

Regulating Vulnerable Work: A Sector-Based Approach

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Challenges to workplace regulation

Major challenges to workplace regulation

External

- Fissuring of employment relationship
- Decline of labor unions (role in enforcement)
- Industry composition out of synch with regulatory approaches
- Changing technology / new workplace risks

Internal

- Resource limitations
- Performance expectations
- Political environment

Given challenges faced by workplace enforcement problem:

- Focus of enforcement should be at the *sector-* rather than *workplace-level* of activity:
- Focus on sectors with concentration of vulnerable workers;
- Gain a deeper knowledge of how the industry works (why employers do the things they do);
- Given this, use knowledge to change behavior beyond the firm-level.

External challenges: Where are low wage, vulnerable workers?

	Sector	Employment ^a	
		Total Employed (Millions)	Percent of total employment
	Construction	7688.9	5.1%
	Manufacturing	14197.3	9.4%
→	Retail	15319.4	10.2%
	Professional and business services	17551.6	11.7%
→	Food and drinking services	9382.9	6.2%
	Health	14919.8	9.9%
→	Agriculture	2138.6	1.4%
→	Accommodation	1833.4	1.2%
	All other sectors	67588.1	44.9%
	Total	150,620	100.0%

Workplace vulnerability and sector structure

Type of sector structure	Examples
Strong buyers sourcing products in competitive supply chains	Apparel; segments of agriculture; fast food (food supply); retail supply chains
Central production coordinators managing large contractor networks	Construction; entertainment; transportation and logistics
Small workplaces linked to large, branded national organizations	Food services; hotel and motel; auto rental; other franchised sectors
Small workplaces linked by large, common purchasers	Janitorial services; landscaping; home health care

Eating and drinking industry

Industry description	Average EEs per establishment	Total number of EEs	Number of establishments	Percent of sector (EEs)
Food services and drinking places (722)	16.8	8,219,519	488,373	100%
<i>Limited-service restaurants (722211)</i>	17.2	2,997,206	173,753	36.5%
Full-service restaurants (72211)	20.5	3,963,258	193,262	48.2%

Source: U.S. Department of Commerce, County Business Patterns, 2001

Eating and drinking industry: Occupational wage distributions

Occupation	Percent of industry employment	Average Hourly Earning	Median Hourly Wage	10th Percentile Wage—All Industry
Overall	100%	\$8.37	\$7.44	--
Food preparation & serving occupations	88%	\$7.94	\$7.36	\$5.98
Food preparation & servers	44%	\$7.23	\$7.02	\$5.79
Cooks (fast food)	13%	\$7.59	\$7.38	\$6.91
First line supervisors / managers	9%	\$12.33	\$11.38	\$8.34

Fast food: The role of product brand & franchising

McDonald's Corporation

A customer-focused philosophy

Our Plan To Win is designed to deepen our connection with customers by delivering great experiences. McDonald's experience is a customer-focused business, and we're committed to the ongoing alignment of our business to capture our opportunities.

