

Practice Update

It's 2025: Is Franchising Doomed (Part 5)?

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In this time of chaos and uncertainty, we thought it appropriate to address this column's annual question: Is franchising doomed in 2025? This is our fifth part of the "Is Franchising Doomed?" column, and we build upon the groundwork laid in four prior installments to discuss the evolving legislative, economic, and regulatory challenges facing the franchise model. As discussed in prior iterations of this column, despite dire predictions and mounting economic and legislative pressures, franchising has demonstrated—and will likely continue to demonstrate—remarkable resilience and ability to adapt and succeed.

The International Franchise Association's ("IFA") most recent [2025 Franchising Economic Outlook released in February](#) ("2025 Economic Outlook") projects that the number of franchise establishments in the United States will increase by 2.5% in 2025; and also predicts that franchising will create 210,000 jobs in 2025, an increase of 11.1% from 2024, and have a record output of \$936.4 billion in 2025, an increase of 4.4% from 2024. All of these projections build on franchising's 2024 successes.

The 2025 Economic Outlook forecasts that franchises in the personal services and retail food, products, and services industries are expected to be

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the fastest-growing sectors in 2025. Commercial and residential services franchises and quick-service restaurant (“QSR”) franchises are anticipated to follow close behind. The 2025 Economic Outlook theorizes that “the expansion of established brands... emergence of new brands catering to niche markets...[and] a diverse and growing consumer base” are and will continue to remain factors driving increased demand for personal services (e.g., beauty, health and fitness, childcare, sports, and recreation). For retail food, products, and services franchises (e.g., food and beverage stores, bakeries, motor vehicle parts and supply stores, pharmacies, and drug stores), advanced technologies such as augmented reality and interactive displays are anticipated to “enhance shopper engagement, extending visit durations and increasing spending.” Indeed, because many of these franchise sectors are not necessarily dependent on foreign sources for their products and services, they should be somewhat insulated from the tariffs being imposed by the current administration, although it may remain difficult to escape the inflation pressures that may arise from such tariffs in the United States.

Franchises are capitalizing on social and economic trends, regardless of industry. For example, the average square footage per franchise unit has declined, which may reflect increased consumer acceptance of smaller brand footprints. This has allowed many franchises to value engineer their spaces in favor of investing in technological advancements and launching new concepts. Looking ahead, the 2025 Economic Outlook anticipates that “a combination of favorable economic conditions, changing consumer preferences, and supportive economic policies” will set the stage for another strong year for franchising generally.

In 2024 this column discussed several legislative developments we thought presented “the clearest attack on the franchise model to date.” Here’s a snapshot on the status of those developments, and what we can expect in 2025:

- ***California AB 1228*** – In April 2024, California AB 1228 took effect, raising the minimum wage of employees of fast-food restaurants with more than 100 locations to \$20 per hour. California AB 1228 also created a “Fast Food Council” with limited authority to recommend employment regulations. Since implementation of California AB 1228, California has reportedly lost over 22,000 QSR jobs, and food prices at California QSRs have increased by 14.5%. According to Matt Haller, IFA President and CEO, “California’s fast food minimum wage experiment has been a total and complete disaster, precipitating the exodus of businesses leaving California and raising the cost of living on those left in its wake.” Despite the repercussions of California AB 1228 and the further objections of hundreds of California restaurant owners, the Fast Food Council is set to discuss another wage increase to \$20.70 in May 2025. In 2025, it is likely that QSR franchises with California locations will continue experiencing economic- and labor-related challenges, with more franchises deciding to close units or leave the state altogether.
- ***The NLRB Joint Employer Rule*** – In October 2023, the National Labor Relations Board (“NLRB”) issued its final “Joint Employer Rule,” which significantly broadened the standard for when franchisors can be considered joint employers of their franchisees’ employees. Under the October 2023 Joint Employer Rule, franchisors were deemed joint employers if they possessed any authority to control any “essential terms and conditions of employment,” regardless of whether the authority was direct or indirect, and regardless of whether the authority was ever exercised. However, in March 2024, a federal district court in Texas struck down the October 2023 Joint Employer Rule. At first, the NLRB appealed the court’s decision, but then withdrew its appeal in July 2024. As a result, the October 2023 Joint Employer Rule has not gone into effect, and the NLRB’s 2020 Joint Employer Rule remains intact for 2025, making it less likely that

a franchisor will be deemed a joint employer with its franchisee. The franchisor-favorable 2020 Joint Employer Rule requires that an employer exercise “substantial direct and immediate control” over any essential terms and conditions of employment in order for the NLRB to find joint employment status.

