

AGENCY: Federal Trade Commission.

ACTION: Notice; extension of public comment period.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is extending the deadline for filing comments on its notice of proposed rulemaking (“NPRM”) regarding the Non-Compete Clause Rule.

DATES: For the NPRM published January 19, 2023 (88 FR 3482), the comment deadline is extended from March 20, 2023, to April 19, 2023.

FOR FURTHER INFORMATION CONTACT: Karuna Patel (202-326-2510), kpatel1@ftc.gov; Shannon Lane (202-326-2299), slane@ftc.gov; or David O. Fisher, (202-341-8605), dfisher@ftc.gov.

SUPPLEMENTARY INFORMATION:

I. Comment Period Extension

On January 5, 2023, the Commission announced and made public its notice of proposed rulemaking regarding the Non-Compete Rule, including its request for public comment on all aspects of the proposed rule. The NPRM was subsequently published in the *Federal Register*, with March 20, 2023, established as the deadline for the submission of comments. *See* 88 FR 3482 (January 19, 2023).

Interested parties have requested an extension of the public comment period to give them additional time to respond to the NPRM’s request for comment, while others oppose such an extension and any potential delay. While the Commission believes that the current 60-day period—which is 74 days after public release of the notice of proposed rulemaking—is sufficient for meaningful comment and public participation, the

Commission agrees to allow the public additional time to prepare and file comments. The Commission has therefore extended the comment period to April 19, 2023, to provide commenters a total of 104 days from the public release of the NPRM on January 5, 2023. This is a 30-day extension of the 60-day comment period from publication in the Federal Register on January 19, 2023. Additionally, the Commission requests public comment on a study, authored in part by a Commission economist, on the value that firms attach to enforceability of noncompete agreements. *See* Hiraiwa, Lipsitz, Starr, *Do firms value court enforceability of noncompete agreements? A revealed preference approach*, (February 20, 2023) *available at* SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4364674

II. Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 19, 2023. Write “Non-Compete Clause Rulemaking, Matter No. P201200” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Because of the agency’s heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write “Non-Compete Clause Rulemaking, Matter No. P201200” on your comment and on the envelope, and mail your comment to

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

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by 15 U.S.C. 46(f) and 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov>—as legally required by 16 CFR 4.9(b)—we cannot redact or

remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c) and the General Counsel grants that request.

Visit the Commission's website, www.ftc.gov, to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 19, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

By direction of the Commission.

April J. Tabor,

Secretary.

Note: The following statement will not appear in the Code of Federal Regulations:

Concurring Statement of Commissioner Christine S. Wilson

The Commission received requests to extend the period for public comments on the proposed Non-Compete Clause Rule by 60 days or more. The Commission also received requests that the comment period not be extended. Today, the Commission announces its decision to extend the public comment period by 30 days. Given that the proposed rule is a departure from hundreds of years of precedent and would prohibit conduct that 47 states allow, I would have supported extending the public comment by 60 days.

I continue to encourage all interested parties to comment on all issues and alternatives to the proposed rule that are identified in the Notice of Proposed Rulemaking.