



# August 2003

Representing the interests of small business franchisees nationally.

American Franchisee Association  
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## A Lobbyist's Viewpoint

Tim Locke, Senior Vice President of The Smith-Free Group in Washington, DC, joined the American Franchisee Association (AFA) Board of Directors, staff and select franchisee leaders in Chicago, Illinois on April 29<sup>th</sup> for our annual Franchisee Leadership Summit. Tim explained to the group how a Washington, DC-based lobbying firm can be a resource to franchisees. Here's a summary of what he had to say...

my opinion in an unvarnished way to let you know how you can pro-

sues or by blocking issues that would be harmful for your members in the aggregate."



"Reflecting back to when I first came to know your Association the original AFA issue that you advocated to Members of the House of Representatives and Senate was to level the playing field between corporate franchisors and your franchisee members. I remember that at that time the IFA—the organization

"I'm going to give you

tect your vested interests in Washington, DC. Tactically, you can protect those vested interests before the federal government by either promoting your own is-

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## Federal Trade Commission (FTC) Hearing

By Samuel J. Crawford, Director of Public Policy

The U.S. House of Representatives' Committee on Energy and Commerce's Sub-committee on Commerce, Trade and Consumer Protection held its first Federal Trade Commission (FTC) reauthorization hearing since 1996 on

June 11, 2003 entitled, "The Reauthorization of the Federal Trade Commission: Positioning the Commission for the Twenty-First Century."

Testifying before the sub-committee were Commission Chairman

Timothy Muris, and Commissioners Orson Swindle, Mozelle Thompson and Thomas Leary. Commissioner Sheila Anthony was absent.

As a part of their report

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## Federal Trade Commission (FTC) Hearing

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the Commissioners made three legislative proposals that would broaden their authority into the following three areas; 1) Internet SPAM, 2) Cross Border Fraud and 3) elimination of the FTC's common carrier exemption. Committee members commended the Commission for taking a proactive position on such consumer matters.

In his opening remarks Committee Chairman, Cliff Stearns (R-FL), asked the Commissioners "to seriously consider promulgating a rule, separate and distinct from the Franchise Rule, addressing business opportunities." The AFA has long been an advocate of this position.

In addition to a review of its

enforcement activities Mr. Muris restated the FTC's mission. Among other things he stated that the FTC's consumer protection mission "fosters the exchange of accurate, non-deceptive information, allowing consumers to make informed choices in making purchasing decisions."

Interestingly, one of the five

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that by and large represents the corporate franchisors—said that after Republicans had taken control of Congress that the notion of leveling the playing field would be "out the window." That was a very flawed and arrogant viewpoint

that AFA proved wrong both in 1998 and in 1999 with Mr. Coble

(R-NC) and Mr. Conyers' (D-MI) introduction of the Small Business Franchise Act which garnered strong bi-partisan support for franchisees. When we unveiled that legislation, the very fact that we had such a diverse group of sponsors in the House made many observ-

ers stop and say, "there must be something to this legislation if all *these conservative and liberal* guys find common ground on the issues."

"The Republican members I deal with on a regular basis are advocates for small business,

making money--and the fleeting recognition that you paid royalties to the franchisor. They quickly came to realize there were issues that needed to be addressed in the relationship between franchisee and franchisor."

"There are a number of other issues that you can play a broader role in through the AFA as an umbrella group. They

include shortening the depreciation on restaurant bricks and mortar; minimum wage; and association health insurance coverage. You're already working on these. You need to continue to do so, too."

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**With a new Congress and a new cast of characters on the Committees of jurisdiction, we need to make some changes to the playbook. But the plays can still be made. It's up to you and your members.**

not just big business. Me and my partners go around Capitol Hill to represent the case for this umbrella organization of yours, the American Franchise Association (AFA). Congressional members didn't have the foggiest idea about franchises, except there is one on every corner—and that all of you are

## A Lobbyist's Viewpoint

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"Why do you need a Washington, DC lobbyist? You're all lobbyists...when you bitch to the local city councilman that your garbage is not getting picked up, you're lobbying. There is so much going on in this environment today that can have an impact on you all either directly or through unintended consequences. You need somebody in DC who can be an early warning system for you in addition to being an advocate. I travel the halls of Congress, I go to fundraisers, I know a lot of people and I hear things. A lobbyist is a tour guide. And I don't say this lightly. What I and our partners have to sell is our expertise, our contacts and our time. We don't go to work for just anybody. We have to feel comfortable about the entity that approaches us. You need someone who's got your interests at heart. You need somebody to look out for your business interests."

"Why does Ford Motor Company need a lobbyist? It's simple. You can pick up the phone and call your Congressman and he may take the call or he may have a staff person take the call or he may simply have his receptionist log, "we received one call from one person in this town." Or, you can call your Congressman and then I can circle back around and let his Chief of Staff know that you called. And, yes, it's a big damn deal that Mr. Franchisee called and this is what we'd like to talk to the Member about."

"There are a number of initiatives that could be undertaken for the greater good of franchising. They may not in a tangible way protect your members today. But from a good public policy point of view, to stimulate a debate, and formulate a very narrow bill, that would be kind of hard to quarrel with, there's a lot that can be done."

"Yes, it can be a full-time job keeping your people abreast and working the grassroots effort. You need somebody to dedicate themselves to that effort. But it's worth it. Let me give you a good example. I know from conversations in the past with the Domino's Pizza franchisees, that their corporate parent--prior to Bain Capital--used to *beg* them to bail out of the AFA. Why? Because the AFA raised the issues that were not so warm and fuzzy. Their membership in the AFA was a fulcrum in their dialogue with corporate at the time—and it worked."

"Likewise, the Small Business Franchise Act was a "stalking horse" to raise the issue of the problems and opportunities that were out there. With a new Congress and a new cast of characters on the Committees of jurisdiction, we need to make some changes to the playbook. But the plays can still be made. It's up to you and your members."

## Mission of the AFA

**"To Promote and Enhance the Economic Interests of Small Business Franchisees."**

**Membership does not cost, it pays!**

## Federal Trade Commission (FTC) Hearing

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principles cited by Mr. Muris that guides the FTC's agenda for consumer protection is to use the agency's institutional capabilities in conducting studies. If you recall, the July 2001 General Accounting Office's audit of the FTC's enforcement of its franchise rule reported that the FTC used the lack of any statistically reliable studies to justify their assertion that there is no evidence of widespread abuse or fraudulent and deceptive practices by franchisors. Yet, obtaining this type of data was stated in

the hearing on June 11th as one of the principles that guides the FTC's agenda.

Also significant to franchisees is that both Committee members and Commissioners agreed with the need to

**One possible solution recommended by the Commissioners was to "empower" the consumer by granting access to the federal courts.**

empower the consumer as one of the best ways to ensure consumer protection. Commissioners acknowledged that most fraud has already occurred by the time the FTC gets involved. One possible solution recommended by the Commis-

sioners was to empower the consumer by granting access to the federal courts. Interestingly enough, access to federal courts via a private right of action under the FTC's franchise rule is also a position the AFA has advocated for aggressively since the mid-1990's.

Franchisees are encouraged to contact their Congressman ([www.house.gov/writerep](http://www.house.gov/writerep)) to let him / her know that franchisees would like access to federal courts under the FTC's franchise rule—just like the FTC's Commissioners proposed for consumers at the hearing on June 11th.

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