People

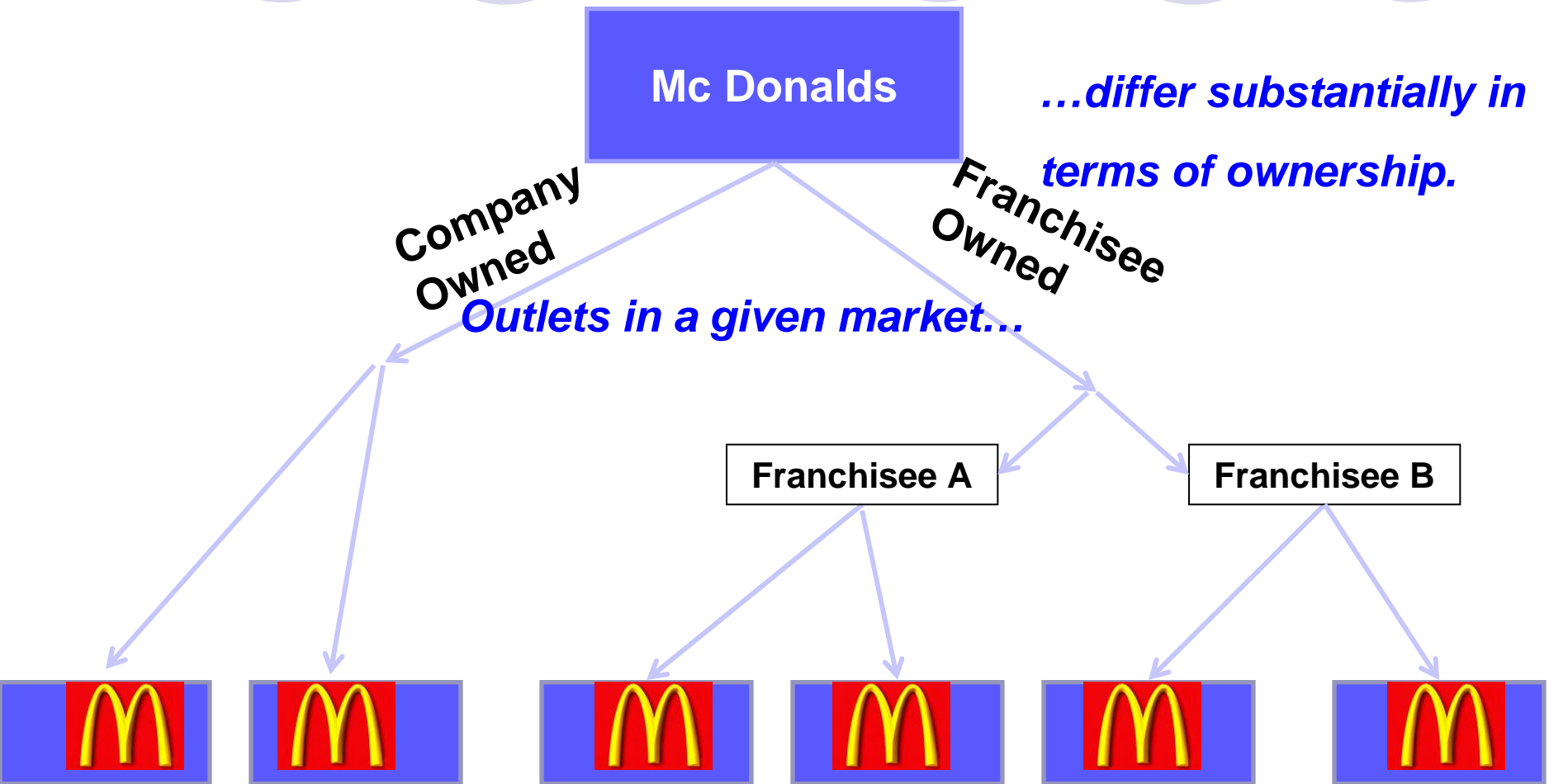
- Well-trained people are the heart of our success. We're committed to providing superior training programs that drive profits. In fact, the American Culinary Arts Foundation's restaurant training curriculum with recommendations for 46 college credits.
- We measure progress toward our goal of delivering great customer experiences through

Two industry insights:

- Importance of “brand” means fast food chains are concerned about quality, consistency and public image.
- Franchising creates a different degree of investment in the brand.



