INTERNATIONAL FRANCHISE ASSOCIATION

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TESTIMONY BEFORE THE U.S. SENATE SPECIAL COMMITTEE ON AGING

HEARING ON "*ECONOMIC CHALLENGES AND OPPORTUNITIES FOR OLDER AMERICANS*"

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Good afternoon Ranking Member Braun. My name is Wesley Snyder, and I am a franchise business owner of FASTSIGNS International, Pirtek, and My Salon Suites. I mostly own and operate FASTSIGNS locations in my home state of Indiana and Arizona, Texas, North Carolina, South Carolina and Florida. I appreciate the invitation to appear before this Committee to share my story of small business ownership and discuss the views of my fellow local business owners everywhere as it relates to challenges of today's labor market. I will focus my comments on the path to recovery from the COVID-19 pandemic, the ongoing workforce challenges which continue to be an issue of great importance to franchise business owners like me, and policies that could diminish my business and my employees. It is important that small business perspectives are heard by our nation's leaders.

Senator, I would like to take a moment to express my gratitude for supporting the franchise community, and pushing back against policies that would hinder our ability to serve our businesses, employees, and our local community. On behalf of the franchise community, we appreciate you for taking a stand against the nomination of David Weil to serve as Administrator of the Wage and Hour Division (WHD) at the U.S. Department of Labor (DOL) and most recently the nomination of Julie Su to serve as the Labor Secretary at DOL.

I appear before you on behalf of myself and the members of the International Franchise Association (IFA). IFA is the world's oldest and largest organization representing franchising worldwide. For over 60 years, IFA has worked through its government relations, public policy, media relations and educational programs to advocate for the protection, promotion and enhancement of franchising and the approximately 790,000 franchise establishments that support nearly 8.4 million direct jobs, $825.4 billion of economic output for the U.S. economy, and almost 3 percent of the Gross Domestic Product (GDP). IFA members include franchise companies in over 300 different industries, individual franchisees, and companies that support franchising in marketing, technology solutions, development and operations.

I have experienced firsthand the remarkable impact that franchise businesses can have on local economies and communities, including their ability to create jobs, develop a skilled workforce, and foster economic growth. I have been in franchising for over 25 years and have created a community of our own, employing over 200 team members that have been part of our systems for several years, exceeding average employee retention in large part due to the company culture we have created amongst the team. I use the word "team" instead of employees or workers because that is what we are, and the team that supports my business is uniquely suited for the communities in which we operate. As a multi-brand franchise owner, our team members span generations, from teenagers to team members aged 60 and older. We are proud of our growth through franchising and the broader role of franchising in the economic recovery. Franchising had an exceptional year in 2022, and 2023 looks to be another strong year of growth. Even with current economic headwinds, franchising is expected to continue to expand at a more moderate pace, trending upwards with the United States' overall economic progression and exceeding pre-pandemic norms.

In my testimony, I will share how my business has served our team members and local communities and how the franchise business model helped my business and team members during the pandemic; and show why harmful policies like the PRO Act needlessly threaten every small business during the economic recovery.

The unique franchise business format

Franchising is perhaps the most important business growth strategy in American history. The first franchises started in the colonies by Ben Franklin, and over the centuries, this system has served as a core American model of opportunity and entrepreneurism. In 1731, Ben Franklin entered into a partnership with Thomas Whitemarsh, who franchised his printing business – *The Pennsylvania Gazette*. Later, Whitemarsh would introduce the first "franchised" newspaper of South Carolina, the *South Carolina Gazette*.

Franchising has contributed to robust job creation and provided foundational skills development for small business owners and workers. Today, there are more than 790,000 franchise establishments, which support nearly 8.4 million jobs.[1] Many people, when they think of franchising, focus first on the law. While the law is certainly important, it is not the central thing to understand about franchising. At its core, franchising is about the relationship that the franchisor has with its franchisees—how the franchisor supports its franchisees, the franchisor's brand value and how the franchisee meets its obligations to deliver the products and services to the system's brand standards.

Franchising is often confused with "big business" when it is in fact the exact opposite. A franchise is first a local business, distinguished from other local businesses because it licenses the branding and operational processes of a franchisor while operating independently in a defined market. The local owner, or franchisee, is responsible for hiring staff, organizing schedules, managing payroll, and all daily operational tasks 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 balanced with the franchise system giving aspiring small business owners a head start 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.

