



Non-competes Reform Unit
Competition and Consumer Policy Division
Treasury
Langton Cres
Parkes ACT 2600

5 September 2025

Dear Non-competes Reform Unit,

RE: Reform to non-compete clauses and other restraints on workers

Thank you for the opportunity to offer comment on the proposed reforms to the *Fair Work Act 2009* and *Competition and Consumer Act 2010*.

The AFGC is the leading national organisation representing Australia's \$172.7 billion food, beverage and grocery manufacturing sector – the makers of the essential food and grocery products Australians know and trust every day. The industry has a clear objective, outlined in *Sustaining Australia: Food and Grocery Manufacturing 2030*, of expanding its role in domestic manufacturing, jobs growth, higher exports and enhancing the sovereign capability of the entire sector.

Recognising the intent to promote productivity and increase wages through spurring competition between employers, it is important to strike an appropriate balance between reform objectives and other considerations.

The AFGC would like to flag industry concerns regarding the potential consequences of the proposed reform for intellectual property (IP) protections. In an environment where Australian manufacturing already faces considerable challenges from lower-cost imports, the comparative strength of Australia's IP regime offers a significant competitive advantage against nations in which IP protections are less sophisticated. In the Australian context, many food and grocery manufacturers utilise non-compete clauses to safeguard IP and other commercially-sensitive information to prevent 'leakage' to competitors as workers move between jobs in the sector.

A blanket ban on non-compete clauses for all workers earning below the *Fair Work Act 2009*'s high-income threshold could have injurious consequences for Australian food and grocery manufacturers' IP protections. Given the number of mid- and mid-senior-level employees with access to sensitive information that would be ineligible for agreements including non-compete clauses, the AFGC considers that a more appropriate threshold might align with the bottom of the ATO's second-highest tax bracket (currently \$135,001). This figure is significantly above the mean and median salary in Australia, meaning that the majority of the labour force will still be freed from the prospect of non-compete clauses in their employment agreements, in line with the intent of the reform.

The proposed reform also presents the opportunity to clarify one of the broader issues regarding non-compete clauses: the question of their enforceability. Currently, significant time and resourcing can be dedicated to this question. The AFGC would strongly support the identification of relevant metrics within an updated regime of enforceable, codified, competitive restraints.

If you would like to discuss further, please contact Rick Umback, Manager Industry Affairs, at rick.umback@afgc.org.au.



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AFGC recommendations:

- Recognise the principal use of non-competes as a means of maintaining protections for IP and other commercially-sensitive information
- Adjust the threshold to align with the ATO's second-highest tax bracket
- Develop an updated regime with clearly identified metrics to govern competitive restraints within employment agreements.

Yours sincerely,

Scott McGrath
Director, Government and Media Relations
Australian Food and Grocery Council