

Insights: Alerts

FTC Launches First Ever “Joint Labor Task Force” Prioritizing Deceptive, Unfair, and Anticompetitive Labor Market Practices

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On February 26, 2025, the Federal Trade Commission (“FTC”) [announced](#) the launch of a Joint Labor Task Force (“Task Force”) aimed at “rooting out and prosecuting deceptive, unfair, and anticompetitive labor-market practices that harm American workers.” The Task Force, formed at the direction of FTC Chairman Andrew Ferguson, will have a focus, among other things, on noncompete agreements, no-hire clauses, and no-poach agreements that violate unfair competition and consumer protection laws and lead to the suppression of wages. Chairman Ferguson has described the Task Force as one of the top priorities of the new presidential administration.

DOJ/FTC Joint Guidance and Guidelines

As background, the Department of Justice (“DOJ”) and FTC jointly issued [Antitrust Guidance for Human Resource Professionals](#) in 2016. The 2016 Guidance explained that the DOJ and FTC would treat no-poach and wage-fixing agreements between employees as per se illegal and subject to criminal prosecution. It further emphasized that, with limited exception, the sharing of information about the terms and conditions of employment among employers, such as information concerning compensation plans, constituted an implicit illegal agreement under the guidance.

In January 2025, just four days before inauguration day, the DOJ and FTC replaced the 2016 Guidance, publishing [Antitrust Guidelines for Business Activities Affecting Workers](#). While the 2016 Guidance focused more narrowly on three areas of concern – no-poach agreements, wage-fixing agreements, and information sharing – the 2025 Guidelines reflect a significant expansion in enforcement. Specifically, the new guidelines provide a list of business practices that may run afoul of antitrust laws, including noncompete agreements preventing a worker from joining a competitor or starting a new business, as well as certain other restrictive covenant agreements and provisions, such as overly broad nondisclosure agreements, nonsolicitation provisions, and training repayment provisions, and provisions imposing penalties on employees looking to terminate their contract.

The Task Force

The guidelines' timing, over the objection of both Republican-appointed FTC commissioners, including now-Chairman Ferguson, raised doubts as to whether the guidelines would remain in place under the Trump administration.

However, Chairman Ferguson seems to have dispelled those doubts by directing the formation of the new Task Force and emphasizing in his recent memorandum to the FTC's section heads ([*Directive Regarding Labor Markets Task Force*](#)), the FTC's "dual mandate to protect the American people from unfair or deceptive practices and unfair methods of competition" and protecting consumers in "their roles as workers." Chairman Ferguson's Directive specifically identified several areas of labor market conduct where the Task Force intends to prioritize investigation and enforcement actions, including, but not limited to:

- No-poach, nonsolicitation, or no-hire agreements;
- Wage-fixing agreements between companies;
- Labor-contract termination penalties, such as certain training repayment and liquidated damage provisions;
- Labor market monopsonies, particularly in geographic areas with limited employment opportunities;
- Noncompete agreements; and
- Collusion on employment metrics such as diversity, equity, and inclusivity ("DEI").

Key Takeaways

The FTC's announcement of its new Task Force confirms that the Trump administration will continue efforts, originating under the Biden administration, to scrutinize restrictive covenant provisions that limit or restrict worker mobility. Indeed, Chairman Ferguson's memorandum makes clear that he sees certain employee restrictive covenant agreements as proper targets for antitrust enforcement. Similarly, FTC Commissioner nominee Mark Meador has stated during confirmation hearings that noncompete agreements "have been overused and abused" and that he believes "there's a lot more the FTC can do, including with competition enforcement actions." However, Chairman Ferguson, along with FTC Commissioner Melissa Holyoak, dissented from the FTC's 2024 Rule Banning Noncompetes that would have banned all noncompetes for nearly all employees of for-profit employers. The Commissioners' prior dissents indicate the FTC will now likely require stronger evidence of anticompetitive effects—beyond the mere existence of a noncompete provision—before initiating an enforcement action, which should come as a relief to employers across all industries.

In addition to familiarizing themselves with the 2025 Guidelines and Chairman Ferguson's memorandum, employers should take stock of their existing restrictive covenant agreements and ensure they are reasonably tailored to protect only legitimate business interests, such as trade secrets or other confidential information and customer relationships.

If you have any questions about this Alert, please contact one of the authors or the attorney(s) in our firm with whom you are regularly in contact.

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