

**Congress of the United States**  
**Washington, DC 20515**

May 31, 2022

Fidji Simo  
Chief Executive Officer  
Instacart, Inc.  
50 Beale Street, Suite 600  
San Francisco, CA 94105

Dear Ms. Simo,

We write concerning the health and safety of Instacart’s app-based delivery workers. Every day, ride-share drivers repeatedly interact with strangers, leaving them vulnerable to violent assault and even death. Yet the app-based delivery business model both penalizes those drivers for turning down rides that may be dangerous and incentivizes them to take risks in picking up passengers, all the while denying them basic employment benefits. Instacart further refuses to release comprehensive data on the dangers its drivers face on the job, transparency that is sorely needed for drivers, the public, and Congress to understand the unique risks these workers face. These policies are unacceptable. We urge you to promptly change direction and start making your workers’ health and safety a top priority.

App-based delivery work can pose significant dangers for drivers. During a single day, a ride-share driver may pick up dozens of strangers and travel to remote and unfamiliar locations. Delivery drivers transport goods to strangers at their homes and elsewhere, and the Instacart app often directs drivers to take specific routes that pass through dangerous areas to meet strict timeliness requirements. While workers have long complained about these risks, the dangers of app-based delivery work became particularly clear after sixteen Uber drivers were murdered in Brazil in 2016,<sup>1</sup> leaving companies like Instacart with no excuse for failing to implement new safety features to protect their workers.

Unfortunately, a recent report reveals that many app-based delivery companies have still failed to adequately protect their workers. According to a recent report by Gig Workers Rising, since 2017, at least fifty app-based delivery workers have been killed on the job in the United States, including one death at Instacart.<sup>2</sup> The true toll, however, is almost certainly higher – because of a lack of systematic information, the report researchers relied solely on publicly available data such as news articles, company press releases, and even postings from deceased

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<sup>1</sup> See Mike Isaac, *How Uber Got Lost*, N.Y. TIMES (Aug. 23, 2019), <https://www.nytimes.com/2019/08/23/business/how-uber-got-lost.html>.

<sup>2</sup> See Gig Workers Rising, *Death and Corporate Irresponsibility in the Gig Economy: An Urgent Safety Crisis* (Apr. 6, 2022), [https://www.gigsafetynow.com/files/ugd/af5398\\_e1b49d831a0149a08df4be57c612ae88.pdf](https://www.gigsafetynow.com/files/ugd/af5398_e1b49d831a0149a08df4be57c612ae88.pdf) (hereinafter “Gig Worker Rising Report”).

workers' family members on crowdfunding websites like GoFundMe.<sup>3</sup> Notably, the report found that these safety risks disproportionately impact marginalized communities: 63 percent of the app-based delivery workers killed in the last five years were people of color.<sup>4</sup> The report also excludes deaths of app-based delivery workers from traffic fatalities. Even with this limited information, the evidence is clear: App-based delivery work can be dangerous and potentially fatal.

The app-based delivery business model increases the danger. Many app-based delivery companies are known to have tracked their drivers' cancellation and acceptance rates, and penalized drivers for cancelling or not accepting rides. No driver should face punishment for legitimately declining a ride or delivery they believe would place them in a dangerous situation. Higher pay would also reduce the pressure on drivers to accept rides they deem unsafe.

Furthermore, because Instacart misclassifies its workers as independent contractors, they do not receive the safety and health benefits of traditional employees, including workers' compensation and disability insurance. Taxi drivers, for example, typically have access to workers' compensation and other benefits when they suffer an occupational injury.<sup>5</sup> By contrast, as recent research reveals, app-based delivery workers and their families often receive nothing from the company when they are harmed on the job.<sup>6</sup> Moreover, while Uber and DoorDash offer limited occupational injury insurance to their workers,<sup>7</sup> Instacart does not appear to offer a similar program. Instacart thus leaves its workers both highly vulnerable and lacking adequate company support (such as overtime pay, unemployment insurance, protection from discrimination or retaliation, the right to organize a union, or any state-based paid sick leave or paid family leave).

Instacart has also failed to disclose sufficient information about attacks on its workers. Unlike Uber and Lyft,<sup>8</sup> Instacart has apparently not released *any* information about injuries and deaths of workers on the job. Given the size of your company, this informational gap is unacceptable.

The root problem of Instacart's deficient health and safety policies is its exploitative business model. Make no mistake: App-based delivery workers are employees, and it is unacceptable to subject your employees to these occupational risks with such limited protections. These employees are the reason that Instacart, like other app-based delivery companies, collects

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<sup>3</sup> See *id.* at 10-11.

<sup>4</sup> *Id.* at 5; see also Veena Dubal, *The New Racial Wage Code*, HARV. L. & POL'Y REV. (May 28, 2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3855094](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3855094).

<sup>5</sup> New York State Workers' Compensation Board, *Worker's Compensation Coverage: Taxi/Livery*, <http://www.wcb.ny.gov/content/main/coverage-requirements-wc/taxi-cabs.jsp>.

<sup>6</sup> Gig Worker Rising Report *supra* note 2, at 14.

<sup>7</sup> See Uber, *Optional Injury Protection*, <https://www.uber.com/us/en/drive/insurance/injury-protection/>; DoorDash, *Occupational Accident Policy FAQ*, <https://help.doordash.com/dashers/s/article/Occupational-Accident-Policy-FAQ>.

