Testimony of Commissioner Lorelei Salas
New York City Department of Consumer Affairs

Before the
New York City Council Committee on Consumer Affairs and Business Licensing

Hearing on
Introduction 52-2018

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Good morning Chairman Espinal and members of the committee. My name is Lorelei Salas and I am the Commissioner of the New York City Department of Consumer Affairs (DCA). I would like to thank the committee for the opportunity to testify on Introduction 52-2018 (Intro. 52), a bill that would prohibit companies from charging a fee for student debt relief already provided without charge by the federal government unless specific disclosures are made and create a private cause of action for consumers harmed by violations of the law. I will first discuss DCA's recent work to identify the challenges impacting student loan borrowers and better protect and promote their financial health.

DCA Action

DCA's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. Fulfilling that mission requires us to reach out and listen to New Yorkers about the issues that affect their ability to control their financial lives and plan for their futures. Through that outreach work, we heard a lot about one issue that weighs on the minds, and budgets, of many New Yorkers: student loan debt. We decided to dig into this issue to learn more about how student loan debt affects average New Yorkers.

In December 2017, DCA released a report, *Student Loan Borrowing Across NYC Neighborhoods*, in partnership with the Federal Reserve Bank of New York. The report found that there are approximately one million student loan borrowers in New York City and that fourteen percent are 90 days or more past due on their loans. Carrying student loan debt proves to be enormously consequential to individual and family financial health. For example, this debt reduces a borrower's ability to save for the future, build assets like home equity, and causes financial and emotional distress that can impact many aspects of a borrower's life. Strikingly, these effects hold true even for those borrowers who are current on their loan payments. The consequences are even more serious when a borrower enters delinquency and default.

Our 2017 report was just the first step to investigating the student loan debt problem in our city. At the beginning of this year, we put the findings from our report to work by launching student loan debt clinics to help New Yorkers understand their student loans and how to repay them. In partnership with the Bedford Stuyvesant Restoration Corporation, Phipps Neighborhoods Opportunity Center, and the New York Legal Assistance Group, DCA's Office of Financial Empowerment hosted clinics in Melrose in the Bronx and Bedford-Stuyvesant in Brooklyn, two neighborhoods that our report identified as having high levels of student loan debt-related financial distress. At our clinics, trained professionals provided education, student loan literacy, and opportunities for financial and legal counseling. These clinics didn't just help New Yorkers; they also provided valuable lessons about the best way to educate and assist those struggling with student loan debt that DCA can carry forward and share with other organizations.

To better understand how the consequences of student loan debt shape the lives of New Yorkers, we needed to hear them tell their stories first-hand. We started with a series of events in neighborhoods where our report showed the highest rates of student loan delinquency and default- the South Bronx, Mt. Eden, and Highbridge in the Bronx and East New York in Brooklyn. We employed a popular education model to develop conversations about student loan debt where we could both learn and inform. During those conversations, we heard from New Yorkers about obstacles to repayment, confusion about options, and the negative effects student loan debt can have on their lives.

In June 2018, I chaired a public hearing called *Speak Up, Speak Out: A Public Hearing about Student Loan Debt in New York City*. We heard testimony from members of the public, experts, advocates, and legal service providers about this serious and growing problem. Again, we heard about the many barriers to repayment success, including misrepresentations by schools, a lack of trusted and reliable information, and inadequate support for borrowers by student loan servicers contracted by the federal government to handle loan repayment. And, of course, we heard proposals for how governments at every level could help borrowers in New York City surmount these barriers and put themselves on a path to financial health and success. I am very grateful to everyone who participated in our hearing, and I look forward to sharing more about our findings and recommendations with the Council when our full hearing report is released later this fall.

DCA Financial Empowerment Centers are a critical resource for New Yorkers who are struggling to navigate the student loan repayment process on their own. At our centers, professional financial counselors provide free, one-on-one assistance with tackling debt, improving credit, creating and managing a budget, and saving and planning for the future. Counselors have received in-depth training on student loan issues and can help guide New Yorkers through the complex, and sometimes confusing, process of repaying student loans. There are more than 20 Financial Empowerment Centers located across the five boroughs, and any New Yorker can schedule an appointment just by calling 311. Since 2014, our financial counselors have helped more than 1,100 clients take action related to their student loan debt, including checking the status of their student loans, consolidating their student loans or payments, and/or bringing their student loans out of default.