- ***The DOL Independent Contractor Rule*** – In January 2024, the Department of Labor (“DOL”) issued its final “Independent Contractor Rule,” which established an employee-friendly six-part “economic realities” test for determining employee or independent contractor classification under the Fair Labor Standards Act (“FLSA”). The Independent Contractor Rule went into effect in March 2024. Multiple lawsuits challenging the rule were filed in the weeks leading up to and immediately after its effective date. No court has yet blocked the Independent Contractor Rule, and cases remain ongoing. However, the new U.S. administration is expected to drop its defense of the Independent Contractor Rule and is unlikely to enforce the Rule while it considers further rulemaking to rescind it.

A recent [Franchise Times](#) article addressed the potential effects that President Donald Trump’s second term may have on franchising at the federal level. Warren Lee Lewis, attorney and Co-Chair of Akerman LLP’s Franchise and Licensing Sector Team, opined that the new presidential administration may seek changes at the Congressional level to avoid the “ping pong effect” with agency rulemaking. Lewis said, “I think the Republicans would like to pass legislation and make [the rules] law, since they don’t want the agenc[ies] to change the rule[s] every time there’s a new administration.” This could be a welcome change for franchises in 2025, and perhaps bring some stability.

The Federal Trade Commission (“FTC”) may continue its efforts to amend the FTC Franchise Rule in 2025, based on growing concerns over the franchisor-franchisee relationship. In July 2024, the

FTC issued a policy statement identifying non-disparagement, goodwill, and confidentiality clauses as “unfair or deceptive” to the extent those provisions prohibit franchisees from communicating with the government. The FTC also issued separate guidance in response to an issue that has been repeatedly raised with the FTC regarding a franchisor’s imposition of previously undisclosed fees on franchisees via changes to the franchisor’s franchise disclosure document or operations manuals. These recent developments may signal for 2025 the FTC’s interest in addressing franchisor-franchisee relationship issues through revisions to the FTC Franchise Rule.

In tandem with activity at the FTC level, in December 2024, U.S. Rep. Jan Schakowsky (D-IL) reintroduced a bill in Congress (the “Franchise Freedom Act”) that would add a private right of action under the FTC Franchise Rule, specifically for a franchisor’s disclosure violations. If passed, the Franchise Freedom Act would give franchisees the ability to sue franchisors directly for alleged violations of the FTC Franchise Rule, rather than rely solely on FTC enforcement. Many remain skeptical such a bill would pass under what appears to be a franchisor-favorable U.S. administration.

Also at the Congressional level, the IFA is urging Congress to extend the 2017 Tax Cuts and Jobs Act (“TCJA”), which is set to expire after 2025. The TCJA provides for the so-called “Section 199A deduction,” which allows small business owners (including many franchised small businesses) to deduct up to 20% of their qualified business income. The IFA wants to make the Section 199A deduction permanently available. The deduction has served as a vital lifeline for franchisees, helping to offset rising labor and operational costs. Without action from Congress, the expiration of the Section 199A deduction could result in a significant tax hike for thousands of franchised businesses, jeopardizing their ability to reinvest in their businesses and employees.

At the state level, a significant issue facing the franchise business model in 2025 may be broker registration and disclosure. Franchise brokers are ubiquitous in franchise recruiting and sales, with one recent survey finding that almost half of all brands surveyed (44%) use brokers. Currently, New York and Washington require brokers to register themselves with the state if they will offer or sell franchises in those states. California recently passed legislation amending the California Franchise Investment Law to add annual registration and pre-sale disclosure requirements for brokers, who will be required to deliver to prospective franchisees a brief disclosure document containing certain information about the broker. The law will take effect in July 2026. Similarly, in May of 2024 the North American Securities Administrators Association proposed a state-level legislative proposal that, if adopted by states, would impose on brokers additional registration requirements and disclosure obligations. Added layers of compliance such as broker registration may complicate or delay the franchise registration process, making it more challenging for franchisors in 2025 to expand or maintain their operations in states adopting such new regulatory measures.

The implementation of the current administration's tariffs, particularly those on goods from China, is expected to drive up the prices of equipment, packaging, and other imported materials used by franchises across all industries. These tariffs are poised to disproportionately affect small and midsize businesses that lack the scale to absorb higher costs and adapt to supply chain disruptions. However, the 2025 Economic Outlook remains cautiously optimistic about franchising's prospects in 2025, even though "franchising will likely face external pressures in 2025, including potential for tariffs and geopolitical tensions, which could pose challenges for supply chains...."

In sum, while franchising continues to face legislative, regulatory, and economic headwinds, the

data suggests that franchising is far from doomed in 2025. If anything, franchising's track record in 2024 demonstrates the business model's remarkable ability to absorb shocks, recalibrate strategies, and seize new opportunities. The projected growth in franchise establishments, job creation, and overall economic output for 2025 underscores the enduring appeal and adaptability of franchising, even in the face of legal, political, and economic challenges and uncertainty.

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