

# IFA TOOLKIT FOR RESPONSES TO THE FEDERAL TRADE COMMISSION'S FORTHCOMING REGULATION OF PRIVATE CONTRACTS

The Federal Trade Commission (FTC) recently issued a Request for Information (RFI) seeking public comment from franchise businesspeople on the state of the franchise relationship. **Comments are due to the FTC by June 8, 2023.** IFA is concerned about the nature of the questions and believes the FTC already has a predetermined outcome in mind to support the creation of a rule that will 1) deem franchisees and franchisors as joint employers, 2) restrict franchisors ability to enforce brand standards, and 3) diminish franchisee equity in their business. This "toolkit" will help you tell your franchise business story to the FTC to help ensure the franchise model is protected and strengthened, not undermined by a needless one-size-fits-all regulation perpetuated by a vocal minority for a business model as vast and diverse as franchising.



## WHAT IS THE FTC?

The FTC is the primary regulatory agency governing franchise sales disclosures. **The FTC is tasked with investigation of unfair and deceptive trade practices and enforcement of federal laws protecting consumers and competition.**

## THE FTC REQUEST FOR INFORMATION

On March 10, 2023, the FTC promulgated its RFI that asked 75 substantive questions on franchise agreements and franchisor business practices. The RFI dissects all aspects of franchise relationships and portrays the franchise model in a negative light, painting franchisees as defenseless prey instead of resilient and innovative entrepreneurs who are pillars of their communities, while also alleging franchisors control franchisee workers.

## THE FTC ENFORCES:

- ➔ The Franchise Rule, which governs presale franchise disclosures;
- ➔ Section 5 of the FTC Act, which prohibits unfair methods of competition and unfair and deceptive trade practices; and,
- ➔ The Robinson Patman Act, which prohibits commercial bribes or "kickbacks."

## THE FTC'S RFI REFLECTS A MISPERCEPTION BY THE COMMISSIONERS OF FRANCHISING. WHAT THE FTC NEEDS TO KNOW:

Franchising involves a symbiotic relationship between franchisor and franchisee. Most franchisees are deeply grateful for the chance to operate in the franchise model, and according to Franchise Business Review:

- **88% enjoy being part of their franchise organizations**
- **86% rate the opportunity provided by their franchisor above average**
- **85% respect their franchisor**
- **80% would recommend their franchise to others**

Moreover, in 2021, **one-third** of franchisees surveyed (32%) said they would not own a business without franchising.

The franchise model is based on established, proven franchise practices that first and foremost **protect franchisee equity in their businesses**. Franchising works best when there are strong franchisor-franchisee relationships focused on the mutually beneficial goal of strengthening the franchise system and based on open, continuing communication. Successful franchisees make a healthy system—**franchisees** continue to develop and expand into new markets; have resources and capital to invest in innovation and marketing strategies to maintain a competitive edge for the franchise system.

**EVERY RESPONSE  
MAKES A DIFFERENCE.  
THE FTC NEEDS TO  
HEAR YOUR STORY &  
YOUR PERSPECTIVE.**

**Franchising is not merely “fast food.”** Rather, it is a model accessed and used by over **300 industries**—including restaurants, fitness, education, home healthcare, spa and personal wellness, home services and myriad others—as a pathway to business ownership for aspiring entrepreneurs and a method of brand expansion for established entrepreneurs across the country.

IFA encourages franchisors and franchisees to respond to the FTC RFI to educate the FTC on the unique qualities of the franchise model and the franchise practices that exist to protect franchisee equity in their businesses. Sharing your

experience, as a franchisor or a franchisee, is essential to ensuring the FTC adequately understands how franchising works and the impacts their rules can have on each and every franchised business. Your responses should highlight successful ways your brand and franchisees resolve challenges through relationships with FACs or franchisee associations, and the mutually beneficial relationship that exists to make your franchise model succeed for both brands and owners.

## WHAT CAN I DO?

**Tell your franchise story to the FTC!**

Simply visit [www.ftc.gov/policy/studies/submit-comment-franchise-request-information](http://www.ftc.gov/policy/studies/submit-comment-franchise-request-information), or scan the “SUBMIT COMMENTS” QR code on the right. Keep in mind responses to the RFI are **due Thursday, June 8, 2023**.

You do not need to respond to every question, but rather share your perspective on how the franchise business model works for you and describe your collaboration with your brand partner.

**IFA is here to help.** The IFA team is here to advocate on behalf of you and the franchise business model. If you need help with your submission, **please contact the IFA team at [advocacy@franchise.org](mailto:advocacy@franchise.org)**. In addition, if you have already submitted a comment or plan to submit a comment, please also email us so we can keep track of all submissions and ensure that your message to the FTC is amplified to the Members of Congress who have congressional oversight of the Commission. **We request that you submit your draft comments to IFA by May 31, 2023**, if you would like the team to review your response or assist in any way.

**Thank you for standing up for your business!**

VIEW THE  
FTC'S RFI



SUBMIT  
COMMENTS



### ABOUT THE INTERNATIONAL FRANCHISE ASSOCIATION (IFA)

IFA is the largest trade association representing franchising worldwide. Its members are comprised of franchisees, franchisors and suppliers to franchise systems who work together to protect, enhance, and promote franchising for all parties involved in the franchise relationship.

**IFA supports constructive public policies that increase transparency, strengthen franchise relationships and benefit franchising** and the generations of families that rely on the economic opportunities it provides.



**FRANCHISING**  
Building local businesses,  
one opportunity at a time.