The value of franchising is supported by empirical data. A recent study by Oxford Economics found that franchising offers a path to entrepreneurship to all Americans, but especially to minorities and women. Around 26% of franchises are owned by people of color, compared with 17% of independent businesses generally. In addition, franchising offers the opportunity for business ownership that would not otherwise be available, especially to women, people of color, and veterans.[2] Franchises business also perform better and provide better pay and benefits than their non-franchised counterparts. On average, franchises report sales 1.8 times as large and provide 2.3 times as many jobs as non-franchise businesses. Sales and jobs in franchised businesses exceed non-franchised businesses across all demographic cuts, including gender and race. For example, Black-owned franchise firms generate 2.2 times as much in sales compared to Black-owned non-franchise businesses, on average.

Despite how it is often characterized, franchising is not an industry. Franchising is a business growth model used *within* nearly every industry. More than 300 different sectors are represented in franchising, and franchise companies offer a huge range of products and services from lodging to fitness, home services to health care, plumbing, pest control, restaurants, security, and lawn care.

[1] Franchiseeconomy.com (2021).

[2] The Value of Franchising. Oxford Economics (2021)

Further, despite popular misconceptions, franchising consists of far more than merely the "fast food" industry. In fact, 63% of companies that franchise are not in the food services at all, and 83% are not in fast food.[3] As you can see in the graphic below, there are far more local (50% of all franchised brands) and regional brands (34% of all franchised brands) whose names you might not recognize than the fast food giants that garner the most attention.

There are two principal explanations given for the popularity of franchising as a method of distribution. One is that it "was developed in response to the massive amounts of capital required to establish and operate a national or international network of uniform product or service vendors, as demanded by an increasingly mobile consuming public."[4] The other is that franchising is usually undertaken in situations where the franchisee is physically removed from the franchisor, giving autonomy to the franchisee to run their own day-to-day business operations. These two motivations are consistent with a business model in which the licensing and protection of the trademark rests with the franchisor, and the capital investment and direct management of day-to-day operations of each franchise unit are the responsibility of the franchisee who owns, and receives the net profits from, its individually owned franchise unit.

It is typical in franchising that a franchisor will license, among other things, the use of its name, its products or services, and its operational processes and systems to its franchisees. The turnkey nature of operating a franchised business is why I and so many of my fellow franchisees purchased a franchise. Franchisees look to the franchisor to protect the trade names, trademarks and service marks (collectively the "Marks") and brand by establishing and enforcing standards on all franchisees in a system. Such standards are essential for protection of franchisees' equity in their businesses and consumers of the brand. These standards allow franchisors to maintain the uniformity and quality of product and service offerings and, in doing so, to protect their Marks, the goodwill associated with those Marks, and most importantly, consumer confidence in the Marks and brand. Because a core principle of franchising is the collective use by franchisees and franchisors of Marks that represent the source and quality of their goods and services to the consuming public, action taken to control the uniformity and quality of product and service offerings under those Marks is not merely an essential element of franchising, it is an explicit requirement of federal trademark law under the Lanham Act.

Overcoming challenges of COVID-19

At the age of 18, I moved to Indiana to attend Purdue University. After graduating in 1995 with a degree in Accounting, I got married and moved to Indianapolis and have been in this area ever since. I began my franchising journey in 1998 when I opened my first FASTSIGNS location here in Indianapolis, and today, I am a proud owner of 8 locations across 6 states. Like many, I found franchising a pathway to build a new life that I could pass down to our children.

The COVID-19 pandemic battered small businesses in historic ways. From March 2020-August 2020, within the first six months of the COVID-19 outbreak, an estimated 32,700 franchised businesses had closed; 21,834 were temporarily closed, while 10,875 were permanently closed.

Being part of a franchise system helped me navigate the pandemic immensely. In franchising we say, "you go into business for yourself, but not by yourself." In a time of great need, other

[3] FRANdata research. (2021).

[4] Kevin M. Shelley & Susan H. Morton, "Control" in Franchising and the Common Law, 19 Fran. L. J. 119, 121 (1999-2000)

franchisees of our brands would stay connected regularly to share best practices and brainstorm ideas on how to best approach government assisted programs like the Economic Injury Disaster Loans (EIDL) and the Paycheck Protection Program (PPP) loans. In addition to franchisee communications, we had significant support from our franchisors. The FASTSIGNS brand hosted weekly calls to assist with operations, inform us about government assisted programs, and other resources available to help us navigate the crisis.

