

Working paper on options for reform of non-compete clauses in employment contracts - response from the Competition and Markets Authority

Background

1. The CMA is the UK's principal competition and consumer authority. Our purpose is to promote competition and protect consumers with a clear end goal – to drive economic growth and improve household prosperity.¹ The CMA has a role providing information and advice to government and public authorities,² and we have a strategic objective to help government deploy tailored pro-competition interventions to support growth, innovation and investment-related policies.
2. The CMA recognises healthy and competitive labour markets are a powerful driver of economic growth, and high levels of labour mobility act as a cross-economy enabler of innovation and productivity. We welcome the UK government's consideration of further action to enhance labour market mobility through its [working paper on options for reform of non-compete clauses in employment contracts](#).
3. Reflecting their importance, labour market competition features in a number of areas of CMA work:
 - **Research:** Our 2024 [Competition and market power in UK labour markets](#) report provided first of its kind UK analysis and evidence to advance understanding of a range of issues relating to labour markets, including non-competes.
 - **Enforcement and guidance:** We have undertaken competition law enforcement against unlawful collusion on rates of pay for freelance workers and published guidance to help businesses stay on the right side

¹ [CMA strategy 2026 to 2029](#).

² Under Section 7(1) of the Enterprise Act 2002, the CMA has a function of making proposals, or giving information and advice, "on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law)". The CMA's advice and recommendations to government and public authorities are made with a view to ensuring that policy decisions take account of the impacts on competition and consumers.

of competition law when recruiting workers, and setting pay and other working conditions.³

- **Advocacy and engagement:** Our work on [scale-ups](#) and wider engagement with the business community routinely highlights the importance of access to talent as a critical enabler for high-growth firms to succeed.
4. The CMA stands ready to support and advise government as it further develops its policy on non-competes. This response briefly:
- Sets out the case for reform to the current legal framework; and
 - Endorses combining a ban on non-competes below a salary threshold with a statutory limit on length above the salary threshold as a balanced approach

CMA views on the case for reform

The importance of labour market mobility to economic growth

5. Efficient reallocation of labour and capital between firms and sectors is a critical driver of economic growth.⁴ When key inputs can move from less to more productive firms, average productivity across the economy increases.⁵ Labour mobility in particular enables businesses to access and develop the talent they need, supporting greater dynamism and innovation which can generate step-changes in cost efficiency, quality, and the opening of new markets.
6. Competition acts as a spur to the movement of capital and labour by enabling more productive firms to expand their market share at the expense of less productive rivals. An extensive body of evidence demonstrates how these “between-firm” effects account for a substantial share of productivity impacts from competition.⁶ Labour mobility and competition thus work in mutually reinforcing ways to improve productivity and, ultimately, living standards.

³ See [Anti-competitive behaviour relating to freelance labour in the production and broadcasting of sports content](#) and our [Competing for talent guidance](#).

⁴ As noted in the government’s working paper some studies suggest that around 60% of the fall in trend productivity growth since 2008 can be attributed to reductions in the movement of capital and labour.

⁵ Productivity is the major contributor to long run growth in real GDP per capita, and therefore improvements in living standards over time.

⁶ For more detail see the CMA’s 2025 literature review “[Wider Benefits of Competition Policy and Enforcement](#)”. Papers evidencing the impact of competition on productivity through between firm effects include: Syverson (2004), Arnold et al (2011), Harris and Li (2008), Disney, Haskel and Heden (2003), Baldwin and Gu (2006) and Scarpetta et al. (2002).

7. The CMA therefore believes that reducing frictions on labour mobility should be a priority in the context of the government's growth mission. Unnecessary restrictions directly reduce productivity and blunt the effectiveness of other levers (such as promoting competition) that can raise productivity.

Non-competes and labour market mobility

8. As set out in the government's working paper, non-compete clauses restrict an individual's ability to work for, or establish, a competing business after they have moved on from a job. They are a contractual tool which, while beneficial to an employer, can inhibit labour market mobility across the economy.
9. Our [Competition and market power in UK labour markets](#) report found such clauses are prevalent across the economy, with roughly 26% of workers believing they are subject to a non-compete agreement. While non-compete clauses have greater use in certain areas, they are used in a wide range of sectors and across all income levels.⁷ At the time of publishing this report, the CMA set out that current law and policy on non-compete clauses may need updating.⁸
10. Further to this work, we have also heard through our investment and scale-ups work, and our in-depth research into Foundation Models,⁹ that access to talent can be a major barrier to innovation and scaling.¹⁰ This is likely to be particularly the case for high-growth sectors such as the eight Industrial Strategy priority sectors.
11. Our [Growth and Investment Council](#) has identified skills shortages as amongst the most significant barriers for UK firms seeking to scale up, and has emphasised that we should ensure lack of effective competition does not

⁷ [CMA research report on competition and market power in UK labour market - GOV.UK](#) - roughly 26% of employees believe they have a non-compete clause in their employment contract, with a further 23% unsure. This rises to over 40% who believe they have a non-compete clause in ICT and professional and scientific services. This prevalence is also observed across the whole income distribution with all income groupings in the research reporting less 20%-30% of workers having non-compete clauses (with the exception of the highest income group which exceeded this range).

