The Daily Dish

# Franchises and Labor Market Regulation

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It is unsurprising, at least to Eakinomics, that the Biden Administration is reworking labor market regulation in the image of the Obama-era regulatory strategy. As part of this strategy, it recently proposed revised regulations regarding the classification of workers as employees versus independent contractors, as well as the circumstances under which a firm is classified as a joint employer.

As nicely laid out by Isabella Hindley in her latest, these two initiatives interact to have an especially negative set of implications for franchises. Classifying a franchisee as an employee seems likely and practically guarantees that the franchisor is treated as a joint employer of every franchisee and every worker in every franchise.

These proposed rules thus clearly constitute a failure to meet the standard that labor market regulation should seek to be as neutral as possible across different business models. Why? One possibility is that the regulators have an unrealistically static view of firms and employees that does not recognize the fact that they will respond to the incentives generated by regulations. Perhaps.

But Eakinomics, channeling its inner tinfoil hat, suspects that this is an undisguised effort to end franchises as a route to greater unionization. The vision is to replace thousands of small, unorganized franchises with a single, large block of union employees. But the notion that entities currently organized as franchises will simply accept regulators turning them into *de facto* large firms is missing the key point: If franchisors wanted to have a large firm, then every franchise would have been a solely owned branch of the original entity. Put differently, they've already rejected the idea of being a large firm.

So, they will do something else and that will come with a cost. As Hindley notes: "Franchises currently contribute more than $500 billion in GDP, 3 percent of total GDP." Further, "approximately 8.2 million workers are currently employed by franchises in the United States, and franchise employment is estimated to further increase by about 257,000 jobs by the end of the year." These economic contributions emerged from the fact that the franchise business model was the best to meet the mutual interests of franchisors and franchisees. The replacement will, by definition, be less desirable and less productive – and traceable directly to the regulatory framework.