While we are on a path to recovery from the devastating effects of the pandemic, we still have a long way to go.

The state of the franchise business economic recovery

While the pandemic affected nearly all small businesses, the Small Business Administration (SBA) noted industry and demographic differences in the impact of the pandemic on business owners. Among demographic categories, there were larger declines for Asian and Black business owners. The total number of people who were self-employed and working declined by 20.2 percent between April 2019 and April 2020. The Hispanic group experienced a higher decline, at 26.0 percent. The highest declines were experienced by the Asian and Black groups, with a decline of 37.1 percent for the Asian group and 37.6 percent for the Black group. Meanwhile, leisure and hospitality had the largest decrease in employment, at 48 percent, and had the third largest small business share, at 61 percent.[5]

Franchise business owners have been grateful to policymakers for the federal response. Congress provided $525 billion in emergency funds extended through the Paycheck Protection Program and $194 billion through the Economic Injury Disaster Loan program, which helped keep our businesses afloat.

Coming out of the pandemic, franchising experienced an explosion of growth in 2021, followed by period of moderation in 2022 that will continue through 2023. Economic headwinds such as high inflation, labor shortages, and supply chain issues brought on by the pandemic continue to challenge franchised businesses. .

However, the economic uncertainty initiated by the COVID-19 pandemic has highlighted the many benefits of the franchise business model. For example, according to the IFA/FRANdata 2022 Franchisee Inflation Survey, 50% of franchisees said they were better able to navigate inflationary pressures and other pandemic-era business challenges thanks to the support of their franchising network.

In 2023 and beyond, the economy will rely on franchised businesses to steer the ongoing economic recovery, boost consumer confidence, and improve sentiment among small business owners. Because of its unique business model, franchising can serve as an economic catalyst in states and communities. For example, as the labor market slows in 2023, leading to a potential increase in job losses and unemployment rates, franchising can offer retrenched workers at all levels an alternative avenue to re-enter the workforce. Additionally, franchising gives many people a chance to own and operate a successful business that adds jobs across the economic spectrum. Franchises also offer a supportive environment where first-time business owners can benefit from established systems, branding, and insights from more experienced franchisees.

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[5] Daniel Wilmoth, The Effects of the COVID-19 Pandemic on Small Businesses. U.S. Small Business Administration (2021).

In 2022, an estimated 790,492 franchised businesses delivered products and services to customers in the United States. The year-over-year growth rate from 2021 to 2022 was approximately 2%, which is faster than most historical growth rates. The growth in units in 2022 was supported by increased consumer spending, a rebounding labor market, and healthy financial institutions. However, labor shortages and high inflation beginning in the second half of 2022 impacted the continued growth in franchised units. Inflation drastically increased the cost of opening new business units in 2022. When coupled with high interest costs, the cost of investing in a franchising unit increased by almost 30% in certain instances. Because lenders have now adopted a cautious stance in which they vet each borrower in more detail than ever before, the time to underwrite a new loan has increased. Considering the tight monetary and fiscal environment, FRANdata projects that growth of franchised establishments will slow to 1.9% in 2023 to reach the total of 805,436 franchised units.

The personal services industry boasts some of the fastest growing categories, including health and fitness centers, beauty-related studios like My Salon Suites, and home health care. According to the latest "Occupational Outlook Handbook" published by BLS, the personal care and service occupation is expected to grow 14% over the next few years, with approximately 762,600 openings per year. This growth exceeds the average for all occupations, and employment statistics imply a large demand for this industry. According to FRANdata's New Concept Reports published last year, more personal services brands have emerged, with an increased distribution seen across all new concepts from the first quarter to the fourth quarter. Alongside QSRs, the personal services industry also has more projected units for 2023 than any other industry.

In 2023, FRANdata forecasts that personal services will continue to lead franchising expansion, experiencing the highest growth both in the number of establishments and outputs. These establishments are predicted to increase by 2.5% to 120,302 locations, while outputs are expected to grow by 6.7% to $42.1 billion. This industry grows as consumers' personal service needs increase, and there is an increased demand for home healthcare, fitness centers, and beauty services. Notably, this industry will become more competitive compared with other industries as more new players enter the market. On the other hand, while the consumer confidence index did not decline at the end of 2022, people are likely to be more cautious about what they need to buy in 2023, which may impact growth.

