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April 9, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20510

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Chuck Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader McCarthy, Majority Leader McConnell and Leader Schumer:

On behalf of the International Franchise Association (IFA), the world's oldest and largest organization representing franchising worldwide, I write on behalf of the nation's franchising community, which prior to the COVID-19 pandemic, was comprised of over 733,000 establishments that employed nearly 8 million individuals and contributed \$674.4 billion of economic output to the U.S. economy. Together, we thank you for your steadfast leadership in guiding our nation through this unprecedented health and economic crisis.

The Paycheck Protection Program (PPP)'s – and IFA's – goal is ensuring that employees remain connected to their employers during this crisis and have a workplace to return to when the economy reopens. It's clear that the Paycheck Protection Program needs more funding, but it is also clear that the program needs more guidance and structure. Ensuring that each franchise location is eligible for a loan is the most effective way to cover the most workers. America's franchise business and their millions of employees need quick clarity on who is eligible, particularly as it relates to non-food or hospitality franchise owners. Many of these small businesses – gyms, daycare centers, salons, and the like – are fully closed and in desperate need of additional funding to pay their employees.

As you consider technical corrections and amendments to the Coronavirus Aid, Relief, and Economic Security (CARES) Act or additional legislation to address the economic fallout due to COVID-19, IFA respectfully urges you to consider the following suggested provisions which are necessary to aid the franchise community through this incredibly challenging period.

Clarify Franchise Eligibility in the Paycheck Protection Program (PPP)

Congress intended to maximize franchise eligibility in the PPP by providing a specific and comprehensive waiver of the SBA affiliation rules. Since enactment, agency guidance for the sector has been lacking, leading to numerous denials of eligibility to certain franchise owners, brands, and unit operators. Clarifying Congressional intent and maximizing eligibility will ensure the workforce can stay connected to their employers. To that end, please consider the following changes:



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- Franchisors or franchisees that meet the definition of a business format franchise under part 436 of title 16, Code of Federal Regulations should be eligible for a PPP loan, so long as any single location has less than 500 employees per location;
- All franchisors with franchise systems registered in the SBA's Franchise Registry should be eligible for PPP loans;
- All "business concerns" that are registered in the SBA's Franchise Registry should be eligible for a covered loan without regard to the number of employees, even if the single franchisee entity employs more than 500 people;
- Given the fact that franchise systems registered in the SBA's Franchise Registry are determined to not violate the SBA's customary affiliation rules, as they are applied between a franchisor and franchisee, clause (36)(D)(iv)(II)'s waiver language should be interpreted to ensure that "business concerns" operating as a franchise are eligible for covered loans regardless of the number of affiliated entities it has. This should be true even if traditional SBA lending rules would disqualify the business concern;
- Clause (36)(D)(iii)'s use of business concern should be interpreted to not limit any single entity that employs their employees throughout multiple locations to \$10 million loan cap for all employees at all locations;
- Due to clause (36)(D)(i)'s clear language, the term "any business concern" should be interpreted to mean that franchises that have less than 500 employees but are not currently on the SBA's Franchise Registry as an approved "small business concern" are eligible for PPP; and
- Clause (36)(D)(iv)(II)'s affiliation-waiver provision should be interpreted to allow for franchise systems that have previously been denied access to the SBA's Franchise Registry (due to affiliations with franchisors) to immediately apply and gain listing on the SBA's Franchise Registry for the duration of the COVID-19 crisis.

These concerns may be comprehensively addressed with the inclusion of the following language:

"During the covered period, any small business concern or other business concern that is a franchisor or franchisee in a 'franchise,' as defined in section 436.1(h) of Title 16, Code of Federal Regulations, shall be eligible to receive a covered loan, irrespective of whether the franchise is assigned a franchise identifier code by the Administration, if the small business concern or other business concern employs not more than 500 employees per physical location of the small business concern or other business concern. All provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor regulation, are waived with respect to eligibility for such a covered loan."

Ensure Loan Amounts and Loan Forgiveness Match Small Business Needs

PPP loans should reasonably cover both payroll and nonpayroll expenses. The calculation for maximum PPP loans is just 2.5x the average monthly payroll for 2019 and is inadequate to help small businesses cover both payroll and expenses during the covered period. Please consider the following changes:

- Calculate maximum loans at 4x or greater the average monthly expenses (operating costs). Revise how the loan amount is calculated to include the average payroll, mortgage interest, qualified rent,



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and utilities for 2019, up to a maximum of \$10 million. This revised calculation will provide small businesses with more flexibility to cover both basic employee costs and necessary expenses, while businesses are closed in the interest of public health; and

- Allow eligible expenses to include initial franchise fees and royalties paid by a franchise owner to a franchisor as defined by part 436 of title 16, Code of Federal Regulations.

Allow Flexible Loan Forgiveness for Small Businesses with Few or No Customers

Necessary public health measures have caused small businesses to lose most of their customers or close entirely. Without customers, there is no reason for small businesses to rehire employees to normal levels. Yet, these businesses must also pay rent, mortgages, utilities and other basic costs during the shutdown and beyond. Unfortunately, the PPP forces small businesses to rehire workers to normal levels, even without customers, and discourages them from using loan proceeds to cover basic expenses. For example, PPP calculates loan forgiveness based on rehiring to normal business levels and requires that 75% of loan proceeds be used on payroll costs in order to be forgiven. This makes the PPP impractical for helping businesses stay afloat while they are forced to be closed by the government in the interest of public health. If PPP funds are required to be spent prior to a return to normal business demand and operations, employers will be left with no revenue to maintain payroll after that 8-week period. Please consider the following changes:

- Extend the covered period beyond June 30 for those who may be unable to reopen by then, perhaps to as long as Dec. 31, 2020.
- Require the SBA to allow small businesses that are closed or have very few customers compared to 2019 to use up to 75% of PPP loan proceeds on payroll, rent, utilities, debt obligations.
- Require the SBA to allow full loan forgiveness on any amount used to cover eligible nonpayroll expenses; and
- Provide flexibility on the timing of the PPP so disbursement of the loan can coincide with needs of the businesses and its employees. Allow companies to maximize loan forgiveness for payroll within five days of a reopening for businesses who are forced to remain closed beyond the covered period.

Expand Eligibility of the Paycheck Protection Program to Include 501(c)(6) Organizations

Associations of all sizes, varied functions and disparate industries comprise Section 501(c)(6). More than 62,000 associations across the country play an important role to train America's workforce, create industry and professional standards, and disseminate essential information and resources to people in need – particularly during times of crisis. These organizations are already relied upon to help coordinate federal resources to combat the coronavirus pandemic, and they require staff to fulfill this duty. Associations now face, however, unprecedented financial losses from event cancellations. Most associations also anticipate further losses in dues revenues, as members address their own economically precarious circumstances by cutting expenses, including association membership. Without support, Section 501(c)(6) organizations will be unable to continue to provide the services on which so many rely. Meeting cancellations alone have dealt a staggering blow to associations. Please consider the following change:



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- Clarify that 501(c)(6) nonprofits are eligible to participate in PPP. Amend Section 7(a)(36)(A)(vii) of Title 15 U.S.C. to include 501(c)(6) in the definition of an eligible nonprofit under the Paycheck Protection Program.

Thank you for your leadership during this unprecedented time and for your consideration of these technical corrections. We stand ready to work with you in this critical moment.

Sincerely,

Matt Hall
Senior Vice President of Government Relations & Public Affairs
International Franchise Association