



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Remarks by Chair Lina M. Khan
As Prepared for Delivery
American Federation of Teachers Convention**

July 23, 2024

Thank you. I want to start by thanking President Weingarten for her incredible leadership of this union and this movement. And thank you to the AFT for inviting me. It's an honor to be here.

We are living in a golden era of labor organizing. Workers have made monumental strides over the last few years, from auto factories in the Midwest, to the AFT's major victory last month in Fairfax County, Virginia, one of the largest school districts in the country.¹

Last summer, I joined the Writer's Guild of America on the picket line to hear about the challenges they faced. They shared what so many workers across America have seen firsthand: that when markets become consolidated, with economic power concentrated in fewer and fewer hands, working people lose out.

The agency I chair, the Federal Trade Commission, was created more than a hundred years ago. It was a time when the Industrial Revolution had transformed the American economy, but robber barons and industrial titans had amassed enormous power that they could use to coerce consumers, workers, and small businesses. Congress passed the antitrust laws and created the FTC to crack down on illegal business practices and stand up for everyday people, including workers, against unchecked corporate power.

We are still doing that, 110 years later, by making sure that our markets are fair, honest, and competitive—and that all Americans can get a fair shake.

Ultimately, labor law and antitrust law are fighting for the same thing: your freedom in the marketplace: the freedom to get a better job in a tight labor market; the freedom to strike out on your own and start a small business; the freedom to organize; and the freedom to play employers off of each other when it's time to renegotiate your contracts.

One of the biggest threats to workers' freedom is a market where corporations don't have to compete hard for your labor, and instead can get away with squeezing or abusing their power.

¹ Press Release, AFT, More than 27,500 Fairfax County (Va.) Education Workers Overwhelmingly Win Historic Union Elections (June 10, 2024), <https://www.aft.org/press-release/more-27500-fairfax-county-va-education-workers-overwhelmingly-win-historic-union>.

Take non-compete clauses, for example, which lock millions of workers into bad jobs and block them from taking better ones. All too often, employers quietly tuck these clauses into employment contracts, so that when workers try to switch jobs they get hit with intimidating lawsuits and tens of thousands of dollars in penalties.

Workers should have the freedom to choose the job that is best for them. But because of non-competes, one in five Americans are forbidden from freely changing jobs or launching their own businesses. Some have been forced to uproot their families, forgo better opportunities, and even face financial ruin.

And, as Jennifer Abruzzo at the National Labor Relations Board noted last year, non-competes can even chill workers' right to organize.² It's much harder to go on strike if you know you can't easily switch jobs. That's the point, of course: to lock you in, and keep you quiet. When the FTC looked into this issue, a number of AFT members took the time to reach out.³ Overall, we received 26,000 comments from people across the country, including from a special education teacher in Ohio, who was hit with a \$2,000 fine after leaving her job. Her former employer threatened to put a hold on her teaching license, sue her, and even contact a credit agency unless she paid up.⁴

We also heard from hundreds of healthcare workers with non-competes who were forced to leave their communities and abandon their patients, sometimes depriving rural areas of critical care. A doctor in an underserved area of Appalachia told us that in his community, non-compete clauses have pushed healthcare workers to retire early, or even to stop working altogether.⁵ Others were forced to sell their homes and relocate out of state just to continue practicing medicine.⁶

And non-competes are not just empty threats. Companies can, and do enforce them, with devastating consequences. They can even be enforced when workers are fired or laid off, severely limiting how and where people can find new jobs.

Non-compete clauses rob people of their core liberties. To make sure workers can be more free, the FTC issued a rule that bans non-compete clauses from all employment contracts—because a market where workers are captive to a single company is not a free market at all.⁷

² Press Release, NLRB, NLRB General Counsel Issues Memo on Non-competes Violating the National Labor Relations Act (May 30, 2023), <https://www.nlr.gov/news-outreach/news-story/nlr-general-counsel-issues-memo-on-non-competes-violating-the-national>.