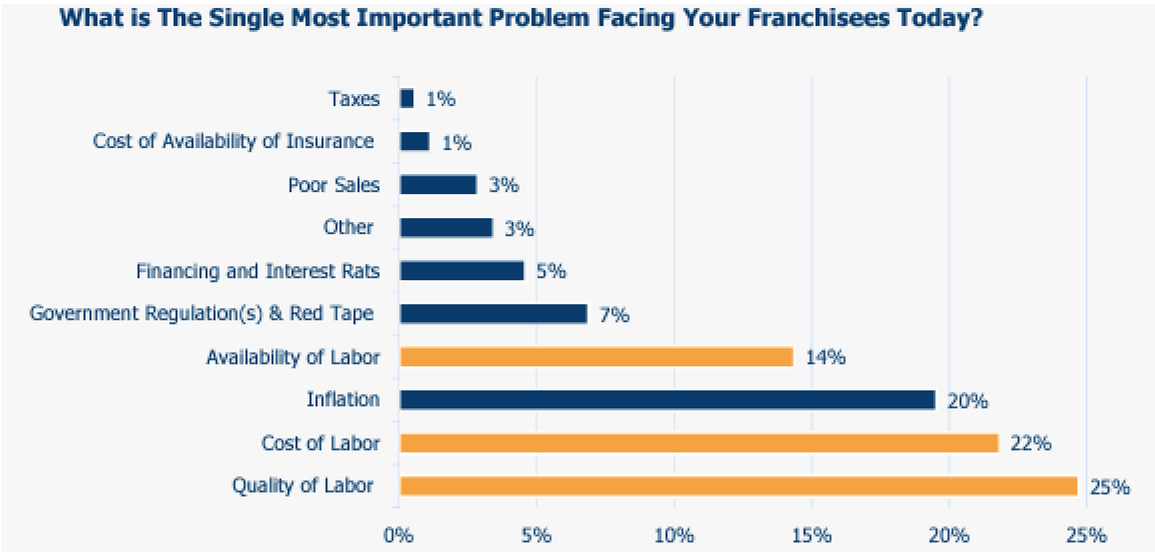
In addition, the personal services sector will deliver about 577,450 jobs to the franchising market. As this industry is highly reliant on skilled labor, the ability of personal service owners to retain their current employees becomes even more important during labor shortages.

Despite all of these economic headwinds, and provided Congress does no harm to the franchise business model, franchise businesses in all sectors will surely accelerate the post-COVID economic recovery. While the number of unemployed individuals peaked at nearly 30 million workers early in the pandemic, such workforce dislocation forced many individuals to try entrepreneurial ventures, including starting new franchise businesses, which has contributed to the economic growth cited above. This outsized growth should be expected because franchising has helped fuel recovery following past economic downturns. After the financial crisis from 2009-2012, employment in the franchise sector grew 7.4%, versus 1.8% growth in total U.S. employment.[6]

[6] FRANdata research (2021).

Staffing challenges

As a small business owner still recovering from the pandemic, my main focus right now is rebuilding our team and navigating policy uncertainties that may have real-world, bottom-line impacts on our balance sheet.



According to the U.S. Bureau of Labor Statistics (BLS), the unemployment rate edged down to 3.5%, one of the lowest in history. Demand for labor far exceeded the supply, resulting in a wage growth of 9.0% in 2022. The wage growth tapered down in the fourth quarter of 2022 to 6.4%. ADP Research projects wage growth in 2023 of approximately 3%, which is higher than pre-pandemic norms. Quality and cost of workforce remains the biggest challenge for almost all franchised businesses. According to the IFA/FRANdata 2023 labor survey of franchisors and franchise portfolio companies, 81% of franchised brands experienced constrained growth due to labor challenges, a continuation from 2022. Nearly identical to last year, 87% of franchisees have had difficulty filling in positions for unskilled labor, skilled labor, or both (88% in 2022).

