MEMORANDUM

TO: Transition Team for President-Elect Biden

FROM: International Franchise Association

DATE: November 18, 2020

SUBJECT: Policy Requests for the Incoming Biden Administration

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Please accept our warmest congratulations on being appointed to President-elect Biden's transition team. We deeply appreciate your important role in preparing the new Administration's assumption of duties and look forward to working with you.

As you do the important work of deliberating specific relief measures to mitigate the uncertain winter marketplace, IFA humbly proposes three principles that will maximize job growth and prioritize underserved communities. A more detailed summary of our recommended policy solutions to provide meaningful relief to the franchise sector is also enclosed.

Franchising has and will continue to play a vital role in our shared goals of fair, opportunity-driven economic relief for workers and small business owners across the country. On behalf of our member brands, franchise owners and their employees, we thank you for considering our views and stand ready to work with you during this critical moment.

Background on the International Franchise Association

International Franchise Association (IFA) is the world's oldest and largest organization representing franchising worldwide. Prior to COVID-19, America had 733,000 franchise establishments that employed more than 7.6 million Americans. These businesses operate in hundreds of business lines, including food and beverage, automotive, education, fitness, residential services, senior health services, salons, and hotels. The vast majority of these franchise owners are small business owners in every sense. According to industry research firm, FRANdata, 75% of all franchise owners have fewer than 20 employees. Franchising is also more diverse than non-franchise businesses: nearly 30% of franchises are minority-owned, compared to 18% of non-franchised businesses.

3 PRINCIPLES TO SUPPORT FAIR, OPPORTUNITY-DRIVEN ECONOMIC RELIEF

Principle 1: Franchises Will Accelerate Economic Recovery

As a result of the significant economic impact of COVID-19, the number of unemployed individuals reached nearly 30 million workers. Given the dislocation in the economy, many of those jobs may not return, forcing many individuals to find new employment or try entrepreneurial ventures, including starting a new franchise business. This has been the case following previous economic downturns, such as after the 2008 financial crisis where interest in franchise ownership significantly increased, as out of work Americans explored new career opportunities. For example, the growth in employment in the franchise sector was 7.4% from 2009 to 2012, while the total U.S. employment growth rate was only 1.8%.

Congressional relief programs should remain inclusive of small business franchises, which will accelerate the economic recovery and add to economic growth as new franchises begin operations. Small business aid policies should continue to relax affiliation rules (as was done in the CARES Act) and other SBA lending requirements to ensure that any deserving franchise business can apply for capital. Policies such as H.R. 7197, the RESTAURANTS Act, should be amended to include small business franchises, as 70% of franchisees who own restaurants are single-unit franchisees, and only 2% of franchisees who own restaurants own 11-25 units. Temporary financial incentives to facilitate franchise development and new business owner training, such as through online digital recruitment strategies and remote learning systems, would also encourage new employment as new businesses are formed.

	2008	2009	2010	2011	2012
New Franchised Unit Openings (Business Format Only)	47,459	41,369	37,902	38,794	40,990
Growth Rate		-12.8%	-8.4%	2.4%	5.7%
New Jobs	479,300	417,900	386,600	395,700	422,200
New Franchise Brands	255	269	262	286	325

Principle 2: A Focus on Franchise Growth will Drive Wealth Creation and Minority Entrepreneurship

The Black business community has been devastated at an alarming rate, with many owners left unbanked or underbanked during the pandemic. Franchise businesses have a vital role to play in answering this challenge, particularly because over 30% of franchises are minority-owned, compared to 18% of non-franchised businesses. We need solutions to drive entrepreneurship, skills attainment, and lasting prosperity in minority communities, and franchises will play an outsized role.

Franchise businesses can contribute to the "opportunity creation" leg of the stool. Minorities have too frequently been denied the opportunity to begin on even the ground floor in business, but franchising has helped thousands of our entrepreneurs overcome common obstacles. When franchises come to town, neighborhoods often experience a lift, both financially and socio-economically. Franchises promote and foster diversity and inclusion by creating opportunities for people of all ages and backgrounds.

With this in mind, policymakers should continue to prioritize investment in franchises by ensuring maximum eligibility in all relief programs. IFA also recommends the incoming Administration evaluate relief and capital access programs that tie eligibility to census tract data. Increases in loan guarantees under such programs, such as the Small Business Administration's

7(a) program, specifically for minorities, women and veterans, would be a direct way of achieving the same policy goal of increased access to capital in underserved communities.

Principle 3: *Primum non Nocere*: First, Do No Harm

Within the first six months after the COVID outbreak, an estimated 32,700 franchised businesses closed as of August 2020. 21,834 businesses were closed temporarily, while 10,875 businesses were closed permanently. In the next six months, one in 20 small businesses will permanently close based on the Small Business Pulse Survey conducted by the U.S. Census Bureau, which could put another 36,000 franchised units at serious risk of not surviving without additional government assistance.

