INTERNATIONAL FRANCHISE ASSOCIATION

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Testimony before the U.S.House Small Business Committee

Hearing on "A small part in a big company: examining the power of franchising in the American economy"

Thursday, May 15

Good morning, Chairman Williams, Ranking Member Velazquez and distinguished members of the Committee. My name is Randy Cross, and I am the President of Fish Window Cleaning, which is the nation's premier window cleaning service with more than 275 franchise locations nationwide, including in several districts represented on the Committee. I am also a franchisee of Fish Window Cleaning.

I got my start in franchising when I opened the first Fish Window Cleaning franchise location in Grand Rapids, Michigan, in 2003, where I proudly employ 31 employees today. A few years after opening my franchise, I decided to join the FISH corporate team, to help other entrepreneurs open and operate their own window cleaning small businesses. I now have the unique perspective of working in the business as both a franchisee and franchisor. I also serve on the Board of Directors of the International Franchise Association (IFA), working to protect, enhance, and promote the franchise business model in Washington, D.C. and around the states.

Today's hearing is a great opportunity to highlight the power of franchising, an all-American business model that supports nearly 9 million direct jobs at 831,000 establishments in America, contributing a staggering $897 billion to the economy. But franchising is far more than numbers on a page – it is a powerful method for and business growth in hundreds of industries, including restaurants, hospitality, personal care, pet care, security, home care, fitness, and real estate and providing business ownership opportunities to individuals who may not have the opportunity otherwise The business model allows franchisees to immediately benefit from the franchisor's existing supply chain, marketing tools, and operational systems, while maintaining control of day-to-day operations. The benefits of franchising speak for themselves: for example, franchising drives 1.8 times higher sales than comparable non-franchise establishments, and 2.3 times as many jobs than non-franchise counterparts. For franchisors and franchisees alike, the model is a win-win.

The Franchise Model

Franchising is perhaps the most important business growth strategy in American history. First beginning in 1731, when Ben Franklin entered into a partnership with Thomas Whitemarsh, who franchised Franklin's printing business – *The Pennsylvania Gazette*, the franchise system has served as a core American model over centuries for opportunity and entrepreneurism, contributing to robust job creation and providing foundational skills development for small business owners and workers.

Despite how it is often characterized, franchising is not an industry, rather it is a business growth model used *within* nearly every industry. There are more than 300 different sectors that are represented in franchising, and franchised companies offer a huge range of products and services from lodging to fitness, home renovators to hair salons, plumbing to pest control, restaurants, security, lawn care, and yes, even to window cleaning services, like Fish Window Cleaning. So again, franchising is utilized far beyond the fast food brands that most associate with it. In fact, 60% of franchises are outside of the restaurant sector.

Franchising is often confused with "big business" when it is in fact the exact opposite. According to market research and advisory firm FRANdata, most franchise owners (81.6% or 191,685 franchisees) own and operate one location. FRANdata reports that franchisees pay an average of a 6 percent royalty to a brand for the right to operate a business under its trademark and sell the brand's products or services. This means franchisees retain an average of 94 percent of their business revenue. Indeed, franchising requires a symbiotic relationship between two business entities (franchisors and franchisees) whose interests are inextricably linked, yet different in their roles and their responsibilities to maximize success.

Furthermore, most franchisors are also very small enterprises. The majority (51.1%) of the nearly 3,500 franchise brands in operation today have less than twenty franchised units in their system. Nearly a third of all franchisors (30.4% or 1,059 brands) have annualized systemwide sales of less than $5 million.

A franchisee is first a local business, distinguished from other local businesses because it licenses the branding and operational processes of a franchisor, or brand company, while operating independently in a set location. The franchise model provides a smoother path to entrepreneurship than developing an independent business, with franchisors sharing confidential and proprietary information regarding site selection and development strategies, training programs and branding campaigns to facilitate faster speed to market for franchisees in addition to providing continuing operational support throughout the long-term franchise relationship. The local owner, or franchisee, is responsible for hiring staff, organizing schedules, managing payroll and all daily operational tasks—and critically, creating a distinct company culture and direct relationship with employees—as well as local sales and marketing.

The value of franchising lies in a strategic balance in the relationship between a franchisor and franchisee: the independence of a franchisee to manage its day-to-day operations and connections with its employees, consumers, and the local community. The franchise business model gives aspiring small business owners head starts toward becoming their own boss, with a proven business model that can set up new business owners for success and easier access to lines of credit than a traditional business.

Congress Should Make the Section 199A Deduction and Other Pro-Small Business Tax Provisions Permanent

With that, I'd like to discuss the importance of tax policy that allows small businesses to flourish. In 2017, Congress passed the *Tax Cuts and Jobs Act* (TCJA), which created the Section 199A deduction, providing passthrough businesses like mine with a 20% deduction for qualified business income. The vast majority of franchise businesses are organized as pass-through entities, including S-Corporations and LLCs, and Section 199A is essential to ensuring parity with C-corporations that pay taxes at the corporate level. Unless Congress acts by the end of the year, Section 199A deduction will expire, resulting in a massive tax increase on small businesses in every state and district. For me personally, losing Section 199A would mean a tax hike of tens of thousands of dollars, hurting my ability to grow, hire more workers, and reinvest in my business and employees. According to a study by the S-Corporation Association, Section 199A supports 2.6 million jobs and contributes $161 billion to employee compensation.

