Dear Chair Khan,

We write today in support of the Federal Trade Commission’s (FTC) proposed rule banning the use of noncompete agreements and to urge the agency to move forward with this rule without further delay to protect workers, small businesses, and the entire economy. The noncompete rule would impact approximately 30 million Americans, giving them increased freedom to change jobs and create new businesses, and it would increase wages by nearly $300 billion each year.¹

The pervasive use of noncompete agreements has had a stifling impact on the economy and the job market. Noncompetes are used throughout the economy, with one expert calling their overuse “silly, pernicious, and harmful to competition.”² The Federal Reserve Bank of Minneapolis found that “more than one in seven workers … have non-compete contracts with their current or most recent employer,” including 12 percent of workers earning $20 an hour or less.³ Noncompete clauses restrict the freedom of workers across the economy – from warehouse workers, fast-food workers,⁴ and even interns⁵ to highly-trained and highly-paid professionals like physicians⁶ and veterinarians⁷ – to find new and better jobs.

Studies have repeatedly shown that following bans on noncompete agreements, wages went up—not just for workers under these agreements, but across the board.\(^8\) As President Biden said in his recent State of the Union address, banning noncompete agreements will mean “companies have to compete for workers and pay them what they’re worth.”\(^9\)

All Americans stand to benefit from a more dynamic and freer labor market that would accompany the promulgation of this rule. The Federal Reserve Bank of Minneapolis found that “non-compete contracts limit our economy’s potential” by making it more difficult for employers and entrepreneurs to recruit new workers or start new businesses.\(^10\) A survey conducted by Small Business Majority found that the majority of small business owners support the FTC’s proposed rule, due to the negative impacts noncompete agreements have on small businesses and entrepreneurs, especially in under-resourced communities.\(^11\) The lack of competition in the labor market has widespread consequences, causing wider income inequality\(^12\) and “slower productivity growth.”\(^13\)

In proposing the rule, the FTC has compiled and considered an overwhelming amount of evidence to demonstrate that noncompete agreements constitute an unfair method of competition within its authority to combat.\(^14\) In reviewing this evidence, we have no doubt that a broad federal rule serves as the best avenue to combat the harms from noncompetes. As the Commission identified, state-level solutions and case-by-case adjudication will not solve the problem.\(^15\) Moreover, we oppose any notion that the FTC is acting outside its authority in either identifying noncompetes as an unfair method of competition or promulgating a rule to address them as such. Doing so is squarely within the Commission’s congressional mandate. The text and structure of the FTC Act—as well as judicial precedent interpreting it—support the agency’s authority to do so.\(^16\)

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\(^15\) Id. at 3485.

\(^16\) Id. In November 2022, the FTC issued a policy statement clarifying that under Section 5 of the Federal Trade Commission Act, the agency could “proceed against a broader range of anticompetitive conduct than can be reached under the Clayton and Sherman Acts,” including unfair methods of competition that are “coercive, exploitative,
We urge the agency to resist calls for additional postponement and act quickly to protect as many workers under this rule as possible. We also urge the Commission to remain skeptical of calls for expansive exemptions that may undermine the benefits of a strong rule. This rule is an important step toward ending abusive practices in the labor market, and we support the FTC’s efforts to give workers the voice, dignity, and power they deserve.

Sincerely,

Elizabeth Warren
United States Senator

Richard Blumenthal
United States Senator

Pramila Jayapal
Member of Congress

Ann McLane Kuster
Member of Congress

Ilhan Omar
Member of Congress

Donald S. Beyer Jr.
Member of Congress

Sherrod Brown
United States Senator

Chris Van Hollen
United States Senator

Bernard Sanders  
United States Senator

Peter Welch  
United States Senator

Edward J. Markey  
United States Senator

Jeffrey A. Merkley  
United States Senator

Sheldon Whitehouse  
United States Senator

Mazie K. Hirono  
United States Senator

Ron Wyden  
United States Senator

Tammy Duckworth  
United States Senator

Donald Norcross  
Member of Congress

Jamaal Bowman, Ed.D.  
Member of Congress

Chris Deluzio  
Member of Congress

Jesús G. "Chuy" García  
Member of Congress
Greg Casar  
Member of Congress

Jerrold Nadler  
Member of Congress

Jamie Raskin  
Member of Congress

Adam B. Schiff  
Member of Congress

Henry C. "Hank" Johnson, Jr.  
Member of Congress

Marie Gluesenkamp Perez  
Member of Congress

Eleanor Holmes Norton  
Member of Congress

Robert Garcia  
Member of Congress

Yvette D. Clarke  
Member of Congress

Valerie P. Foushee  
Member of Congress

Becca Balint  
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Lori Trahan  
Member of Congress
Dan Goldman
Member of Congress

Jan Schakowsky
Member of Congress

Troy Carter
Member of Congress

Lizzie Fletcher
Member of Congress

Mary Gay Scanlon
Member of Congress

Andrea Salinas
Member of Congress

Barbara Lee
Member of Congress

Glenn Ivey
Member of Congress