Eating and drinking industry ownership and management structure

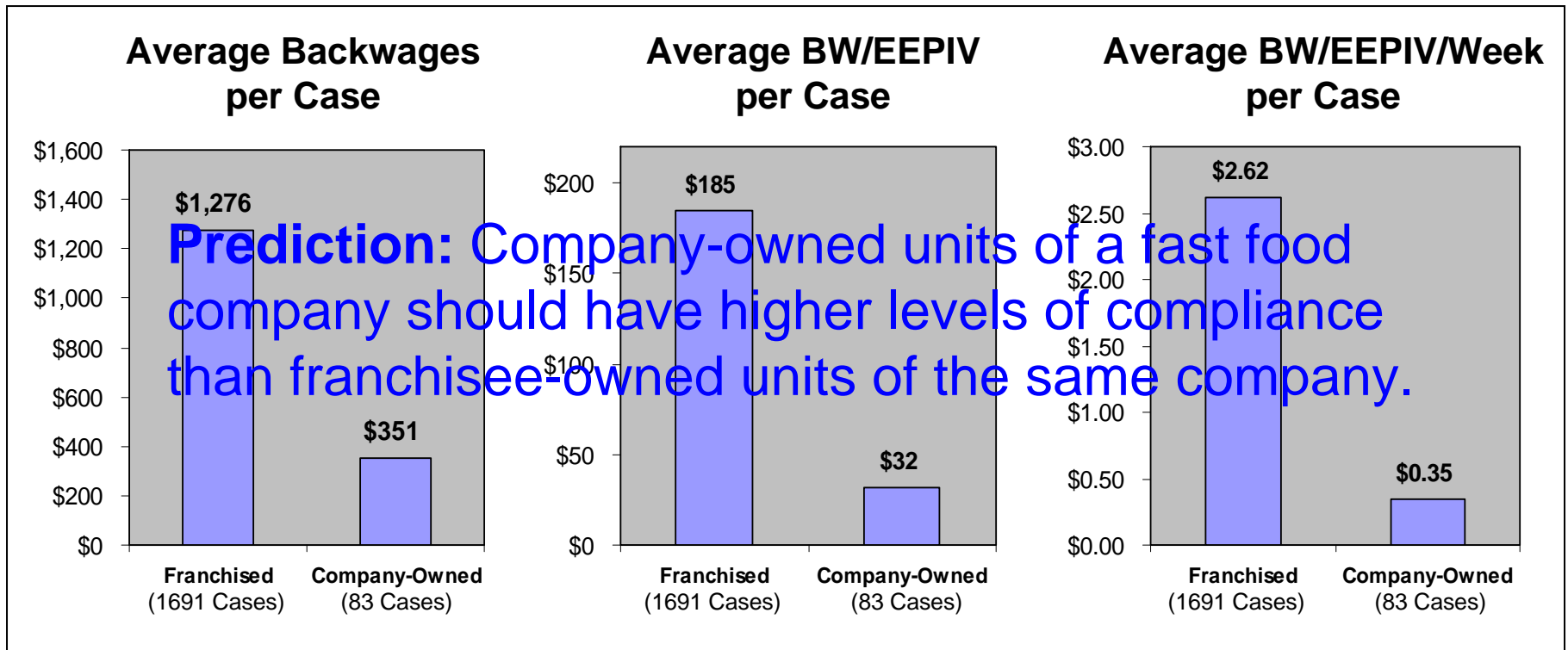




Effects of franchising on FLSA compliance

- Franchisees have some, but less investment in a brand than franchisors;
- Franchisees focus on revenues and costs (not just revenues). With less stake in the brand, they have greater incentives to violate FLSA than franchisors would desire.