In 2023, the franchise labor market is even more competitive than it was in 2022. According to the IFA/FRANdata 2023 labor study, 85% of the franchisors surveyed reported an increase in store-level wages in the past six months, and 43% of franchised businesses reported benefit increases. Almost 60% of the franchisors surveyed anticipate an increase in labor wages in the next six months. FRANdata expects that the rebalancing of the labor market will likely take some time, and franchisees will continue to face labor related challenges at least in the first half of 2023.

While my workforce age ranges from teenagers to those over 60, 25% of my workforce is over the age of 50. Our businesses have experienced retired workers returning to the workforce given the current climate of the labor market. In many cases, we have found older employees to be good mentors for the younger team members. However, hiring additional sales employees and technicians remains to be our biggest staffing challenge.

Now the biggest threats facing franchise small businesses like mine during the economic recovery are legislative and regulatory action. There is no more significant and avoidable threat to small business job creators than the PRO Act.

Policies hindering the growth of the economy

The PRO Act is perhaps the most anti-small business bill ever introduced in Congress. There must be a better way to advance worker rights in an even-handed way. Instead, on the backend of a global pandemic that had a disproportionately negative impact on Main Street businesses, business owners are once again facing this bill. It is incredibly disheartening to small business owners that this legislation has been reintroduced in both the U.S. House of Representatives and the U.S. Senate.

The PRO Act puts the very existence of franchise businesses in jeopardy. It cobbles together more than 50 imbalanced amendments to the National Labor Relations Act which are designed to tip the scales against small businesses. The enormous risk associated with the PRO Act will serve only to corporatize the franchise model, encouraging brands to grow through company-owned outlets, while shying away from offering franchise ownership opportunities to new entrepreneurs. Franchising empowers new entrepreneurs to operate under a national brand while remaining small businesses that contribute to their local communities and the wider economy.

Accordingly, faced with the PRO Act's new liability regime, franchise companies are much less likely to partner with local entrepreneurs, which means small business ownership opportunities will dry up on Main Street.

In addition to the adverse consequences of the PRO Act, this month, the National Labor Relations Board (NLRB) is planning to issue a final rule on a joint employer standard that would reverse its course back to the harmful 2015 version. The NLRB's proposal largely reestablishes the broad Obama-era standard of joint employment, under which one company may be deemed the joint employer of a second company's employees not only where it directly or immediately exercises control over the second company's workforce, but where the first company's putative control is indirect, or even simply reserved but not ever actually exercised. This puts franchisors at risk of being sued for things they never did and had no power to stop. Moreover, it risks wiping away the equity that I have spent my life and career building in my businesses and ultimately makes me a middle manager of my brand. The joint employer standard created by the NLRB in 2015 led to a nearly doubling of litigation against franchise businesses, cost franchising $33 billion per year, and preventing the creation of 376,000 new jobs in the four ensuing years. Small businesses will not survive a similar consequence in the current labor market.

The NLRB's proposed changes to the joint employer rule will take away the equity and independence of franchise small business owners and would put their success and livelihoods, including mine, in jeopardy. Franchisors will naturally move to hire numerous attorneys to oversee employment issues and claims across its network of independently owned franchised businesses over which the franchisor has no control. Ultimately, the additional costs to the franchisor would translate into additional costs to independent owners like me, and that would make the franchise business model untenable.

In fact, forthcoming research from Oxford Economics based on a July 2023 survey of franchisees show that franchise owners are bracing for more harm from the new NLRB joint employer rule as it injects uncertainty in the franchisor-franchisee relationship and threatens standards enforcement across franchise systems. Overall, 43% of franchisee respondents expected a change in the franchisor/franchisee relationship as a consequence of the NLRB's joint employer rule, although there is uncertainty among franchisees regarding the responses from franchisors. Approximately 20% of respondents expected franchisors to increase control over their operations while another 20% expected franchisors to distance and reduce operations and compliance support.

Approximately 40% of franchisees did not know what to expect, and the remaining 20% expected no change. This uncertainty about franchisor responses to the new joint employer rule brings with it significant concern among franchisees, with 74% of franchisees expressed a high level of concern at the prospect of increased franchisor control, and 55% a high level of concern with reduced franchisor support.

