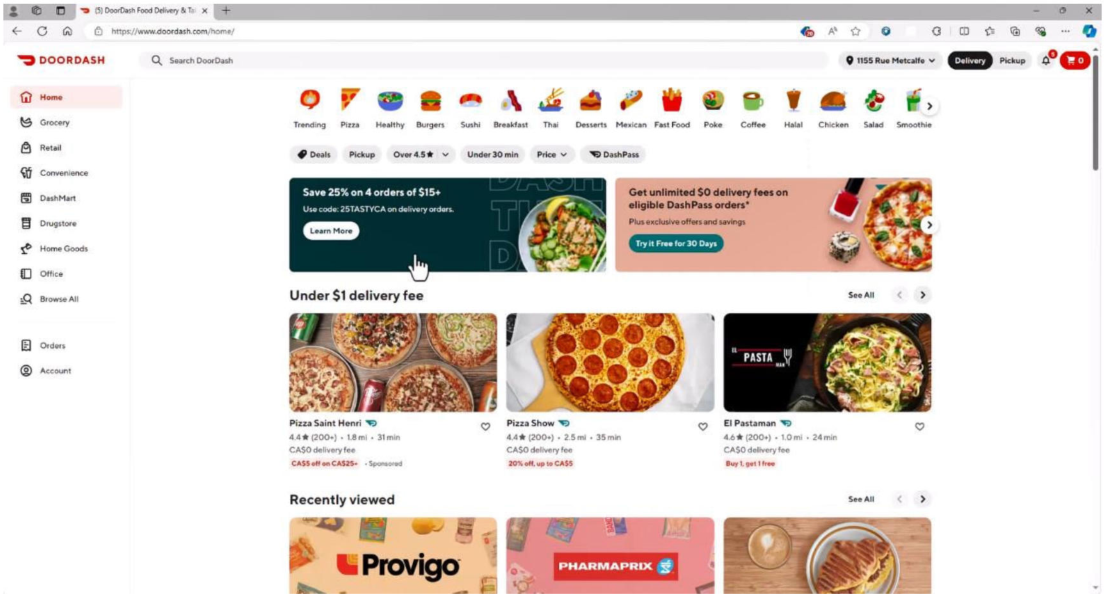

Figure 26 - Image from Website, November 29, 2024

126. The discount is advertised once again on the menu page of the merchant, as shown below.

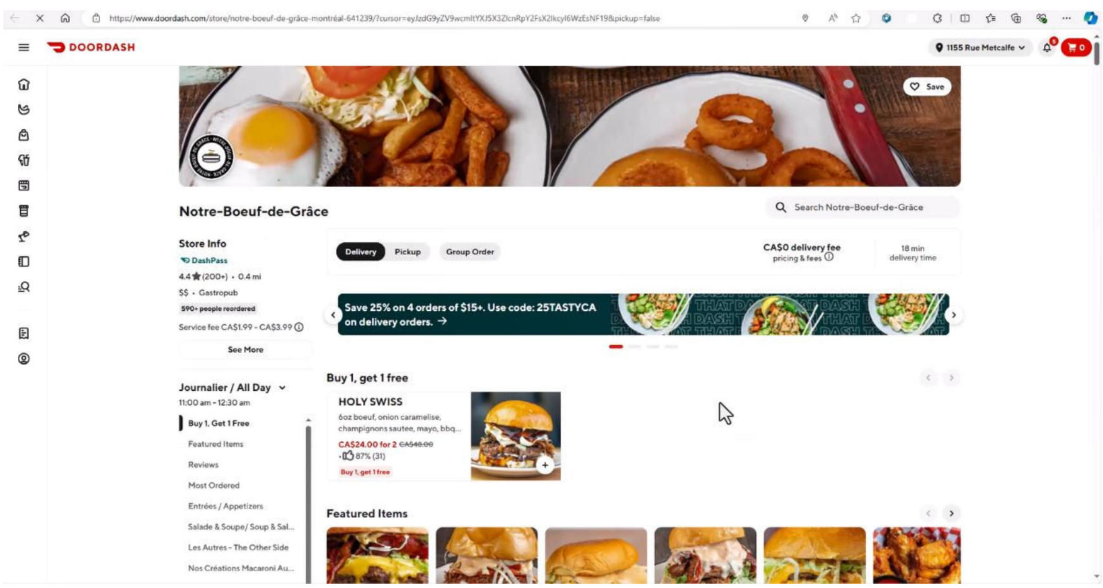

Figure 27 - Image from Website, November 29, 2024

127. The following Terms and Conditions are displayed when clicking on the promotional banner ad located on the menu page of the merchant.