We strongly advise President-elect Biden to abstain from prioritizing major regulatory changes that would severely disrupt the franchise business model and damper new business formation and job growth. Polarizing regulatory changes, such as expanded definitions of joint employer, should be on hold during the economic recovery. The previously expanded joint employer rule cost franchise businesses $33.3 billion per year, resulted in 376,000 lost job opportunities, and led to 93% more lawsuits. At the same time, the franchise small business community stands ready to be problem-solving, solutions-oriented stakeholders that are focused on finding policies that will support workers and employers.

SPECIFIC POLICY RECOMMENDATIONS

- **Allow ALL SMALL BUSINESSES Access to Relief and Recovery Programs if they have Significant Revenue Declines.**

  Any future relief efforts, much like the CARES Act, should be broad-based, rather than industry-specific, and based upon need as demonstrated by a minimum 25 percent decline in revenue over a defined period (such as 3 months). In addition, the program should support these core principles that build upon the current framework of PPP: 1) low or zero interest rates, 2) long-term loan maturity, 3) overall administrative simplicity, and 4) the flexibility to use the loans to cover a wide range of expenses and to improve the underlying resiliency of the business.

  1. **Low or Zero-Interest Loans:** Low or zero percent interest rates, coupled with longer loan maturity, would offer certainty and flexibility for small employers, enabling them to take loans large enough to survive a prolonged period of lost revenues and operational disruption, as well as to use the loans in ways that lower their fixed operating expenses. The program should be structured so that both lenders and borrowers are adequately incentivized to participate. In addition, programs should enable borrowers the ability to restructure existing debt obligations.
  2. **Long-Term Maturity:** Amortization schedules of up to 30 years will allow businesses to spread the costs of borrowing over a longer period and make relief affordable for deeply affected small businesses.
  3. **Administrative Simplicity:** The program's maximum loan amounts should be determined as a multiple of a borrower's annual operating expenses or gross receipts.

Loan requirements should be straightforward for borrowers to navigate, underwriting standards should encourage a broad range of applicants, and necessary guidance should be provided at the start of the loan program.

4. **Broad Usage:** Borrowers must be able to use the next phase of relief to address a wide array of operational needs, as well as to improve their balance sheets in order to survive an extended period of weaker demand from consumers. Covered expenses should include maintaining payrolls, refinancing existing loans, purchasing equipment, inventory, furniture and fixtures, Personal Protective Equipment (PPE), funding tenant improvements, and paying for occupied real estate.

IFA supports three broad-based recovery programs, including: (1) the bipartisan ***RESTART Act***, which would provide long-term, low interest loans to small- and medium-sized businesses in affected industries; (2) the ***Prioritized Paycheck Protection Program (P4) Act***, which would provide additional PPP funding for the hardest hit small businesses with 100 employees or less; and (3) the bipartisan ***Relief for Main Street Act***, which would complement federal relief efforts for small businesses through state and local emergency grant funding. In addition, IFA supports the following policies and goals, all of which help franchise businesses remain operational and retain employees.

- **Allow Deductibility of PPP Loans**. S. 3612, the *Small Business Expenses Protection Act of 2020*, would allow franchises to deduct eligible expenses paid with a forgiven PPP loan, thereby eliminating the substantial tax liability many now face for taking these loans in the first place.

- **Simplify PPP Forgiveness for Smallest Borrowers.** S. 4117, the *Paycheck Protection Program Small Business Forgiveness Act*, would ensure franchises can focus their time, energy, and resources back into their business and communities instead of allocating significant time and resources into completing complex forgiveness forms. The legislation that would forgive PPP loans of less than $150,000 upon the borrower's completion of a simple, one-page forgiveness document. PPP loans of $150,000 and under account for 85 percent of total PPP recipients, but less than 26 percent of PPP loan dollars. Expediting the loan forgiveness process for many of these hard-hit businesses will save more than $7 billion and hours of paperwork.

- **Expand and Rework the Employee Retention Tax Credit.** H.R. 6776, the *Jumpstarting Our Businesses' Success Credit (JOBS Credit) Act of 2020*, which will enhance the Employee Retention Tax Credit (ERTC) by allowing the program to complement the Paycheck Protection Program, thereby better ensuring employees can stay connected to their employers during the pandemic. We also urge the incoming Administration to increase the size of the credit, make the credit more flexible by allowing small and midsize employers to claim the credit regardless of whether the employee is "providing services," and expand the universe of eligible employers by reducing the reduction in gross receipts required to access the credit.

