

Seamless Delivers Tips Agreement

Restaurants Using Service Could Cheat Delivery Workers on Tips, Probe Finds

By
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Online food-delivery company Seamless will revamp its fee structure after an investigation by New York state's attorney general found that restaurants could cheat delivery workers out of tips, officials said Tuesday.

Seamless collects a percentage of every total bill from each of its partner restaurants, officials said. That includes not only the cost of food, sales taxes and fees—but also tips.

This allowed restaurants to potentially hold back part of gratuities from workers, Attorney General Eric Schneiderman said.

Seamless Tuesday signed an agreement mandating it change its fee structure for any new restaurant that signs up for the service. Those new restaurants wouldn't have their tips subjected to the Seamless percentage fee.

All existing restaurants that use Seamless must adopt the change in a new contract over the next 12 months.

While Seamless, which is owned by the Chicago-based GrubHub Inc., wasn't breaking the law, its practice created an incentive for restaurants not to pass on gratuities to workers, Mr. Schneiderman said.

"Our settlement with GrubHub changes a billing formula that was used by restaurants to cheat workers out of their hard-earned tips—tips that customers intended for them," Mr. Schneiderman said.

"Today's agreement addresses a problem that may have affected thousands of delivery workers, and the industry will be better off for it," he added.

A GrubHub spokesman said the company is a responsible corporate citizen and signed the agreement to continue conducting business in an ethical and legal manner.

"We are happy that this matter has been resolved," the spokesman added.

Seamless, a popular online service based in New York, allows customers to place delivery and pickup orders with 6,000 restaurants.

The agreement, Mr. Schneiderman said, will let all restaurants using GrubHub know "what their legal obligations are —not only with regard to tips, but also for all laws that protect the rights of workers."

Seamless's partner restaurants were warned in their contracts to pay all appropriate taxes to authorities, the investigation found, but there was no similar language that reinforced their obligations to pass on gratuities, as required by law.

Under the agreement, Seamless will now send a notice to all participating restaurants to inform them of these obligations.

Mr. Schneiderman's investigation began in March 2013, after a lawsuit was filed in Manhattan federal court against an Upper West Side restaurant, Indus Valley.

The restaurant was alleged to have been taking tips intended for delivery drivers when orders were made through Seamless and GrubHub.

The case was settled for \$276,000, said a lawyer for the 12 plaintiffs, Jane Chung.

In a summary judgment, the federal judge ruled that charges by the delivery websites for services such as advertisement fees and marketing shouldn't be passed on to workers.

"Passing on those costs to low wage workers was a travesty, it was akin to passing on other customary business charges, such as renting the space or supplies," Ms. Chung of Gladstein, Reis & Meginniss said.

The New York State Restaurant Association likened Seamless' fee structure to overcharging restaurants and said the money taken from tips should be returned to the businesses, said spokesman Andrew Moesel.