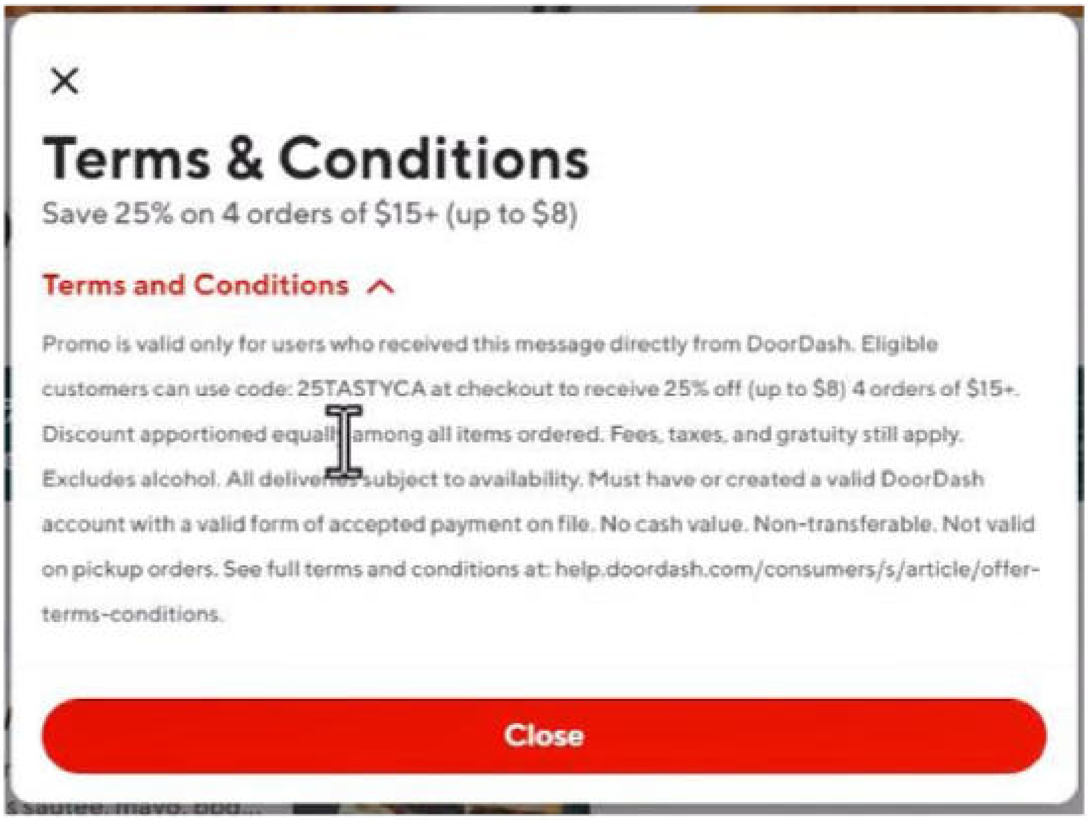

Figure 28 - Image from Website (Zoomed-In), November 29, 2024

128. The disclaimer is not sufficient to cure the false or misleading impression created by the representations made in the subject matter information and body of the email as well as on the merchant selection page and menu page of the merchant.

129. The image below shows the price of the order and the associated Service Fee ($2.64) prior to the application of the discount.

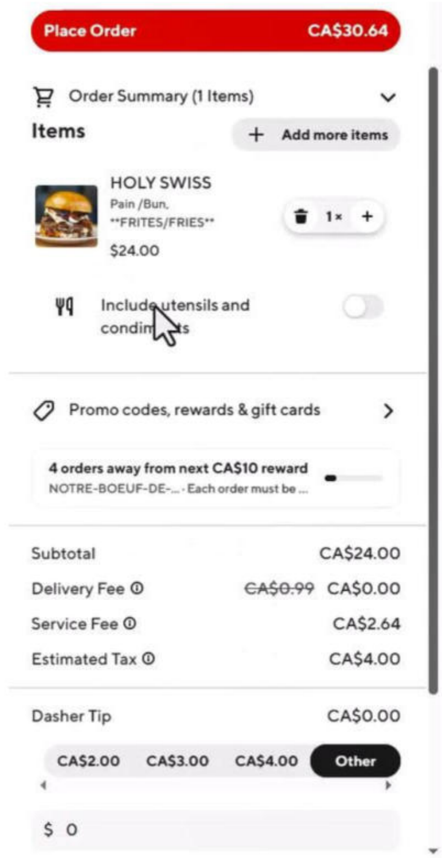

Figure 29 - Image from Website, November 29, 2024

130. The image below shows the price of the order and the associated Service Fee ($2.64) after the application of the discount.