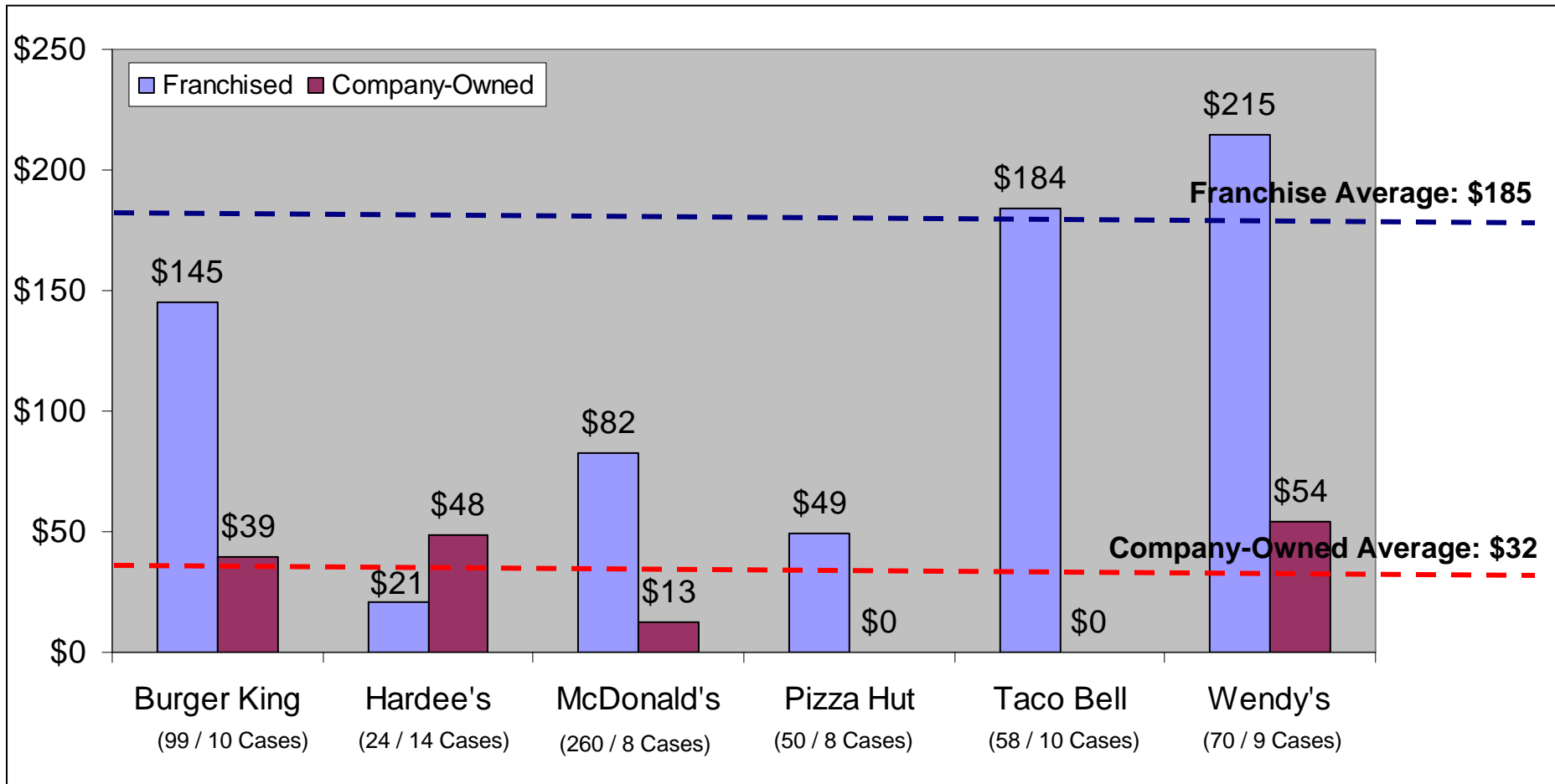
Franchising and compliance



WHISARD FLSA cases excluding conciliations and self-audits; 2001-2005

Differences vary between franchisors

\$BW/EEPIV by outlet

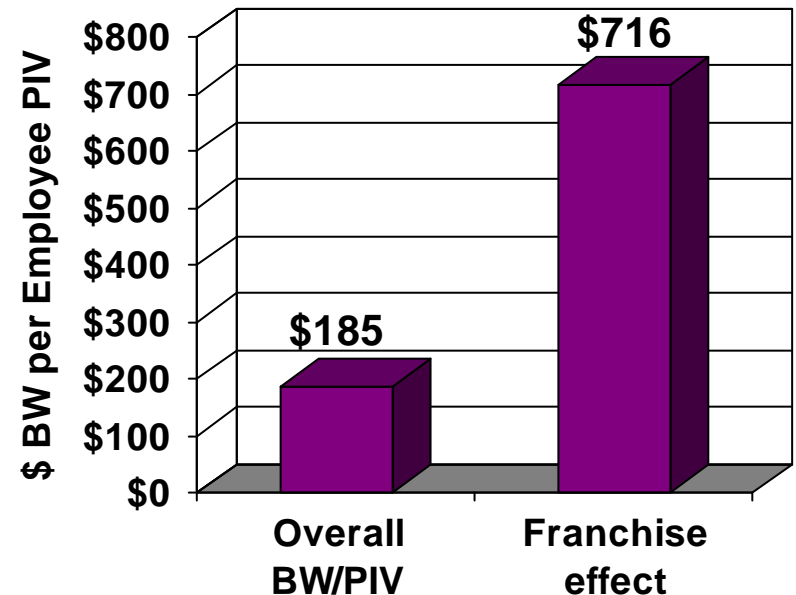


WHISARD FLSA cases excluding conciliations and self-audits; 2001-2005

Overall impact of franchising

- Other factors may also contribute to franchise effect.
- *Holding constant other factors*, franchisees on average owe back wages per violation that are more than **\$700** greater than company-owned outlets. This is 3.5 times the size of the average back wage finding in an investigation (**\$185**).
- *Holding constant other factors*, franchisees owe **\$4,265** more than company-owned per inspection.

**Best Estimate of
Franchising Effect
(\$BW per violation)**



Deterrence effects

- Firms compete in local markets, but also communicate with one another
- Owners talk to owners (employer “ripples”)
- Workers talk to workers (employee “ripples”)
- Estimate the impact of an additional investigation at a local level (5-digit zipcode) area