³ Comment Submitted by AFT, Non-Compete Clause Rule (NPRM), *Regulations.gov* (Apr. 21, 2023), <https://www.regulations.gov/comment/FTC-2023-0007-18076>.

⁴ *Id.* at fn. 3 (Jill Jones, Ohio Federation of Teachers, email message to Megan Stockhausen, American Federation of Teachers, Feb. 14, 2023).

⁵ Comment Submitted by Sean O'Connor, Non-Compete Clause Rule (NPRM), *Regulations.gov* (Jan. 10, 2023), <https://www.regulations.gov/comment/FTC-2023-0007-0026>.

⁶ Comment Submitted by Anonymous, Non-Compete Clause Rule (NPRM), *Regulations.gov* (Jan. 13, 2023), <https://www.regulations.gov/comment/FTC-2023-0007-1448>.

⁷ Press Release, Fed. Trade Comm'n, FTC Announces Rule Banning Noncompetes (Apr. 23, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-announces-rule-banning-noncompetes>.

The most resilient markets are the ones where workers and consumers have choices, and where businesses face healthy competition. Competitive markets mean that workers have options. Unions have more leverage in bargaining and are better positioned to threaten a strike.

But when it's all one big business, that business can cut wages and benefits, and degrade working conditions, without having to worry that their employees will quit. These are some of the factors the FTC considers when we review potential mergers.

In recent decades, the healthcare sector has been rapidly consolidating. Hospitals are merging and private equity firms are rolling up practices—sometimes at the expense of patients and workers alike. ER doctors have told us that some private equity firms have entered emergency medicine, only to slash the staff and force the remaining employees to work punishing hours, leading to burnout and worse patient care.⁸

If we at the FTC believe that consolidation will unlawfully harm communities, we won't hesitate to act. We've blocked hospital mergers across the country, from New Jersey⁹ and North Carolina,¹⁰ to Utah¹¹ and California,¹² because we believed this illegal consolidation would lead to higher prices and worse care—and sometimes, worse conditions for workers.

⁸ Comment Submitted by American College of Emergency Physicians, Draft Merger Guidelines for Public Comment, Regulations.gov (July 19, 2023), <https://www.regulations.gov/comment/FTC-2023-0043-1534>.

⁹ Press Release, Fed. Trade Comm'n, FTC Sues to Block Merger Between New Jersey Healthcare Rivals RWJBarnabas Health and Saint Peter's Healthcare System (June 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-block-merger-between-new-jersey-healthcare-rivals-rwjbarabas-health-saint-peters>.

¹⁰ Press Release, Fed. Trade Comm'n, FTC Sues to Block Novant Health's Acquisition of Two Hospitals from Community Health Systems (Jan. 25, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-sues-block-novant-healths-acquisition-two-hospitals-community-health-systems>; *see also*, Fed. Trade Comm'n, Statement Regarding the Termination of Novant Health's Acquisition of Hospitals from Community Health System (July 1, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/07/statement-regarding-termination-novant-healths-acquisition-hospitals-community-health-systems>.

¹¹ Press Release, Fed. Trade Comm'n, FTC Sues to Block Merger Between Utah Healthcare Rivals HCA Healthcare and Steward Health Care System (June 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-block-merger-between-utah-healthcare-rivals-hca-healthcare-steward-health-care-system>.

¹² Press Release, Fed. Trade Comm'n, FTC Sues to Block John Muir Health's Takeover of San Ramon Regional Medical Center (Nov. 17, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/11/ftc-sues-block-john-muir-healths-takeover-san-ramon-regional-medical-center>; *see also*, Fed. Trade Comm'n, Statement Regarding the Termination of John Muir's Takeover of San Ramon Regional Medical Center from Tenet Healthcare (Dec. 18, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/12/statement-regarding-termination-john-muir-takeover-san-ramon-regional-medical-center-tenet>.

