

THE AGENDA FOR AMERICA'S ENTREPRENEURS

Fair Competition

Competition is the underpinning of a thriving and equitable economy in which all businesses can achieve pathways to their individual success. As large corporations and online platforms continue to dominate and take hold over nearly all facets of our economy, small businesses are increasingly left at an immediate disadvantage when competing for opportunities to expand their operations. From antitrust enforcement to fair franchise agreements, Small Business Majority recognizes the role that the federal government and Congress can play in ensuring that our nation's smallest businesses are able to compete on a level playing field to achieve their full potential.

- Require the FTC to enforce the Robinson-Patman Act of 1936, also called the Anti-Price Discrimination Act, that protects small businesses from being driven out of the marketplace via discriminatory pricing, promotional allowances and advertising afforded to large, franchised companies. Policymakers and key agencies have not enforced the RPA since the 1980s; therefore, the FTC should remain committed to taking enforcement actions that are needed to level the playing field for small businesses.
- Prohibit the ability of technology platforms to impede free and fair competition through practices such as self-preferencing, forced advertising, copycatting and exclusion by passing legislation such as the American Innovation and Choice Online Act (AICOA). AICOA would classify self-preferencing as anticompetitive and allows antitrust enforcers to hold companies accountable for restricting competition on their platform.
- Restrict the use of non-compete agreements, with few discrete exceptions, to ensure that entrepreneurs are free to start business ventures and compete in the marketplace based upon the quality of their products and services. While the Federal Trade Commission issued a rule to ban non-compete agreements in 2024, the rule was halted by the U.S. District Court for the Northern District of Texas. Congress should pull legislative levers to provide better protections for entrepreneurs struggling with restrictive non-compete agreements.
- Implement laws that require transparent, simple and fair franchise agreements. The franchise model is a widely sought-after mode of becoming a business owner, and franchisees deserve an agreement that is fair, transparent and collaborative between the franchisor and franchisee. For example, Congress can pass the Franchisee Freedom Act, which would provide franchisees the right, including through private action, to enforce claims against the franchisor and protect themselves from unscrupulous one-sided business practices.
- Increase competition in the credit card processing industry by passing the Credit Card Competition Act (S.1838/H.R. 3881). Small businesses are burdened with swipe fees of up to 4% per transaction, which can cost a business thousands of dollars annually. These fees are a result of minimal competition and overwhelming market power between the top credit card processing networks.
- Empower the top antitrust enforcing entities (Federal Trade Commission and Department of Justice) with the utmost authority to rein in corporate consolidation and mergers that increase prices and prevent small businesses from competing on a level playing field. Harmful mergers that impact small business owners include those in the grocery, healthcare, and technology sectors.