- **Optimize Small Business Loans.** IFA recommends optimizing the SBA 7(a) loan program by eliminating borrower fees, providing higher loan guarantee percentages, and increasing the maximum loan size. Optimizing the loans will alleviate some cash flow concerns and allow small businesses to have capital access as they work on loan modifications, payroll, and other obligations. These enhancements worked particularly well as part of the American Recovery & Reinvestment Act following the Great Recession and would be helpful again in concert with the PPP and other measures.

- **Virtual Training Assistance for New Business Owners.** Pre-opening training is at the core of a franchisee's future success, and we urge the incoming Administration to facilitate robust training and education by assisting start-up franchise brands during this critical stage. A temporary refundable tax credit to support new franchisee education and training on reopening safely in the new economy, general business skills such as financial management, lease negotiation, marketing, and contracts, in addition to operational support such as site selection, real estate support, site development, and pre-marketing research and development costs, would accelerate ownership and job creation. For any brand, these are incremental support services to benefit the franchisee, which will in turn enhance the education of the franchise workforce during the reopening phase.

- **Clean Start Tax Credit.** H.R. 7079, the *Clean Start: Back to Work Tax Credit*, will create a temporary tax credit to assist business owners responsibly safeguard their workers and customers during the re-opening of the economy. This important program would help defray the unforeseen costs and financial burden of critical cleaning services and supplies, especially as business owners continue to struggle with liquidity challenges.

- **Back to Work Tax Credits.** H.R. 7066, the *Reopening America by Supporting Workers and Businesses Act of 2020*, will help local businesses rebuild their workforce quickly by turning the unemployment benefits into a back-to-work bonus that will provide a bump to workers and help accelerate our economic recovery.

- **Forbearance and Rent Abatement.** Ensure landholders and leaseholders allow temporary late payments and/or lowered lease payments to minimize evictions to save a business and a tenant.

- **Expand RESTAURANTS Act to Affected Sectors and Ensure Franchise Eligibility.** While IFA supports providing relief for restaurants, many other sectors face the same or more challenging liquidity issues, including salons, gyms, hotels, and day care centers, among many others. We strongly recommend any recovery program be broad-based and based upon demonstrated revenue declines. If lawmakers pursue specific relief for the restaurant sector, we strongly urge the adoption of language in S. 4012, the RESTAURANTS Act, that allows franchisees who own fewer than 20 locations to qualify for relief funds. Unlike the House companion legislation (H.R. 7197), S. 4012 would ensure franchise owners facing liquidity needs, particularly in the full-service sector, would qualify for relief. At the beginning of 2020, pre-COVID employment at these table/full service franchised restaurants was 1,116,894 workers at their 33,769 locations.

- **Provide Direct Relief to Childcare Businesses and Workers**. Many childcare centers are franchises, and these providers face similar challenges as schools such increased costs associated with implementing public health measurers and forgone revenue as a result of capacity and occupancy limits. As small businesses with thin margins and limited access to both capital and safety supplies like hand-sanitizer and personal protective equipment, policymakers should provide targeted funding to offset a portion of the direct costs of COVID-related safety modifications and limited subsidies when occupancy limits constrain provider revenue. The *Back to Work Child Care Grants Act* supports the economic recovery and helps parents go back to work by providing critical resources to help childcare providers reopen and stay open.

- **Provide $10 billion in Federal Grants to Promote Safe and Healthy Travel Practices.** More than 8 million travel industry jobs have been lost, totaling one-third of all jobs lost since March and leading to a 50% unemployment rate in the travel industry. Without action, it will take the travel industry at least four years to fully recover, which will negatively impact the macro economic environment of the United States during that time. Given the extent to which franchise businesses make up the broader travel economy from hotels to restaurants and many others, as well as the extent to which all franchise brands necessarily must travel to protect brand standards and support their existing franchisees, promoting a safe and healthy travel sector can spur economic recovery from COVID-19. Lawmakers should support the travel sector through an expansion of Coronavirus Relief Fund (CRF) to allow Destination Marketing Organizations to effectively compete for CRF resources. Lawmakers should also provide Economic Adjustment Assistance (EAA) Grants expenses for travel promotion.

- **Good Samaritan Protection.** We recommend providing limited safe harbors from liability in the face of a public crisis. As hundreds of thousands of small businesses continue fighting to keep their doors open during these unprecedented times, we strongly urge you to clarify the legal standard of "reasonableness" in order to protect small business owners who have made good-faith efforts to maintain cleanliness and safe social distancing standards while providing much-needed jobs, services, and products to their local communities.

- **Joint Employer.** We recommend making clear when franchisors and franchisees are jointly responsible for the terms and conditions of employment over the same group of employees, such as through direct and immediate control, which would liability does not extend to activities related to best practices guidance, educational resources, or training as it relates to COVID-19.