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The case for an FTC rule-making on non-competes

“We’re banning those agreements so companies have to compete for workers and pay them what they’re worth.”

– President Biden [speaking](#) about non-competes at the State of the Union.

Main Points:

1. Corporations abuse their power and use non-competes to trap workers, drive down wages, and prevent competition. Right now 30 million Americans are subject to these clauses.
2. Non-competes stifle innovation and competition because they significantly limit the pool of employees that new and competing businesses can recruit.
3. Non-compete agreements make it difficult for workers to leave dangerous or hostile work environments. If an employee has a special set of skills for a specific industry but is in a hostile work environment where the conflict is not being resolved, then they are faced with the difficult choice of enduring the hostility or leaving the industry entirely.
4. Banning non-competes would free-up 30 million workers and increase worker pay up to \$300 billion a year, because they can seek better jobs with fewer limitations.
5. Banning non-competes would reduce the racial and gender wage gaps by 3.6-9.1 percent, because non-competes disproportionately harm women and people of color.
6. Banning non-competes would save consumers up to \$148 billion annually on healthcare costs, because more competition for labor means more efficiency and ultimately lower costs for healthcare services.
7. If we ban non-compete should also ban training repayment agreement provisions (TRAPs) which is when companies require workers to pay for

training received if they leave a job. While non-competes prevent workers from moving to a competitor, TRAPs prevent workers from leaving their employer at all.

8. CALL to Action: The FTC (Federal Trade Commission) has proposed a rule to ban non-competes – comments close on 4/19. Will you submit a comment/blast to list/sign onto group comments that supports a ban and asks the FTC to strengthen the proposed rule by banning TRAPs.

What is a non-compete agreement?

A non-compete agreement is a component of employment contracts that typically prohibits the employee from working in a similar position with a company that may or may not be a competitor for a set period of time and in a specific geographic area. Non-competes are usually triggered when the employee stops working for the employer (regardless of why). These agreements can define “competing” as working for a competitor company or a competing individual, starting a company that offers the same products or services, developing competing products or providing competing services. Employers claim they need non-competes to protect trade secrets and training investments in employees. However, most non-competes are not tied to any specific circumstances about what information an employee knows, what training they have had, or how long they have been in their role.

What is the argument for banning non-competes?

- It harms both workers and the economy by instilling fear in workers, deterring them from higher waged jobs.
- Non-compete agreements disproportionately affect women and people of color.
- Banning non-competes would increase workers’s wages and would cut costs for everyone.

What is the opposition arguing?

Corporate interests and lobbyists argue that non-compete agreements are in order to protect proprietary company information like trade secrets and intellectual property– this is wrong because there are other [legal avenues](#) available to companies to protect sensitive information that don’t trample on workers.

Resources to Reference

1. Economic Security Project's [Pro and Con Arguments and Q&A](#)
2. President Biden Speaking about non-competes at the State of the Union.
(Text of speech [here](#) and clip [here](#))
3. FTC [Press Release](#) – [Full Text](#) of proposed rule and [FACT SHEET](#) on the FTC's non-competes rule.
4. Examples of Noncompetes Harming Workers (From, FTC [Fact Sheet](#) and [NYT, WSJ](#))
5. The FTC's [Public Comment Page](#) closes on April 19.