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BLOG

FTC Noncompete Workshop: Topics, Takeaways, and the Trump Administration's New Enforcement Approach

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On January 27, 2026, the Federal Trade Commission convened a virtual half-day workshop, "Moving Forward: Protecting Workers from Anticompetitive Noncompete Agreements," outlining a case-by-case, enforcement-forward approach to challenging restrictive employment covenants the agency views as harmful to worker mobility, competitor entry, and consumer welfare. The FTC explicitly stated that this workshop was held to clarify that the Trump Administration will continue to scrutinize noncompete agreements, but through a strategic-enforcement approach that differs significantly from the prior Biden Administration's approach. This statement supports our previous analysis that competition in labor markets will remain an area of FTC scrutiny in the second Trump Administration.

WHY NONCOMPETES AND WHY NOW?

The FTC framed the workshop as part of a broader effort by its Joint Labor Task Force, which was created in February 2025, to "root out and prosecute deceptive, unfair, and anticompetitive labor-market practices," with noncompetes singled out as a priority due to their prevalence and potential to depress wages and limit worker opportunity. Officials emphasized that, notwithstanding the agency's opposition to the previous administration's attempted nationwide ban on noncompetes, the Commission remains committed to addressing unlawful noncompete agreements using tools it believes Congress has actually conferred: namely, case-by-case enforcement under the antitrust laws and Section 5.

CHAIRMAN FERGUSON'S ENFORCEMENT PHILOSOPHY

In his keynote address, Chairman Andrew Ferguson underscored two core propositions: first, that many noncompetes likely violate antitrust laws when they lack legitimate procompetitive justifications or are broader than necessary; and second, that the FTC's lawful path is targeted enforcement rather than rulemaking that would function as de facto legislation. Drawing on common-law history and antitrust doctrine, he tied the Commission's evaluation of noncompetes to a reasonableness framework: (1) are the asserted interests for the noncompete legitimate (e.g., protecting trade secrets or firm-specific training), and (2) is the restraint narrowly tailored and unavoidable by less restrictive means such as nondisclosure, non-solicitation, or fixed-term agreements? He previewed that the agency's recent *Gateway Services* and *Planned Building Services* complaints, where the agency alleged noncompetes or no-hire restraints suppressed competition for labor and impeded rival entry without adequate justification, are merely a sign of things to come: "We want to bring enforcement actions that will communicate a strong message about how the FTC understands the law to firms beyond merely targets of that particular enforcement action."

COMMISSIONER MEADOR: NONCOMPETES AND THE AFFORDABILITY CRISIS

In his address, Commissioner Mark Meador linked noncompetes to "kitchen table" affordability issues, arguing that improperly used restraints suppress wages and undermine consumer buying power, compounding cost-of-living pressures. While acknowledging contexts where carefully tailored restraints can protect investments and confidential information, he outlined factors that would guide the Commission's analysis of noncompetes moving forward: worker skill and pay level, distribution networks and franchise dynamics that prevent independent operators from competing for employees, contractor status, the potential risk of "free riding" where no employers would be willing to invest in the significant training and mentorship required for new entrants to the industry, availability of less restrictive alternatives, scope and duration of the agreements, employer market power, and sector-wide effects. Commissioner Meador also echoed Chairman Ferguson in stating that the FTC would proceed through "sound legal judgment, not blanket rules," to serve both workers and legitimate business interests.

PANEL 1 – LIVED EXPERIENCES

The first panel featured workers who reported career disruptions due to broad noncompetes, including a physician "constrained from servicing underserved areas," a hairstylist "forced to travel long distances" to work, and a veterinarian "unable to provide emergency care" within a restricted radius. These narratives anchored the Commission's belief that even time- and geography-limited clauses in noncompetes can inflict meaningful harm when workers must forgo income or relocate in order to comply with them, especially when these clauses are not tethered to any legitimate business justifications.

PANEL 2 – POLICY PERSPECTIVES

In the second panel, policy and enforcement officials highlighted research purporting to show that widespread, non-tailored use of noncompetes, often applied to workers with limited bargaining power and without individualized justification, result in wage suppression and impediments to entrepreneurship. FTC staff pointed to restraints in the *Gateway* and *Prudential Security* cases as emblematic of overbroad restraints and coercive terms in many noncompete agreements. The Commission flagged healthcare as a near-term focus, citing recent feedback that training largely occurs in medical education, that patient flow in certain specialties undercuts client-relationship justifications, and that health-privacy laws already protect sensitive information, which collectively weakens rationales for physician noncompetes and raises access-to-care concerns. A representative from the Department of Labor argued that labor-market competition is foundational to employer compliance with workplace laws and that noncompetes can enable unlawful wage suppression and deteriorating conditions by insulating employers from competitive pressures.

PANEL 3 – THE ECONOMICS

In the third panel, economists provided summaries of some of the literature regarding the economics of noncompete agreements, including that noncompetes are common, with substantial firm-level adoption, and that causal studies link enforceability of noncompetes to wage reductions of 3% to 4%, and to reduced worker mobility and innovation. Panelists also stated that the literature shows that banning noncompetes does not increase trade-secret litigation and that industry-wide use of these agreements can generate negative spillovers, suggesting that alternatives may protect legitimate interests without broad restraints on companies or competition.

PRACTICAL IMPLICATIONS: HOW THE FTC WILL TRIAGE CASES

Across the day, the FTC signaled it will deploy "education through enforcement," targeting unjustified or overbroad restraints most likely to harm workers, rivals, and consumers, with an eye toward sectors heavily burdened by noncompetes. Businesses should expect scrutiny of agreements where the claimed business justifications are not tailored to specific roles, where less restrictive measures exist, or where the scope and duration of the restrictive terms outstrip legitimate needs, especially in markets with few employers or documented mobility barriers. Commission attorney Mark Woodward also previewed a readiness by the agency to litigate cases if necessary and encouraged counsel to consider targeted alternatives such as non-solicitation, NDAs, and fixed-term contracts to promote the usual stated goals for noncompetes—protecting client relationships, proprietary information, and investments in workers.

KEY TAKEAWAYS

The Commission is consolidating around a common-law, reasonableness-based, case-specific framework that privileges agreements with less restrictive alternatives and narrow tailoring, while focusing enforcement on contexts where restraints appear to depress wages, block exits, and stifle entry from competition. Healthcare and other labor-concentrated sectors appear top of mind to the agency, and the agency views high-profile enforcement actions as tools to shift market practices beyond the immediate targets.

Although no longer pursuing a blanket ban on noncompetes, under the current FTC, noncompetes that suppress competition or bargaining power without clear, narrowly tailored, procompetitive justification are litigation risks. As Chairman Ferguson warned explicitly, “The days of unreflective, unjustified, anticompetitive noncompete agreements are over. If the company wants to execute a non-compete agreement, they had best be prepared to defend it.”

5 Min Read

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