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Officials said during a workshop that the agency’s non-compete enforcement strategy will target overly broad agreements and rely on “education through enforcement.”

Key takeaways

- The FTC will enforce against non-competes on a case-by-case basis.
- The agency will scrutinise agreements with low-wage, low-skilled employees.
- Companies should be ready to justify a pro-competitive rationale for any non-compete agreements.



The US Federal Trade Commission (FTC) gathered commissioners, government officials and policy experts to discuss the use of non-compete agreements during its “Moving Forward: Protecting Workers from Anticompetitive Noncompete Agreements” workshop on 27 January 2026. The conversations focused on shaping an enforcement approach amid debate about the economic and competitive impacts of restrictive covenants.

Tuesday’s workshop marked the FTC’s latest effort to “[understand] the real-world effects of non-compete agreements,” chair Andrew Ferguson said

in his keynote address. The agency launched a public inquiry into employers’ use of non-competes in September 2025, which drew more than 100 comments from stakeholders across several industries.

Under US President Donald Trump’s administration, the FTC has distanced itself from earlier attempts to impose a nationwide ban on non-compete agreements. In September 2025, the agency moved to dismiss its appeal of a district court ruling invalidating its 2024 Non-Compete Clause Rule, which would have deemed non-competes an “unfair method of competition.” The decision signalled the administration’s opposition to a blanket prohibition, and the FTC offered some insight on Tuesday into how it intends to address anti-competitive agreements moving forward.

“Education through enforcement”

Ferguson advocated for case-by-case enforcement against non-competes, noting that they can be lawful “in light of unique circumstances.” Businesses may have legitimate interests in protecting proprietary information or niche skillsets, he said, clarifying that the “assertion of a pro-competitive justification alone is not enough.”

FTC officials and other panellists were vocal about the dangers of applying overly broad non-compete agreements. Commissioner Mark Meador listed several “contextual factors” that the agency will consider when determining the enforceability of non-competes, including workers’ wages and skill levels, employment classifications and the availability of alternative, less restrictive covenants, such as non-disclosure or non-solicitation clauses.

Even where other agreements may not suffice, Ferguson emphasised the importance of limiting the scope and duration of any non-compete “to what is necessary to advance the employer’s pro-competitive interest.”

“It is hard to imagine any case in which a non-compete of unlimited duration or nationwide geography, for example, is reasonably necessary to promote an interest or transaction that cannot be achieved through a more tailored restraint,” Ferguson said.

The FTC’s first non-compete-related enforcement action under the Trump administration affirmed its focus on targeting overly broad agreements. The agency filed a complaint in September 2025 against pet cremation company Gateway Services, alleging that it violated the Federal Trade Commission Act 1914 by imposing non-competes on all newly hired employees – regardless of their positions or responsibilities. The resulting settlement prohibited Gateway from entering, maintaining or enforcing non-compete agreements.

Ferguson said that the FTC will continue to enforce against anti-competitive non-compete agreements. He touted an “education through enforcement” approach, asserting that companies will take note of larger, high-profile actions and adjust their practices accordingly.

“Lots of client alerts will be sent out from law firms every time the FTC brings an enforcement action,” Ferguson said. “We want to focus on the industries most burdened by non-compete agreements, and we want to bring enforcement actions that will communicate a strong message about how the FTC understands the law to firms beyond merely the targets of that particular enforcement action.”

The specific enforcement mechanisms the FTC will favour remain to be seen. In February 2025, Ferguson announced the launch of a joint labour task force, which was created to investigate and prosecute non-compete agreements, among other worker harms.

There have been no public updates regarding the task force’s activities, but its co-chair, deputy director at the FTC’s Bureau of Competition Kelse Moen, re-emphasised its commitment to rooting out anti-competitive practices on Tuesday.

So far, the FTC has resolved its non-compete cases through consent decrees. But assistant director at the Bureau of Competition Mark Woodward said he “likes [the FTC’s] chances” in any future non-compete litigation.

Diverging interests

The FTC’s workshop highlighted how non-compete agreements affect workers and employers across different industries and featured a range of perspectives on balancing legitimate business needs with a robust enforcement approach.

Perhaps unsurprisingly, non-competes in the healthcare industry face increased scrutiny. The FTC has previously warned against restricting the mobility of physicians and other providers, and many US states provide carve-outs for these workers. In September 2025, the FTC issued letters directing several healthcare companies and staffing firms to “conduct a comprehensive review” of their employment agreements to ensure compliance and appropriate tailoring.

Panellists from the medical community advocated on Tuesday for a total ban on healthcare non-competes. The speakers explained how these agreements affect patients in rural and underserved areas, an issue raised by many healthcare organisations during the FTC’s September 2025 public inquiry.

But the industry has appeared split on the impacts of non-competes. Some stakeholders believe that appropriately structured agreements can actually preserve rural access to healthcare. Woodward acknowledged on Tuesday that non-competes may have some justification in this sector, but said that the FTC will continue prioritising enforcement against those that harm the healthcare market.

The public consultation reflected a broad consensus that US states should regulate non-compete agreements. An increasing number of states have sought to narrow the use of restrictive covenants in recent years.

California and Oklahoma, among others, ban non-compete agreements. Other states, like Florida, have significantly strengthened state employers’ rights to enforce non-competes and other agreements. Antonin Scalia Law School professor Bruce Kobayashi said on Tuesday that states will continue to play a “vital” role in shaping the non-compete landscape.

Some panellists, however, raised concerns about the effectiveness of state non-compete bans. John Lettieri, Economic Innovation Group president and CEO, said that many employers still impose non-competes on workers who “may not know what laws or rights come into play.” As a result, he said, employees often sign agreements without realising that “a court would throw the non-compete out immediately.”

The FTC's workshop highlighted the need for employers to review their practices and ensure that their non-compete agreements comply with state laws, are narrowly tailored and pro-competitive. The agency appears ready to enforce these standards, with Ferguson offering a blunt warning to employers across the US: "if a company wants to execute a non-compete agreement, they had best be prepared to defend it."

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