Deterrence effects: Geographic



How much does an additional eating and drinking investigation conducted in the last year reduce back wages in the subsequent year?

	Total \$back wages per investigation	Number of violations per inspections	\$ Back wages per employee paid in violation	Probability of non-compliance
Mean estimate (coeff.)	-\$1032	-11.6	-\$114.12	-0.395
s.e.	404.0	3.14	52.51	0.105
Prob. value	0.011	>0.01	0.030	>0.01

Implications



- A sector-based approach focuses on franchisors, not individual outlets or franchisees.
- Franchising effects
 - Targeting implications
 - Changing the role of franchisors with respect to franchisees (monitoring activities).
- Deterrence implications
 - Investigation protocol (certain kinds of investigations make larger ripples)
 - Impacts of brands on other fast food players (non-branded)

Workplace vulnerability and sector structure

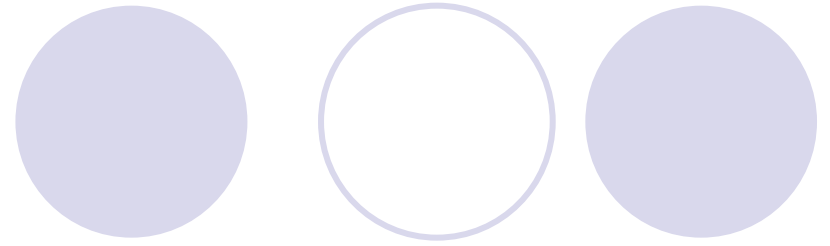
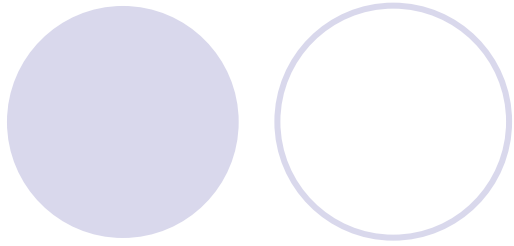
Sector-based approaches for each of these are possible.

