

For Small Business Week, President Biden Sided With Labor Bosses Over More Than 5,300 Franchise Owners

Opinions expressed by Entrepreneur contributors are their own.

Washington is a town built on virtue signaling and hypocrisy. Recently, the biggest culprit was none other than the White House itself. President Biden said all the right things during Small Business Week, but his action on a key issue impacting millions of small businesses told a far different story.

With the president's May 3 veto of a bipartisan Congressional Review Act (CRA) resolution that would have overturned the expansion of the joint employer rule, the Biden Administration showed that it cares more about special interests than small business owners, who face an onslaught of costs and uncertainties from the ceaseless regulatory assault. Incredibly, the presidential veto message included no mention of the looming harm to the franchise model, a stunning oversight of the small business community whose future hangs in the balance – as evidenced by a recent petition of more than 5,300 franchise stakeholders who appealed to the White House to sign the legislation.

Related: Considering franchise ownership? Get started now to find your personalized list of franchises that match your lifestyle, interests and budget.

Expanded rule

At issue is the expanded joint employer rule announced by the National Labor Relations Board (NLRB) last October. This rule threatens to upend the relationship between franchisors (brand companies such as McDonald's, Anytime Fitness or Dunkin') and the individual franchisees (the local small business owner who operates the establishment). Under the previous 2020 standard, a company could only be considered a joint employer by exercising "direct and immediate control" over workers' employment. Under the new expanded rule, a company that merely possesses the vague authority to control will be considered a joint employer.

The new threshold is a much lower bar to clear, and that is precisely the motivating force of its supporters. Joint employers are required to bargain over essential terms and conditions of their employees, while also being liable for unfair labor practices committed by the other joint employer. The rule injects added uncertainty to a business community still finding its post-pandemic footing.

Negative consequences

Should this rule take effect, there will be negative consequences for entrepreneurs and employees alike. Franchisors are apt to increase their oversight of these local businesses to reduce their legal risks. Or they will withdraw resources entirely and let their franchisees fend for themselves. Even worse, many may choose not to expand through franchising – closing the doors to business opportunities for thousands of prospective entrepreneurs. None is a positive outcome.

Employees, meanwhile, are thrown into a state of uncertainty with competing bosses, and unclear lines of authority. It brings to mind the film *Office Space*, when a mid-level

employee laments to one of the consultants brought in to improve efficiency: “I have eight different bosses right now. So that means that when I make a mistake, I have eight different people coming by to tell me about it.”

Franchising has been an entry point into entrepreneurship for minority and women-owned businesses, and evidence shows that minority-owned franchises are some of the most profitable ventures to pursue. In fact, Oxford Economics found that nearly one-third (32%) of franchise owners would not own a business without franchising, and more than double the rate of franchises are owned by minorities compared with non-franchises. On average, Black-owned franchises earn more than double their counterparts in non-franchise businesses, making franchise ownership a compelling pathway for creating generational wealth.

Related: The NLRB’s New Joint Employer Rule is so Extreme That Even California Rejected a State-Level Version of the Franchise-Killing Policy

‘High level of concern’

With increased uncertainty, potentially unlimited liability and litigation risk, it’s no wonder that 74% of franchisors expressed a high level of concern with the new joint employer standard, according to data collected from the International Franchise Association’s 2024 Franchisor Survey. The threat is not hypothetical for many of these individuals. They have lived through a previous iteration and experienced devastating consequences.

During the last expansion of joint employer in 2015, franchise businesses lost \$33 billion dollars per year, according to data from Oxford Economics. Approximately 376,000 franchise jobs were never created due to diverted to legal fees and compliance costs, and litigation against franchises doubled.

Meanwhile, expanding the joint employer rule will stifle opportunity and exacerbate the racial wealth gap that candidate Biden pledged to address. It also comes as disturbing new data indicate nearly 17% of Black U.S. mortgage applicants were denied in 2022, compared to 6.7% of white applicants, per the most recent data from the Consumer Financial Protection Bureau. Franchising and home ownership are two key ingredients toward building generational wealth.

NLRB appeal

A federal court recently struck down the expanded joint employer rule, but the NLRB has appealed the ruling, meaning the expanded rule could still be put into place.

While the IFA is confident in our legal standing, Biden's signature to the CRA would have brought some sense of permanent relief. It also would have helped his political standing. With a recent CNN poll showing that 70 percent of voters feel negative about the economy, the Biden Administration needs a win, too.

Related: The Joint Employer Rule Will Crush Franchising. Here's How to Protect Your Business

Labor bosses benefit

The only groups benefitting from expanded joint employer are the labor bosses – and not to benefit workers, but to grow their ranks and political power. While Biden's veto message did not mention small businesses, he did take time to declare himself, “the most pro-union” president in history.

The president's actions on joint employer revealed his priorities, and they are not with the small business community, whose week his administration claimed to be celebrating. With the election looming, this action will be

remembered, especially if the president intends to make campaign stops at his favorite ice cream or sandwich shops.

Matt Haller is the President and CEO of the International Franchise Association

<https://www.entrepreneur.com/franchises/biden-sides-with-labor-bosses-over-franchise-owners/474088>