



November 3, 2025

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex C)
Washington, D.C. 20580

Submitted via regulations.gov

Re: Request for Information Regarding Employer Noncompete Agreements; FTC-2025-0463-0001

Dear Commissioners:

FMI – The Food Industry Association welcomes the opportunity to comment on the Federal Trade Commission's (FTC) *Request for Information Regarding Employer Noncompete Agreements* (FTC-2025-0463-0001). FMI appreciates that the RFI recognizes that non-compete agreements "can serve valid purposes in some circumstances." The use of non-compete agreements in certain cases with executive-level and highly skilled talent is a standard practice in many industries and serves to protect businesses by preventing valuable intellectual property, trade secrets, and other sensitive information from being shared with a competitor.

As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain – from retailers that sell to consumers, to producers that supply food and other products, as well as a variety of companies providing critical services – to amplify the collective work of the industry.

A collective of FMI's membership manufactures, distributes, and sells the food and consumer goods found in pantries, refrigerators, medicine cabinets, and laundry rooms across the country. Our retail members, which range in size from independent operators to regional and large national and international businesses and brands, operate 45,000 grocery stores and 12,000 supermarket pharmacies. The food industry produces and supplies over 30,000 different food and consumer good products found on store shelves and ultimately touches the lives of more than 100 million U.S. households per week.

The food industry employs over 6.3 million individuals, provides a wide range of full-time, part-time, seasonal, and flexible workforce opportunities in a variety of careers, and serves as an essential employer in every community around the country. The diversity of career opportunities



offered through the food industry provides individuals with employment at any stage of life and any education and skill level.

Consistent with governing state law, many of FMI's members use non-compete agreements and do so almost exclusively with executive-level and highly skilled talent. In FMI's experience, these agreements provide vital protection for companies' sensitive business information and trade secrets. Advanced research and development is a vital part of the food industry and FMI members' businesses. FMI's members are on the cutting edge of developing technology and business strategies that help sustain an efficient food supply chain in the United States, and non-compete agreements are essential in facilitating that work. Non-compete agreements also promote mutually beneficial employment arrangements between FMI members and their employees and facilitate corporate transactions that help FMI members to grow and expand their operations.

As discussed in FMI's comments filed on April 17, 2023, in response to the FTC's Notice of Proposed Rulemaking *Noncompete Clause Rule* (Matter No. P201200)¹, executive-level and highly skilled employees often have access to sensitive business information and trade secrets, which allows them to perform their work effectively. Non-compete agreements provide essential protection for employers against having their information used improperly once these workers leave their employment and thus help facilitate productive and collaborative work by and among executives and other highly skilled employees.

In conclusion, FMI supports the use of non-compete agreements in certain cases with executive-level and highly skilled talent. The food industry is highly competitive, and FMI's member companies invest a significant number of resources in innovative products, processes, and practices. Should the FTC consider a new proposed rule regarding non-compete agreements, FMI would welcome development of a proposed federal policy that would narrow the use of non-compete agreements to accommodate employers' reasonable interests to protect sensitive business information and trade secrets and to promote beneficial employment and corporate transactions.

Sincerely,



Christine Pollack
Vice President, Government Relations

¹ <https://www.regulations.gov/comment/FTC-2023-0007-19383>