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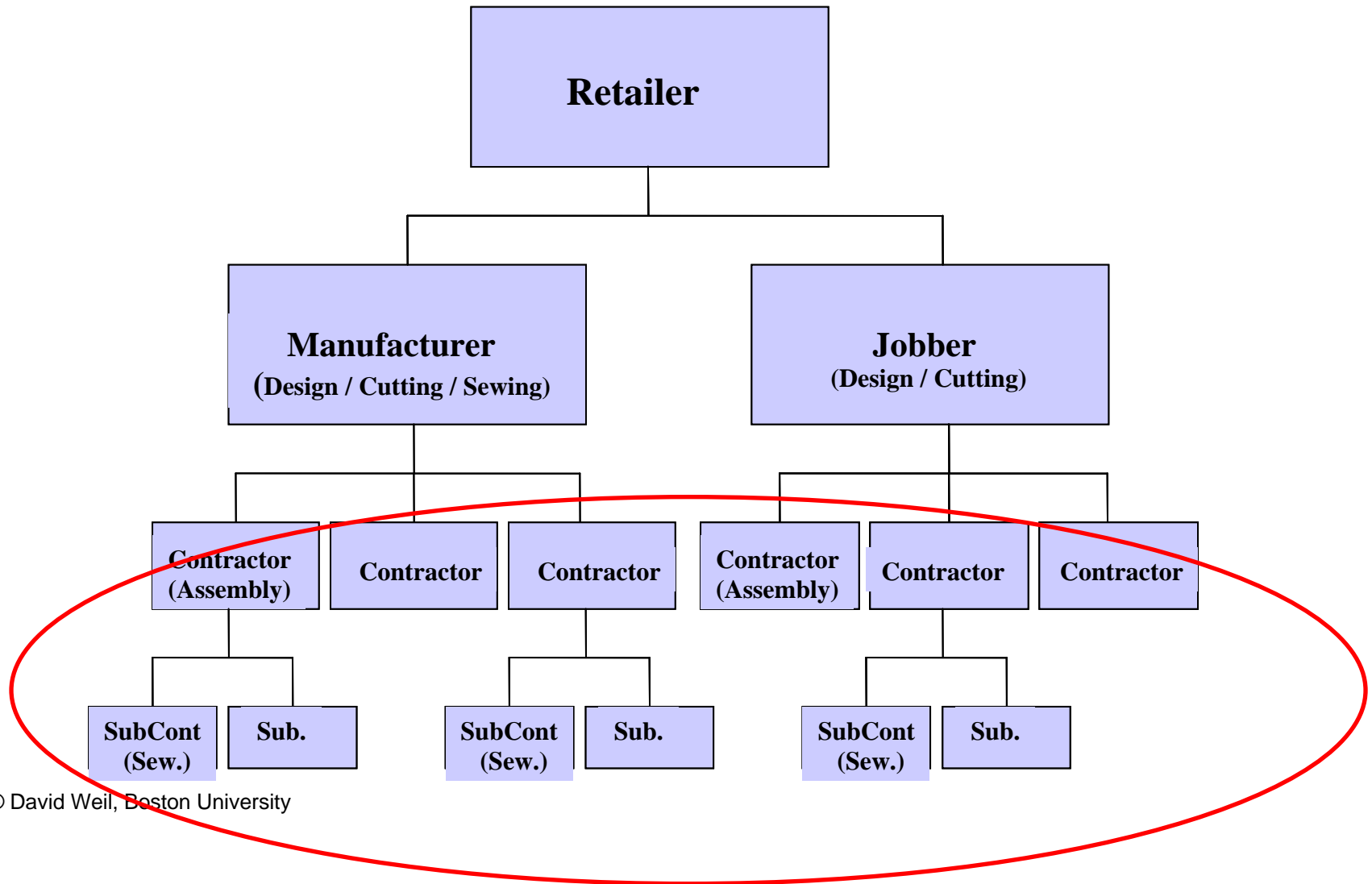
Other sector-based examples



- Supply chains: Role of key coordinators (garment; trucking examples)
- Hotel and motel: 3rd party management
- Construction: Role of CMs and GCs
- Agriculture: Role of food processors and retailers
- Major purchasers of services (e.g. home health care in California)



U.S. Department of Labor, WHD: Traditional enforcement strategy



WHD: Public enforcement / private monitoring