The Oxford Economics report is also expected to identify increased costs for franchisees as a result of responses by franchisors to mitigate risk under the new joint employer rule. These include the heightened risk of litigation (i.e., 70% of franchisees expected increased litigation) and increases in legal and advisory fees, as well as higher insurance and operations costs. Meanwhile, the new rule may reduce the attractiveness to being a franchisee with respect to operating an independent business and lead to fewer franchises (i.e,, 66% of franchisee respondents expected the new standard to raise barriers to entry into franchising).

Further compounding the strain on the franchise business model by legislative and regulatory interference is Julie Su's nomination to serve as the Secretary of Labor. On May 8, I penned an op-ed in the *Phoenix Business Journal* noting that if confirmed, Julie Su will turn the American dream into the American nightmare. During her time as Deputy Secretary of Labor, Su was a key figure in supporting California's FAST Act, a law that would undercut franchise owners by giving unaccountable government appointees the authority to dictate business decisions on issues like wages and working conditions. According to a survey of economists done by the Employment Policies Institute, 93% of economists expect the FAST Act to drive up operating costs, and 73% say it would cause franchises to close restaurants in California.

In response to this threat, over one million Californians mobilized and signed a petition to have a referendum on the legislation, which will be set for 2024. Despite this pushback, Su remained an outspoken supporter of the FAST Act, even going so far as to say, "The Department of Labor stands with you. The Biden-Harris Administration stands with you," in a full-throated endorsement of the legislation. Right now, workers and business owners are faced with a shaky and uncertain economic environment as we recover from Covid. We need stable leadership that prioritizes recovering the jobs and wages lost to Covid and inflation, not one with a record of waging war on job creators.

Without a doubt, these seismic shifts in employment policy and governance would hurt small businesses and provide fewer opportunities, particularly for women, minorities, and other underrepresented communities. Growing a business through the corporate model does not provide ownership or wealth building opportunities for small business owners and entrepreneurs. We need policy and regulatory changes that will drive wealth creation and new business ownership opportunities for the most underserved communities, not hinder it.

Policies promoting franchise growth

In contrast, your legislation such as the *Protections for Socially Good Activities Act*, would promote healthy practices within our systems that would assist with employee retention. This bill encourages franchise brands to share information, policies, trainings, and best practices with franchise owners on COVID-19 safety measures and employee education, among other socially good activities. tap into their potential to be an economic power engine and further assist the workforce issue.

In addition, the bipartisan, bicameral *Freedom to Invest in Tomorrow's Workforce Act* would expand qualified expenses under 529 savings plans to include postsecondary training and credentialing, such as licenses and professional certifications; it would provide valuable tax-advantaged resources to more workers pursuing career growth, mid-career changes or alternative career pathways. A barrier to entry in the beauty and salon industry is the cost of cosmetology school and the amount of student loan debt that aggregates. For example, stylists in New York pay an average of about $14,000 for tuition and supplies plus living expenses to put themselves through the 1,000-hour cosmetology curriculum. The longer the program requires, the higher the cost of the school and the higher the federal student debt load. The *Freedom to Invest in Tomorrow's Workforce Act* would increase access to cosmetology school and ensure that the pipeline of service providers to the beauty and salon industry remains strong.

Conclusion

Franchise businesses contribute significantly to our nation's economy, creating a diverse range of employment opportunities from entry-level positions to management roles. By offering these opportunities, franchises help address unemployment and underemployment, ensuring that individuals across our nation have access to stable, fulfilling work.

Moreover, franchise businesses often provide comprehensive education and support for their employees, fostering the development of a skilled workforce. These workforce development programs not only benefit individual businesses but also contribute to the overall strength of our nation's workforce, making it more competitive on the global stage.

Franchise businesses also offer unparalleled opportunities for people of color, women, and veteran entrepreneurs, promoting a more inclusive and diverse business landscape. This diversity strengthens our workforce and helps create a more equitable and prosperous society.

It is also important to acknowledge the role franchise businesses play in community engagement. Most franchises invest in their communities by engaging in charitable activities and supporting local organizations. This not only creates an environment where people can thrive but also contributes to a more robust workforce.

In conclusion, franchise businesses possess the unique ability to address the workforce challenges faced by our nation. It is vital that Congress considers policies that support and encourage the growth of franchise businesses while carefully assessing the potential implications of legislation like the PRO Act.

Ranking Member Braun, thank you again for holding this hearing and for the invitation to speak on behalf of small business owners everywhere. I look forward to answering any questions you may have.