

300 Hamilton Street, NE
Apartment 104
Washington, DC 20011

April 3, 2013

VIA PDF E-MAIL ATTACHMENT

Helder Gil
Legislative Affairs Specialist
District of Columbia Department of
Consumer and Regulatory Affairs
1100 Fourth Street, SW
Room 5164
Washington, DC 20024

Re: Corrected Notice of Fourth Proposed Rulemaking
60 D.C. Reg. 3638 (Mar. 15, 2013)

Dear Mr. Gil:

Thank you for the opportunity to comment on the proposed new regulations on DC food trucks. Like many of my fellow federal employees, I frequently patronize the District's diverse food trucks for lunch. As a consumer protection attorney, I sympathize with the DC Government's desire to protect public health and safety. But in much of the Corrected Notice of Fourth Proposed Rulemaking, I see measures that will slash lunch choices for hungry District workers and dampen competition for their lunch dollars without countervailing benefits.

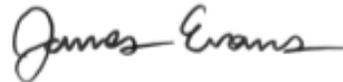
By way of background, I'm not generally averse to regulation. As a lawyer for the federal government, market regulation is often my job. As someone with liberal political views, market regulation is often my policy preference. But regulation that restrains the marketplace without countervailing benefits to consumers is bad regulation. Obviously the DC lunch market is robust. To survive in this market, firms must compete with one another to win business and the loyalty of repeat customers. If a firm cannot compete, it will fail. This is Economics 101. The proposed regulations will restrain the DC lunch market. They will cause food trucks to fail that would otherwise succeed, and will prop up restaurants that would otherwise fail. And they will do this without the countervailing benefits to consumers needed to justify such restraints.

For example, the "Mobile Roadway Vending" scheme imposes a restraint on the lunch market by limiting the number of food trucks in the most popular food truck locations. If the market for lunch at a particular location can support eight food trucks, why limit the location to two or three? The argument that Washington's workers can't handle standing in line on the sidewalk in an orderly fashion, leaving room for others to pass, is incorrect and overblown. This sort of regulation harms consumers by cutting supply, driving them to more distant or lower quality lunch options. It also harms food trucks, depriving them of their strongest customer base and thus driving viable firms toward failure. Regulation should not impose such limits without much stronger evidence of countervailing consumer benefits. Of course this is to say nothing of the "lottery" for allocating vending locations, which ignores demand for individual food trucks in an arbitrary and capricious form of decisionmaking – about as far from the free market as it gets.

The success of food trucks in the robust DC lunch market shows that they must be doing something right. As any food truck patron can tell you – it's the food. Why else do so many District workers stand in line outside, in January as often as July, to pay the same price for lunch but with no place to sit down and eat it? The variety and quality of food truck food often wins out over brick-and-mortar restaurants. A natural result of the growing popularity of food trucks, then, will be the failure of some brick-and-mortar establishments. The DC Government should not be afraid of this consequence of a free marketplace. Curtailing food trucks to prop up restaurants is not an acceptable justification for invoking the District's regulatory powers. Moreover, consumers will suffer – no amount of regulation can make a bad lunch taste better.

Thank you again for this opportunity to comment. If there is any more information I can provide, please don't hesitate to contact me. In addition to the address above, I can be reached at (202) 465-5541, and jeevan@email.wm.edu. I hope you will hear the District's workers speaking and rework the proposed food truck regulations to avoid unnecessary restraints on the DC lunch market.

Sincerely,

A handwritten signature in black ink that reads "James Evans". The signature is written in a cursive, flowing style.

James Evans

CC:

Hon. Vincent C. Gray
Mayor
District of Columbia
1350 Pennsylvania Avenue, NW
Suite 316
Washington, DC 20004

Hon. Kenyan McDuffie
Chair Pro Tempore &
Councilmember, Ward Five
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Suite 506
Washington, DC 20004