⁸ Sarah Cardell, CEO speech (January 2024): [The CMA's research on competition and UK labour markets](#)

⁹ [CMA review and update reports on AI Foundation Models](#)

¹⁰ [ScaleUp Institute's annual review](#) - 55% of scaleups say access to talent is among their top 3 barriers to growth, with 1 in 3 business leaders rating as their top barrier.

exacerbate existing challenges¹¹. Given their prevalence and purpose, it is possible non-compete clauses are contributing to these concerns.¹²

12. As set out in the working paper, a number of jurisdictions have already taken action to restrict non-compete clauses to various degrees including Australia, individual US states, and individual EU member states and there is evidence that that such measures have had a positive impact on labour market mobility.^{13,14} In particular there is a body of evidence suggesting that California's longstanding 'ban' on the enforcement of non-competes was a significant contributing factor to the emergence and success of Silicon Valley.¹⁵
13. We also understand that some contractual restrictions can serve a legitimate purpose, protecting employers and in some cases benefitting employees. We are aware of pro-innovation arguments that non-compete clauses enable increases in employee productivity (and earnings) for example by supporting:
 - Investment in employee training by preventing employees from taking these skills immediately to a competitor.
 - The development of beneficial client relationships by preventing employees from poaching clients to bring with them to a rival.
 - The protection of confidential information such as trade secrets or innovation or R&D plans.
14. Non-competes are, however, a broad and often blunt form of restriction. In many cases, more targeted mechanisms can protect legitimate business interests without constraining labour mobility so severely.¹⁶ These alternatives include non-disclosure agreements, claw-back provisions for employer-funded

¹¹ [GIC meeting minutes: 22 April 2025](#). The Council identified significant barriers for UK firms seeking to scale up, including: access to capital, skills shortages, digital exclusion and slow adoption, transport, housing, and grid capacity.

¹² In addition to these anecdotal concerns, we also note wider [evidence](#), cited in the working paper, has found that sectoral and occupational reallocation in the UK is currently lower than in previous decades, indicating a slowdown in mobility.

¹³ Australia ([federally in 2025](#)), Washington State (US), Luxembourg, and Austria have introduced bans below a salary threshold. Additionally in California, non-competes are only enforceable in certain limited situations and in some EU member states (France, Germany and Italy) there are requirements for mandatory compensation for the period of the non-compete clause.

¹⁴ For example [Young \(2024\)](#) examines the reform implemented in Austria in 2006 and shows that banning non-competes for lower wage workers increased job-to-job transitions and disproportionately increased transitions to higher-quality firms and transitions accompanied by earnings gains.

¹⁵ See, for example: [Gilson \(1999\)](#) which finds California's ban on non-compete enforcement supported employee mobility and knowledge spillovers in Silicon Valley, helping its tech firms outperform Massachusetts' Route 128.

¹⁶ DBT's 2023 [Impact Assessment - Restricting the use of non-compete clauses](#) estimates non-competes prevent up to 400,000 employees from working for a competitor or setting up a competing business.

training, and the use of paid notice periods (and ‘garden leave’) which are often already used by business alongside non-competes.¹⁷

15. On balance, we see a strong case for updating the legal framework to restrict the use of non-competes and see this as a significant opportunity to support labour mobility, and to promote competition, business dynamism, and productivity growth.

Views on options to restrict the use of non-competes

16. The CMA’s view is that measures to restrict the use of non-competes should ideally:
 - Reduce frictions on labour mobility across all sectors and income levels.
 - Reflect that options available to employees to mitigate the impact of non-competes may differ, particularly across income levels.¹⁸
 - Recognise that while there are generally more targeted alternatives to non-competes, there may be contexts where non-competes are appropriate.
17. The working paper sets out a range of options to restrict non-compete clauses. The option that appears to best reflect the above objectives is the ‘combined’ approach to restrict the use of non-competes involving both:
 - **a total ban** below a defined employee income threshold; and
 - **a time restriction** on the duration of non-competes above this threshold.
18. We do not think that narrower options, such as time restrictions alone, would materially reduce frictions in place for many who do not feel such clauses are a negotiable aspect of their contracts and who are unable/unwilling to forego a period without salary.
19. We also think it is reasonable to stop short of a blanket ban, reflecting that pro-innovation arguments for non-competes appear more likely to hold in some circumstances for higher salaried roles, and the negative impacts on employee mobility are potentially smaller due to:

¹⁷ [Survey evidence commissioned by BEIS in 2021](#) found 62% of businesses that use non-compete clauses also use gardening leave, other restrictive covenants, or both.

¹⁸ The most recent [Family Resources Survey \(2023-2024\)](#) sets out that 48% of families have less than £1,500 in savings and 68% less than £10,000 – this suggests that taking time out from the labour market to comply with a non-compete clause is not an option for most families.

- More balanced negotiating power between employees and employers at higher salaries.¹⁹
- Greater ability for higher-salaried employees to weather any financial costs arising from moving roles (particularly in the context of a 3-month time limit).²⁰

20. While we have not responded here to questions on more detailed design options in the working paper, we are happy to provide further support to government as it refines its plans.

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¹⁹ [Survey data commissioned by BEIS in 2022](#) found that 90% who were aware of the non-compete clause prior to signing their contract chose not to negotiate (51% of employees indicated non-compete clauses were presented as a non-negotiable with a further 26% indicating they felt otherwise unable to negotiate these clauses). This does suggest there is a small proportion of employees who feel able to negotiate on these terms.

²⁰ [Survey data commissioned by BEIS in 2022](#) found that, negotiation was more likely to have occurred were the length of the non-compete is shorter than 3 months. We infer from this that negotiation can be over length of non-compete and therefore there is value placed by some negotiating employees on reducing the length of non-competes.