Unfortunately, some actors seek to exploit students and borrowers for their own gain. Last week, I announced that DCA has filed a complaint in state court against Berkeley College- one of the largest for-profit colleges in New York State with approximately 4,000 students- alleging violations of the Consumer Protection Law and debt collection rules. In addition to educating consumers, DCA is committed to using all the tools at our disposal to hold companies who prey on the hopes and dreams of consumers seeking higher education accountable.

Of course, it is important to recognize that student loan debt is a national, not just a New York City, problem. According to recent reporting, total student loan debt in the United States is over $1.5 trillion and students who earned bachelor's degrees in 2016 left school with an average debt load of over $30,000. But the story doesn't end with students- parents are also taking on increasing levels of student debt to help pay for their children's educations. The federal Consumer Financial Protection Bureau has handled more than 60,000 complaints related to student loans since 2011.

Student loan debt- and its consequences- do not fall evenly. In 2015, the research organization Demos found that despite having lower rates of college completion, young Black households are far more likely to carry student loan debt than their White counterparts. Gender also plays a role- earlier this year, the American Association of University Women found that women hold nearly two-thirds of the outstanding student loan debt in the country and many struggle to pay back their loans, likely due in part to the fact that women still earn less than men on average. Tackling the student loan debt crisis is just as much about equity as it is about opportunity. DCA is committed to helping New Yorkers affected by student loan debt and we look forward to partnering with the Council to do so.

Introduction 52

I will now turn to the bill before you today. Intro. 52 is intended to address one piece of the student loan debt problem by banning businesses from charging for services that are available free with a simple phone call to the federal Department of Education (DOE) or a borrower's loan servicer. Intro. 52 would allow companies to continue charging for student loan debt relief services if they make certain disclosures about the availability of free services from the DOE. The bill would also create a civil right of action for consumers who are harmed by a company that fails to comply with the law.

A complaint filed by Attorney General Barbara Underwood last month vividly demonstrates the ways in which these companies can harass, deceive, and harm consumers. The complaint describes how companies, both through advertising and in communication with borrowers, misrepresent the qualifications of their salespeople, the prices they charge, the results they can obtain for consumers, whether the company is affiliated with the government, whether a consumer can obtain a service on their own, and the programs for which a consumer is eligible. The complaint also alleges that these practices resulted in real consumer harm. For example, one consumer decided to take on thousands of dollars of debt to pursue a graduate degree because a student loan debt relief company assured her she qualified for a forgiveness program that would wipe out her debt when, in fact, she did not. As a result, the consumer was left to figure out how to repay thousands of dollars in loans she counted on being forgiven for a degree she wouldn't have pursued if she'd known the truth.

I commend the Council for moving quickly to focus attention on the problems caused by student loan debt relief companies. DCA supports the effort to prohibit these companies from charging for services available for free from the federal government. I would like to offer a few suggestions on this bill for the Council's consideration.

First, we are interested in hearing more from the Council about why the broad safe harbor through disclosure is necessary and desirable. DCA understands that in some cases, a consumer may wish to pay an experienced third party to help them navigate complex government programs, even if the services are available for free. However, the DOE itself warns the public about student loan debt relief companies, saying on its website that "[o]ften these companies are charging for services you can easily manage yourself," and, according to the Federal Trade Commission (FTC), "there's nothing they can do for you that you can't do yourself for free." The FTC has acted against many of these companies and maintains a list of more than 400 entities that are banned from providing debt relief services. We hope to work with the Council to refine the bill to strike an appropriate balance between the availability of services that are helpful to consumers and the prohibition of those that are harmful.

Second, we suggest clarifying that DCA is authorized to pursue restitution on behalf of consumers when we bring enforcement actions in an administrative tribunal. The bill already makes this remedy available to consumers who pursue a civil cause of action and it would be helpful to make clear that these remedies are available in agency actions taken pursuant to these provisions as well.

Finally, if the disclosure safe harbor remains in the bill, the Council should consider requiring that the disclosure be signed by consumers and a copy retained by the student loan debt relief services company. The bill should also create a rebuttable presumption that a company did not provide the disclosure if they are unable to produce a copy signed by the consumer. These requirements will create a record showing that consumers received and acknowledged the document and will help DCA hold businesses accountable.

Thank you for this opportunity to offer comments on Intro. 52. We look forward to working with the Council as this bill moves through the legislative process. At this time, the Law Department is still reviewing the proposal.

Conclusion

Thank you for the opportunity to testify today and offer insight into DCA's ongoing work to help New Yorkers struggling with student loan debt. As always, we look to the City Council as an important partner on this critical issue. I am happy to answer any questions you may have.