<sup>8</sup> See Uber, *U.S. Safety Report 2017-2018* (Dec. 5, 2019), <https://www.uber.com/us/en/about/reports/us-safety-report/>; Lyft, *Community Safety Report* (Oct. 21, 2021), [https://assets.ctfassets.net/q8mvene1wzq4/4jxkFTH5YCQK8T96STULMd/4269e14dbcb8578ff64da45df08b8147/Community\\_Safety\\_Report.pdf](https://assets.ctfassets.net/q8mvene1wzq4/4jxkFTH5YCQK8T96STULMd/4269e14dbcb8578ff64da45df08b8147/Community_Safety_Report.pdf).

more than a billion dollars each year in revenue and is able to serve millions of American customers.<sup>9</sup> Instacart's failure to properly categorize its app-based delivery workers as employees means that app-based delivery workers are essentially left on their own. Instead, your drivers and delivery workers should have access to key benefits, including workers' compensation, disability insurance, and the right to unionize.

Given the importance of this issue, we request a written response to the following questions by June 21, 2022:

1. Please identify how and when your company classifies an app-based delivery worker as working. For example, does your company classify an app-based delivery worker as working when the app-based delivery worker has not yet been assigned to a specific passenger or delivery but is actively looking or waiting for an assignment? If not, why not?
2. Please provide the following safety incident information, including breakdowns of each answer by the race and gender of drivers:
  - a. In each of the past five years, how many app-based delivery workers have died from injury or assault on the job while working for your company? For each year, please categorize the cause of each death (e.g., physical assault, motor vehicle accident).
  - b. In each of the past five years, how many app-based delivery workers have suffered a non-fatal physical assault on the job while working for your company?
  - c. In each of the past five years, how many app-based delivery workers have been sexually assaulted on the job while working for your company?
  - d. In each of the past five years, how many app-based delivery workers have been robbed on the job while working for your company?
  - e. In each of the past five years, how many app-based delivery workers have had their cars, bikes, or other means of transportation stolen on the job while working for your company?
  - f. Will you commit to regularly publishing, on a publicly accessible website, data and other information on fatal physical assaults, non-fatal-physical assaults, sexual assaults, and robberies against your company's app-based delivery workers?
3. Does your company notify app-based delivery workers of ongoing on-the-job emergencies or dangerous situations that could affect their health or safety?
  - a. If so, please provide a detailed description of the mechanisms by which your company notifies app-based delivery workers of such emergencies or dangerous situations.
  - b. If not, why not?

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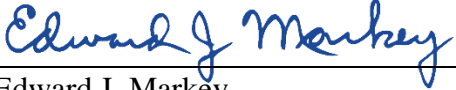
<sup>9</sup> Eric J. Savitz, *Instacart Slashed Its Estimated Valuation. The Tech-Stock Slide Brought the Pain.*, BARRON'S (Mar. 25, 2022), <https://www.barrons.com/articles/instacart-valuation-stock-51648229323> (reporting that Instacart's 2021 revenue was \$1.8 billion).

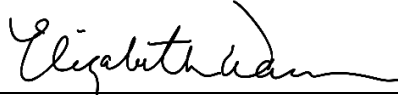
4. Does your company notify the family members or next of kin of an app-based delivery worker who dies on the job while working for your company?
  - a. If so, please describe your policy, practice, and procedure for such notification.
  - b. If not, why not?
  - c. Will your company commit to notifying its app-based delivery workers' family and next of kin in the event of their death on the job? If not, why not?
5. Has your company paid any compensation to, or has a company insurer paid any claim on behalf of, an app-based delivery worker or their family for injury to or death of the worker on the job while working for your company?
  - a. If so, for each of the past five years, please identify the payments and their source, categorized by the amount paid and the nature of the injury or cause of death (e.g., fatal physical assault, motor vehicle accident).
  - b. If not, why not?
6. Does your company offer a form of occupational injury protection or accident protection to your app-based delivery workers?
  - a. If so, please provide a detailed description of the protection program, including the explanation of coverage. If the program is available only to app-based delivery workers in California, please state so.
  - b. Is the program free for app-based delivery workers? If not, will your company commit to making the program free?
  - c. Does the program cover occupational injuries that occur while the driver is waiting for the next ride or delivery? If not, will your company commit to covering injuries that occur while the driver is waiting for the next ride or delivery?
  - d. If your company does not offer an occupational injury or accident protection program, will your company commit to offering a free program for your app-based delivery workers? If not, why not?
7. Are your app-based delivery workers required to sign an arbitration agreement to work for your company?
  - a. If so, what claims does your company require its app-based delivery workers to address through arbitration?
  - b. Will your company commit to eliminating arbitration agreements from its contracts with your app-based delivery workers? If not, why not?

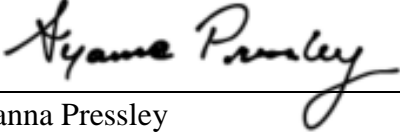
App-based delivery workers are some of the most vulnerable workers in our economy, but app-based delivery companies have not sufficiently protected and supported them in the face of a global pandemic, increasing violence, and economic instability. Your refusal to grant them basic insurance and benefits, even in the face of death on the job, and despite their key role in your business, is unacceptable. Going forward, we strongly urge you to prioritize the health and safety of your employees.


Thank you in advance for your attention to this important matter.


Sincerely,


  
\_\_\_\_\_  
Edward J. Markey  
United States Senator


  
\_\_\_\_\_  
Elizabeth Warren  
United States Senator


  
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Ayanna Pressley  
Member of Congress

  
\_\_\_\_\_  
Richard Blumenthal  
United States Senator

  
\_\_\_\_\_  
Sherrod Brown  
United States Senator

  
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Bernard Sanders  
United States Senator

  
\_\_\_\_\_  
Stephen F. Lynch  
Member of Congress

  
\_\_\_\_\_  
Seth Moulton  
Member of Congress