My first recommendation is for Congress to make Section 199A and other pro-small business provisions permanent this year in its forthcoming budget reconciliation bill. I was pleased to see the pass-through deduction extended to 23% in the House Ways and Means bill. Permanency would provide small businesses with much-needed certainty in a volatile economy.

In addition to Section 199A, Congress should make permanent "bonus depreciation" provisions from the 2017 tax law that allow businesses to immediately write off 100% of the cost of capital investments, lowering taxable income and increasing cash flow. Franchise businesses also benefit from the TCJA's expanded interest deductibility provisions, and provisions providing relief from the federal estate tax. Each of these provisions should be made permanent as soon as possible.

Congress Should Repeal the Anti-Small Business "Corporate Transparency Act"

Second, I'd like to discuss the harmful impact of the Corporate Transparency Act (CTA). Enacted by Congress in 2021, the CTA was ostensibly intended to crack down on so-called "shell" companies by requiring nearly all small businesses, including franchisees, to report sensitive and personal information to the Treasury Department's Financial Crimes Enforcement Network (FinCEN). While I certainly support the goal of reducing illicit activity, the reality is that franchise businesses are not criminals, and the CTA would simply heap a massive paperwork burden on small businesses already drowning in regulatory and compliance costs. The CTA is an invasive and confusing law that is arguably unconstitutional, and I commend the Committee for shining a spotlight on the unintended consequences it would have for small businesses.

My second recommendation is for Congress to fully repeal the *Corporate Transparency Act*. This could be accomplished by passing commonsense legislation like the *Repealing Big Brother Overreach Act,* introduced by Congressman Warren Davidson and Senator Tommy Tuberville, legislation strongly supported by IFA.

Fortunately, in March, the Treasury Department announced that it will not enforce any fines of penalties associated with the benefit ownership reporting requirements in the CTA. I applaud the Treasury Department, led by Secretary Scott Bessent, for recognizing that the CTA is an unworkable law for small businesses and for providing relief in lieu of a full repeal by Congress.

Congress Should Codify a Narrow Joint Employer Standard

Third, I'd like to discuss an existential issue for franchising: a volatile and ambiguous joint employer standard that has plagued the franchise model since the National Labor Relations Board's (NLRB) 2015 *Browning-Ferris* decision, a shift that upended decades of precedent and expanded the factors determinative of a joint employer relationship under the National Labor Relations Act (NLRA) to include not only direct control but also indirect and reserved control over broadly-defined essential terms and conditions of employment. Put more simply, franchise businesses have faced four different definitions of a joint employer standard over the past decade.

In 2023, during the Biden Administration, the NLRB doubled down on its overreach, rescinding without any basis the joint employer rule issued during the first Trump Administration and issuing a new rule more expansive than the standard established by *Browning-Ferris*. The rule—like *Browning-Ferris*—threatened the ability of hundreds of thousands of local small business franchise owners, like mine, to make their own employment decisions – as it would ultimately lead to higher costs, less autonomy, and less equity for franchisees. When the joint employer standard was similarly expanded under *Browning-Ferris*, it cost franchised businesses $33 billion per year in operational costs and led to a 93% increase in lawsuits.

Last Congress, both the House and Senate passed a resolution of disapproval under the Congressional Review Act (CRA) to overturn the harmful 2023 joint employer rule on a bipartisan basis. Although then-President Biden vetoed the resolution, this vote was a clear indication that Congress does not support unelected regulators at the NLRB or elsewhere dramatically rewriting federal labor law with the stroke of a pen. Fortunately, just over a year ago, the NLRB's flawed 2023 joint employer rule was struck down by the courts.

My third recommendation is for Congress to pass legislation codifying a joint employer standard that provides clear rules of the road for franchisors and franchisees alike. This could be accomplished by passing the *Save Local Business Act,* introduced by Congressman James Comer and Senator Roger Marshall. This unfortunate pendulum of the past decade has disrupted the franchisor-franchisee relationship and threatens the sustainability of the franchise model, in turn jeopardizing workers' job opportunities and workforce development, consumer choice and competition. Franchising needs a statutory solution to the partisan volleying of the joint employer standard by the NLRB, and I urge Congress to continue working towards this goal.

Conclusion: Congress Should Support and Celebrate Franchising

In conclusion, I'd like to express my gratitude to the Committee for holding this hearing on franchising, a business model that has benefited not just myself and Fish Window Cleaning, but also the millions of Americans that work at small businesses and enjoy the diverse products and services franchising offers every day. Congress should not only support this business model through sound tax and regulation, but celebrate as a uniquely American business model that provides incredibly upward mobility that could only exist in the greatest country on earth.

Mr. Chairman, Members of the Committee, thank you again for the opportunity to testify, and I look forward to your questions.