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one opportunity at a time.

June 20, 2018

The Honorable Lamar Alexander
Chairman
Health, Education, Labor and Pensions
Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Health, Education, Labor and Pensions
Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Virginia Foxx
Chairman
Education and Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert C. "Bobby" Scott
Ranking Member
Education and Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Alexander and Foxx and Ranking Members Murray and Scott:

On behalf of the International Franchise Association (IFA), the world's oldest and largest organization representing franchising worldwide, I write to you regarding the recent introduction of several bills addressing worker protections and employment practices, particularly related to non-compete and no-poaching rules, including:

- The Workforce Mobility Act;
- The Restoring and Improving Merger Enforcement Act;
- The End Employer Collusion Act; and
- The Economic Freedom and Financial Security for Working People Act of 2018.

I'd like first to note that IFA understands and appreciates the factors that are driving the introduction of these bills. While we believe that there are legitimate and necessary applications of non-compete and no-poaching clauses, we also acknowledge that, in some circumstances, such provisions can be used inappropriately.

However, some of the provisions in these legislative proposals are overly broad and, we believe, could have negative and unintended consequences for the thousands of small businesses that make up the franchise small business network across America.

The franchise sector has long outpaced the overall economy as a job creator. Franchising provides the most efficient way to create jobs, over a wide variety of businesses, throughout all geographic areas, and at all skill levels—from entrepreneurial, to managerial, to entry-level labor. Franchising provides a path of employment, job training, and advancement for employees on a massive scale, including to people who may not otherwise be able to find similar opportunities.



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IFA has long championed free markets, and we believe this principle applies to all participants in our industry, including franchisors, franchisees, and unit employees. We believe strongly that each deserves to benefit from those free markets. At the same time, IFA recognizes that, while we champion free markets, those markets are sometimes imperfect. In those cases, IFA desires to engage constructively with policymakers to address gaps in a targeted and thoughtful way.

For example, there are legitimate and necessary applications of what are sometimes referred to as “no-poaching” clauses. Many franchise systems invest in methods of training and operation – and they spend considerable time and expense conveying training and operational processes to various groups of employees. These are important business assets to many in the franchise industry.

In certain cases, if these methods were to be shared widely outside of the franchise brand – or if franchisees were to lose the operational proficiencies of various employees whom they trained at great cost – the competitiveness of the franchise could be seriously undermined. That would jeopardize the success and viability of the franchise and would have a negative impact on all participants in the franchise value chain.

In instances where some form of “no-poaching” provisions are deemed necessary by franchisors to address those legitimate concerns and prevent damage to the brand and its franchisees, IFA suggests that the form and scope of those provisions be carefully crafted so that they impose only those restrictions on employee opportunities that are reasonable and necessary. In this manner, IFA is confident that there can be a solution that protects brand value and, at the same time, ensures that a new generation of unit employees will continue to grow and advance, benefiting unit employees, franchisees, and franchisors alike.

While we have concerns about the legislative proposals introduced, we would like to work with your respective committees – as well as with the bill sponsors and cosponsors – to develop targeted policy solutions that we think will provide employees with protections and at the same time avoid doing harm to this vibrant sector of our economy.

IFA appreciates the concerns that underlie these bills and, notwithstanding our differences on various provisions, we share the goal of ensuring worker protections. IFA stands ready to work with policymakers throughout the legislative process.

Sincerely,

Robert Cresanti
President and CEO
International Franchise Association