

January 3, 2024

Dear Member of Congress:

On behalf of the undersigned organizations representing millions of minority-owned businesses across the United States, we write in support of the joint Congressional Review Act resolution concerning the National Labor Relations Board's (NLRB) joint-employer rule.

As discussed below, we support this bipartisan measure because of the opportunities it represents to bridge the racial wealth gap through entrepreneurship and fair competition. While our organizations agree with the aim of the National Labor Relations Act and the mission of the NLRB, this rule represents a broader need to modernize our laws for the diverse economy of the 21st century.

On October 26, 2023, the NLRB released a final rule setting forth a new standard for joint employer status under the National Labor Relations Act (NLRA). This rule would have a concerning impact on all small businesses, contractors, and franchisees around the country who could be held liable for potential NLRA violations for employees that they do not directly control, just by the virtue of entering a standard business-to-business contract.

We write you today, however, because we believe this rule could particularly impact minority-owned small businesses and franchisees that rely on these contracts to sustain and grow their businesses. The rule will take effect on February 26, 2024, unless Congress acts.

The franchise model has been a driver for minority entrepreneurship and job creation, by allowing budding entrepreneurs to partner with well-known brands and bolster local ownership of Main Street businesses around the country. It has also been particularly successful on ramping first- and second-generation immigrants into business ownership. We believe that the unintended consequences of this rule could threaten the entire franchise model. It is our experience that when business models are transformed – for better or worse – the minority community, often under-capitalized, shoulders a disproportionate burden of the immediate harm. We are very concerned that what will remain of the franchise model could undo progress toward diversity and inclusion in this major sector of the economy.

This is particularly harmful at a time when minority entrepreneurs are just beginning to reap the benefits of this model. A recent study found that minority entrepreneurs are more likely to own franchised businesses as opposed to non-franchised businesses. The franchise model can be a helpful tool to encourage higher rates of entrepreneurship among women, minorities, and other underrepresented groups. Below are some of the key findings¹:

- Nearly one-third (32%) of survey respondents said they would not own a business without franchising. Women and other first-time businessowners were even more likely to consider the franchise opportunity as critical to their ability to launch a small business.

¹ The Value of Franchising. (2021). Oxford Economics.

- Nearly one-third (26%) of franchises are owned by minorities, compared with 17% of independent businesses.
- On average, Black-owned franchises earn 2.2 times more than Black-owned independent businesses; Hispanic-owned franchises earn 1.6 times more than Hispanic-owned independent businesses; and Asian-owned franchises earn 1.4 times more than Asian-owned independent businesses.

Beyond the concerns of the minority franchisee community that we represent, we also believe this rule could harm minority business success subcontracting to large prime contractors. Subcontracting is an important pathway for businesses that are just starting – which in recent years are more likely to be owned by minorities and women. This rule similarly threatens the relationship between subcontractors and their prime partners, undoing the important work that has already been done to diversify our supply chains.

For these reasons, we ask you to support the Congressional Review Act joint resolution of disapproval (H.J Res.98/ S.J.Res. 49) to undo the NLRB's final rule on joint employer status. We must all collectively then ensure that policies that support a modern, diverse economy are at the front of the legislative calendar in the new year.

Sincerely,

National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship
(National ACE)
U.S. Black Chambers, Inc.
U.S. Hispanic Chamber of Commerce