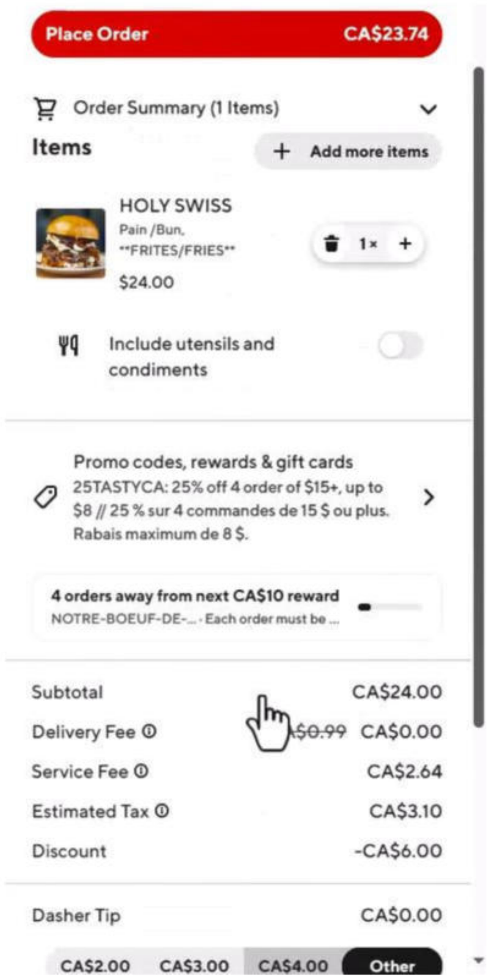

Figure 30– Image from Website, November 29, 2024

131. As displayed in the above image, the 25% discount is only applied to the price of the item. The regular price of the item is $24.00. The Service Fee is $2,64, which is calculated as 11% of $24.00, the regular price before any discounts.

132. In this example, DoorDash's representations convey the general impression that consumers will save 25% off their entire order. Before taxes, this would result in a discount of $6.66. Given that DoorDash applies Obligatory Fees as if a discount had not been applied to the order, consumers save less than the advertised 25% discount.

133. DoorDash makes similar false or misleading representations regarding other discounts, such as “Buy One, Get One Free” discounts.

134. The misrepresentations with respect to discounts are false or misleading in a material respect.

IV. AGGRAVATING FACTORS

135. The reviewable conduct described herein is aggravated by the factors referred to in subsection 74.1(5) of the Act, including the following:

a. DoorDash is among the largest online food delivery service companies carrying on business in Canada;

b. DoorDash engages in the conduct at issue on a daily basis, and has continued to engage in it for over nine years as of the time of filing this Application;

c. DoorDash’s reviewable conduct has a material impact on consumer behaviour;

d. DoorDash’s conduct has persisted despite years of public warnings by the Commissioner that the practice was contrary to the Act:

i. the Bureau first publicly signaled its concerns about the practice of drip pricing in an article published in the **Deceptive Marketing Practices Digest - Volume 1** in 2015;

ii. The Bureau reached consent agreements regarding drip pricing in Canada’s car rental industry in 2016, 2017 and 2018;

iii. The Bureau reached consent agreements regarding drip pricing in Canada’s ticketing industry in 2019, 2020 and 2023;

iv. The Bureau reiterated its position on drip pricing in an article published in the **Deceptive Marketing Practices Digest – Volume 5** in 2020;

v. Parliament enacted subsection 74.01(1.1) of the Act, clarifying that *drip pricing* is false or misleading, in June 2022;

vi. The Bureau further reiterated the deceptive nature of drip pricing in the **Deceptive Marketing Practices Digest — Volume 6**, in April 2023, drawing attention to the 2022 amendments in the Act and underlining Parliament’s determination to target misleading drip pricing practices;

vii. The Commissioner brought a drip pricing case involving the addition of an online booking fee to movie ticket prices to the Competition Tribunal in 2023, which was heard and decided in 2024;

viii. Following the 2022 amendments to the Act and in addition to the 2023 consent agreement in the ticketing industry referred to in (iii), the Commissioner also reached another consent agreement related to drip pricing in 2024;

ix. The Bureau has continued to reiterate its position on drip pricing in an article published in May 2024;

x. In June 2024, Parliament amended subsection 74.01(1.1) of the Act to clarify on whom government fees or charges must be imposed to fall outside the provision;

xi. On July 19, 2024, the Deputy Commissioner of Competition sent DoorDash a letter advising of her concerns that the conduct at issue in this Application may raise concerns under paragraph 74.01(1)(a) and subsection 74.01(1.1) of the Act; and

xii. The Commissioner filed a Notice of Application in relation to alleged drip pricing by an operator of an amusement park in May 2025.

As such, it is unlikely that DoorDash will cease the conduct at issue and self-correct; and

e. Since entering the Canadian market in November 2015, DoorDash has collected nearly $1 billion in Obligatory Fees, representing a significant portion of DoorDash's gross revenue from sales affected by the conduct.

V. RELIEF SOUGHT

136. The Commissioner seeks the relief set out in paragraph 1, above.

VI. PROCEDURAL MATTERS

137. The Commissioner requests that this proceeding be conducted in English.

138. The Commissioner requests that this Application be heard in the City of Ottawa.

DATED AT Ottawa, Ontario, this 6th day of June, 2025.

Boswell, Matthew Digitally signed by Boswell, Matthew
Date: 2025.06.06 11:56:02 -04'00'

Matthew Boswell
Commissioner of Competition