Working with Women Alliance

Non-competes Reform Unit
Competition and Consumer Policy Division
Treasury

Via Email: competitiontaskforce@treasury.gov.au

Reform to non-compete clauses and other restraints on workers

Dear Non-competes Reform Unit,

The Working with Women Alliance (WwWA) welcomes the opportunity to provide input on reforms to non-compete clauses and other restraints on workers, particularly in relation to areas three and five of the consultation paper.

The Working with Women Alliance is one of five National Women's Alliances that play a key role in ensuring women's voices are central in the policy development process by providing evidence-based, intersectional gender equality advice and civil society expertise to government.

Women remain an underutilised segment of the labour market, overrepresented among low-income earners and missing from executive level positions. Removing unnecessary barriers to mobility and advancement is critical to improving productivity and ensuring women can build economic security and opportunity in their working lives.

Risks of relying on the high-income threshold

Applying the Fair Work Act's high-income threshold to non-compete clauses risks deepening gender disparities in executive leadership. Currently, women represent only 19.4% of CEOs and 32.5% of key management personnel,[1] with just 9% of ASX300 CEOs being women.[2] At the current rate, achieving gender parity in these positions could take another 50 years.[3] Because greater representation of women in leadership is shown to help reduce pay gaps and promote equity[4], extending non-compete restrictions could further slow this essential progress.

Impact on job mobility and re-entry

Non-compete clauses present distinct obstacles for female entrepreneurs, compounding challenges like limited access to capital and a lack of professional pathways.[5] These restrictions often discourage women from launching new business ventures or pursuing self-employment. Any reform should aim to empower women to establish and grow their business freely.

Women are also more likely to step in and out of paid work due to caring responsibilities or health needs.[6] When they return, a non-compete signed years earlier can prevent them from using their existing skills in the same field, making career breaks more costly and re-entry more difficult.

Restraints on concurrent employment

Restrictions on concurrent employment can significantly impact women's job prospects. Women comprise 55% of casual workers[7] and are overrepresented in low-income positions[8], and they are also more likely than men to rely on holding multiple jobs[9] to achieve financial stability. Requiring employer approval for additional work may hinder their ability to secure extra income, impacting their overall security and well-being in precarious roles.

Fairness in enforcement

For women in low-paid work, the threat of a non-compete is often enough to prevent job changes, even where clauses would be unenforceable in court. Few can afford to contest them, making these restraints a practical barrier regardless of legal validity.

Oversight is necessary to address this imbalance. The Fair Work Ombudsman should be empowered to challenge inappropriate clauses on behalf of workers, while the Fair Work Commission should provide accessible and affordable pathways for dispute resolution. Clear guidance on review and appeal processes will ensure consistency and fairness.

Non-compete clauses and related restraints do not affect all workers equally. They weigh most heavily on women, slowing progress towards leadership or entrepreneurship and making career breaks more costly. Reforms must prioritise women’s economic security and ensure restraint clauses do not limit opportunity and mobility.

We look forward to continued engagement with Treasury on ensuring women can access better paying and more productive jobs.

Yours sincerely,

Dr Gemma Killen
Director – National Women's Equality
Working with Women Alliance

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[2] Chief Executive Women (CEW), 2024, *CEW Senior Executive Census 2024: Keeping score of a losing game*, https://cew.org.au/hubfs/01_Website%20Content/Downloadable%20Resources/General/Research%20and%20Resources_Research/Research_Census/CEW-2024-SENIOR-EXECUTIVE-CENSUS-OFFICIAL.pdf
[3] ibid.
[4] WGEA, 2021, *Women in leadership*, https://www.wgea.gov.au/women-in-leadership
[5] Australian Small Business and Family Enterprise Ombudsman, 2022, *Access to capital still a barrier for women-led small businesses*, https://www.asbfeo.gov.au/media-centre/media-releases/access-capital-still-barrier-women-led-small-businesses
[6] ACTU, 2024, *Women pushed out of work early due to 'taboo' menopause issues*, https://www.actu.org.au/media-release/women-pushed-out-of-work-early-due-to-taboo-menopause-issues/; ABS, 2025, *Barriers and Incentives to Labour Force Participation, Australia,* https://www.abs.gov.au/statistics/labour/employment-and-unemployment/barriers-and-incentives-labour-force-participation-australia/latest-release
[7] ACTU, 2023, *Casual workers earn $11.59 less per hour than permanent employees*, https://www.actu.org.au/media-release/casual-workers-earn-11-59-less-per-hour-than-permanent-employees/#:~:text=Up%20to%202.6%20million%20workers,55%25%20of%20all%20casual%20employees
[8] Prime Minister and Cabinet, 2025, *2025 Status of Women Report Card shows important progress but more work to do*, https://ministers.pmc.gov.au/gallagher/2025/2025-status-women-report-card-shows-important-progress-more-work-do
[9] ABS, 2025, *Multiple job-holders*, https://www.abs.gov.au/statistics/labour/jobs/multiple-job-holders/latest-release#:~:text=There%20were%20963%2C100%20multiple%20job,job-holder%20(9.6%25).