



December 9, 2019

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Vanita Gupta

**RE: Oppose the Trademark Licensing Protection Act of 2019 (S. 2439)**

Dear Senator:

The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, and the undersigned 26 organizations dedicated to advancing the economic security, health, and rights of working people, **write to express our strong opposition to the Trademark Licensing Protection Act of 2019 (S. 2439).**

Under the guise of protecting franchisor rights under *trademark* law, The Trademark Licensing Protection Act of 2019 primarily impacts *labor* law to the detriment of American workers. The legislation would allow large corporations to dodge their joint employer status under the National Labor Relations Act and undermine the right of working people to bargain for better wages and working conditions with the very businesses that control those terms and conditions. Corporate employers have long exercised control over workers through intermediaries like staffing firms and franchises. Under existing law, such *indirect* control may be enough to render those corporations “joint employers”.<sup>i</sup> Joint employers must come to the bargaining table along with the intermediaries to hear employees’ concerns and negotiate in good faith over terms and conditions of employment.

The Trademark Licensing Protection Act, however, would place this core workplace right out of reach for millions. Around the country, fast food workers have taken to streets to call for a seat at the table with *all* entities that actually control the terms and conditions of their jobs. The Trademark Licensing Protection Act is another hurdle aimed at denying meaningful bargaining rights to working people at firms controlled by corporate franchisors.

Not only does The Trademark Licensing Protection Act prevent working people from bargaining effectively for better working conditions, it would also make it more difficult for working people who face workplace discrimination, wage theft, and other violations of their rights to hold corporations accountable. Specifically, this bill would allow franchisors who share control over the terms and conditions of employment to use trademark protection to avoid joint employer status and escape liability. Franchisees, usually smaller businesses, would be left “holding the bag” as the only entity liable to employees, while large corporate franchisors, who continue to exercise control over the workplace, avoid all responsibility.

The consequences of shielding corporate franchisors from taking responsibility for employees they jointly control would be felt by some of the most vulnerable and lowest-paid working people. More than 4.5 million people work in the U.S. fast food industry;<sup>ii</sup> over half



of these employees are women, a disproportionate number are people of color, and around one-quarter are raising children.<sup>iii</sup> In addition, the fast-food industry is notorious for workplace abuse: according to one recent survey, for example, over 40 percent of women in the fast-food industry face sexual harassment on the job, which can lead to negative physical and mental health impacts, job insecurity, and major life disruption.<sup>iv</sup>

The Trademark Licensing Protection Act protects the interests of multinational corporate franchisors at the expense of everyday working people. Enabling working people to exercise their right to form a union and engage in meaningful collective bargaining is one of the most effective, efficient, and comprehensive ways to promote economic security for individuals and their families, and working people should be able to hold those who control the terms and conditions of their employment accountable for workplace abuse. Denying these rights is an affront to working people that weakens their ability to win fair wages, affordable health care, and safe workplaces free from harassment and discrimination. We therefore urge you to oppose S. 2439, the Trademark Licensing Protection Act.

Sincerely,

The Leadership Conference on Civil and Human Rights  
Service Employees International Union (SEIU)  
American Association for Justice  
AFL-CIO  
Alianza Nacional de Campesinas, Inc.  
American Federation of State, County and Municipal Employees  
Asian Pacific American Labor Alliance, AFL-CIO  
Center for Justice & Democracy  
Center for Popular Democracy  
Demos  
Economic Policy Institute  
Equal Rights Advocates  
Futures Without Violence  
Impact Fund  
Interfaith Worker Justice  
Labor Council For Latin American Advancement  
Maine AFL-CIO  
NAACP  
National Asian Pacific American Women's Forum (NAPAWF)  
National Domestic Workers Alliance  
National Employment Law Project  
National Organization for Women  
National Women's Law Center  
NETWORK Lobby for Catholic Social Justice  
Restaurant Opportunities Centers United  
South Florida Interfaith Worker Justice



Working Partnerships USA  
Workplace Fairness

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<sup>i</sup> See *Browning-Ferris Industries of California, Inc.*, 362 NLRB No. 186 (2015).

<sup>ii</sup> Ibis World, *Fast Food Restaurants in the US: Employment Statistics 2000-2025*, <https://www.ibisworld.com/industry-statistics/employment/fast-food-restaurants-united-states> (last visited Oct. 7, 2019).

<sup>iii</sup> John Schmitt and Janelle Jones, Center for Economic and Policy Research, *Slow Progress for Fast-Food Workers* (Aug. 6, 2013), <http://cepr.net/blogs/cepr-blog/slow-progress-for-fast-food-workers>.

<sup>iv</sup> Hart Research Associates, *Key Findings from a Survey of Women Fast Food Workers* (Oct. 2016), <https://hartresearch.com/wp-content/uploads/2016/10/Fast-Food-Worker-Survey-Memo-10-5-16.pdf>.