During the pandemic, when you needed personal protective equipment to do your jobs safely, some vendors required massive minimum orders of 10,000 masks or 200,000 gloves.¹³ Giant hospital systems could afford to buy in bulk like that, but if you were a small local provider, or a teacher in a rural area, you just had to put on a garbage bag and hope for the best. Luckily, the AFT secured PPE to keep you safe. And the FTC has scrutinized supply chains to keep our markets safe and resilient through healthy competition.¹⁴

Consolidation can have consequences in every sector. When big banks merge, they may become too-big-to-fail and need bailouts. When film studios merge, sometimes certain stories don't get told. And when tech companies merge in ways that undermine competition, they can degrade product quality, threatening our safety and privacy online.

When social media and gaming platforms turn a blind eye, children can be exposed to sexual harassment and abuse. I've met with parents who have lost their kids due to bullying on these platforms. No business should ever place profits over children's safety.

The AFT is fighting this with your Real Solutions campaign, and the FTC is focused on it, too. We have proposed limiting ways that companies can collect and monetize kids' data, including in school—because kids should be able to play and learn online without their parents and teachers having to worry that they are constantly being watched.¹⁵

Surveillance can be dangerous for workers, too. Employers can use it to track you both in and out of the workplace, infringing on your fundamental right to privacy. The FTC has made clear that we won't hesitate to act when businesses illegally track or harvest people's data.

This kind of enforcement will become even more important as AI risks turbocharging surveillance technology, giving companies new ways to track consumers, workers, and children alike. The AFT has released guardrails to protect the safety and privacy of educators using AI, and the FTC will do our part to make sure tech is used in a way that empowers workers, rather than harms them.

Of course, the FTC's tools are just one part of the efforts to ensure that workers can enjoy real economic liberty and opportunity. Other leaders in the Biden-Harris Administration have been at the forefront of this work, too.

¹³ Andis Robeznieks, *How the Texas Medical Association Got Millions of Masks to Doctors*, AM. MED. ASSOC. (Dec. 30, 2020), <https://www.ama-assn.org/delivering-care/public-health/how-texas-medical-association-got-millions-masks-doctors>.

¹⁴ Press Release, Fed. Trade Comm'n, FTC Releases Report on Grocery Supply Chain Disruptions (Mar. 21, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/03/ftc-releases-report-grocery-supply-chain-disruptions>; Press Release, Fed. Trade Comm'n, FTC Issues Infant Formula Supply Disruptions Report (Mar. 13, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/03/ftc-issues-infant-formula-supply-disruptions-report>.

¹⁵ Press Release, Fed. Trade Comm'n, FTC Proposes Strengthening Children's Privacy Rule to Further Limit Companies' Ability to Monetize Children's Data (Dec. 20, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-proposes-strengthening-childrens-privacy-rule-further-limit-companies-ability-monetize-childrens>.

- The NLRB is cracking down on labor rights violations like surveillance, and securing remedies for workers whose rights are violated, including back pay.
- The Department of Labor made four-million more workers eligible for overtime pay, which adds up to over seventy-seven billion dollars in lost wages for teachers.
- The Department of Education is continuing to work with state and local leaders to address our nation's educator shortage.

And of course, President Weingarten and the AFT are helping lead the way, fighting and delivering for the millions of workers who keep the heart of America beating, every single day.

As any history teachers here will know, the United States was born when we rejected the coercive power of a king. But Americans didn't overthrow a monarch only to be ruled by economic tyrants. Real freedom requires freedom from all forms of coercion, whether it comes from the throne or the boardroom.

For workers, that includes the freedom to choose where you take your labor and talents, the freedom to bargain for better wages, and the freedom to enjoy life outside of the workplace. The FTC is working hard to preserve those economic freedoms, and we will continue to keep our doors open to workers, and the unions that represent them.

We need courageous people like you to join the fight against unchecked corporate power. So come to our open commission meetings and share your thoughts. Talk to your state and local policymakers. And do what you do best: organize and hold powerful actors to account.

Together, we can keep labor's golden era going, and fight unchecked corporate power with the greatest asset of all: the power of the people. Thank you.
