



**OREGON  
STATE  
TREASURY**

**Tobias Read**  
Oregon State Treasurer

**Michael Kaplan**  
Deputy State Treasurer

April 11, 2023

The Honorable Lina M. Khan  
Chair, U.S. Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

Re: Comment on Proposed Noncompete Clause Rule

Dear Chair Khan,

I am writing on behalf of the Oregon State Treasury and submit this comment in response to the U.S. Federal Trade Commission (FTC) request for public input on its proposed rule to Noncompete Clauses. I appreciate the opportunity to share my views. As Treasurer, I am the custodian of state funds, responsible for protecting the state's credit ratings, and responsible for overseeing public investing, banking, bonding, and financial empowerment programs. I also serve as the investment officer for the Oregon Investment Council (OIC), which sets policy for the investment management of over \$100 billion in state assets and public trust fund portfolios. On the OIC, I sit as an ex officio voting member and as such, have a fiduciary duty over the assets managed on behalf of fund beneficiaries. At my direction, Staff within the Oregon State Treasury perform a variety of daily investment management functions in accordance with policies and investment beliefs<sup>1</sup> set by the OIC.

As a long-term investor, we are observant of the efficient operation of markets, strive to optimize economic output, and promote all Oregonians ability to participate in economic growth. I am writing to express support for the Federal Trade Commission's proposed rule to ban noncompete clauses in employment contracts. I believe that eliminating these restrictive clauses would yield significant benefits for both workers and businesses. Specifically, I would like to address the ways in which noncompete clauses contribute to inefficient allocation of labor, hinder innovation, impede economic growth, exacerbate income inequality, and disproportionately affect the most vulnerable in society.

While it is acknowledged that noncompete clauses may serve a limited purpose in safeguarding trade secrets and other firm-specific confidential information, it is important to recognize that these concerns should be addressed through the enforcement of copyright, patent, trademark, and other intellectual property laws. Relying on noncompete clauses as a means of protection is inefficient and time-constrained, and often results in undue restrictions on employees' career mobility. Strengthening and enforcing existing legal frameworks to protect trade secrets and

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<sup>1</sup> <https://www.oregon.gov/treasury/invested-for-oregon/Documents/Invested-for-OR-OIC-INV/INV-1201-Statement-of-OICInvestment-and-Management-Beliefs.pdf>



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intellectual property can provide a more targeted and equitable approach to safeguarding valuable business information without compromising labor market efficiency.

Firstly, noncompete clauses often preclude workers from fully utilizing their skills and experience. By barring employees from pursuing opportunities with competitors or within their industry, these clauses effectively constrain the labor market's capacity for optimal resource allocation. This inefficiency is detrimental not only to employees who may be unable to seek improved job prospects but also to businesses that cannot hire the best available candidates due to noncompete agreements with competitors. Abolishing noncompete clauses would enable workers to transition more freely within their industries, thereby boosting overall productivity and economic growth.

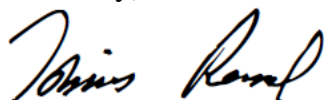
Secondly, noncompete clauses impede innovation by obstructing the exchange of knowledge and ideas between firms and hindering employees from establishing their own firms. In competitive markets, innovation emerges from the collaboration and exchange of ideas among individuals with diverse skill sets. Nonetheless, noncompete clauses often create barriers to this exchange, as they can deter skilled employees from joining companies that stand to benefit from their expertise or pursue innovation by starting their own firm. Consequently, this may result in slower progress and diminished innovation within industries, ultimately harming consumers who could have otherwise enjoyed new and enhanced products or services or lower prices from competition.

Lastly, noncompete clauses can exacerbate income inequality and suppress wage growth. By restricting workers' ability to change jobs and negotiate higher salaries, these clauses can stifle wage growth and contribute to widening income disparities, which disproportionately affect underrepresented communities and economically disadvantaged individuals. Banning noncompete clauses would enable the Federal Trade Commission to take a significant step toward fostering a more equitable and dynamic labor market.

In conclusion, I strongly urge the Federal Trade Commission to proceed with its proposed rule to ban noncompete clauses in employment contracts. By doing so, the Commission will help facilitate a more efficient allocation of labor, stimulate innovation, and cultivate a more equitable labor market. This rule change would represent a substantial stride in the right direction for American workers and businesses alike.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tobias Read". The signature is fluid and cursive, with the first name "Tobias" being more prominent than the last name "Read".

Tobias Read