

Non-compete agreements create 'career detours'

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Graphic: Christine Daniloff

Technology firms frequently require workers to sign non-compete agreements, which typically bar their employees from joining rival companies for one to two years. For firms, the agreements keep workers from taking the knowledge and skills they have acquired and using them to help a rival.

But a new study of more than 1,000 engineers, conducted by an MIT professor, shows that non-compete agreements come with a high cost for employees: When those workers do shift [jobs](#), roughly one-third of them end up leaving their chosen industry altogether, often at significant financial cost to themselves.

“People are highly constrained by their non-compete agreements,” says Matt Marx, an assistant professor at the MIT Sloan School of Management. “When people leave their jobs, they often leave their industry. Non-compete agreements leave them with a choice of staying where they are, or taking a career detour.”

Marx’s findings are presented in [a new paper](#), “The Firm Strikes Back: Non-compete Agreements and the Mobility of Technical Professionals,” published in the October issue of the *American Sociological Review*.

Many workers not informed until starting a job

Non-compete agreements have become a common feature of the workplace. Marx has found that about half of tech-sector employees must sign them, while another recent academic study has determined that about 70 percent of executives sign them as well.

The agreements are partly a byproduct of the technology sector’s rapid pace of change, which has altered America’s business landscape in recent decades. “We’re no longer in that era where people take one job out of college and stay there for 30 years,” Marx says. “That’s not life anymore.”

And while non-compete agreements are often associated with information [technology firms](#), Marx says the issue applies to many business sectors. “Biotech companies use non-competes as much as the software industry does,” he observes. The agreements are also a matter of state law; some states use them and others do not.

In his study, Marx surveyed 1,029 engineers, who were initially randomly selected from a membership list of the Institute of Electrical and Electronics Engineers (IEEE), covering a variety of high-tech fields. He also conducted separate in-depth interviews with 52 people who have

worked on voice-recognition technology (a field in which Marx himself once worked). In all, Marx found that 32.6 percent of tech workers who sign non-compete agreements wind up moving to entirely different industries when they take their subsequent jobs. In many cases, these workers stopped applying specific skills they had developed — often after obtaining a PhD — and took pay cuts.

“When people take a career detour, they sometimes earn less money, lose touch with their colleagues, and their skills atrophy,” Marx says.

To be sure, as Marx notes, a common defense of non-compete agreements is that well-educated employees should recognize these pacts as a standard practice and understand the implications of signing one. However, Marx notes, most people in his survey who had signed a non-compete agreement were not informed they would need to do so until they had already committed to the job in question.

“Seventy percent of people said they were informed only after they accepted the offer,” Marx says. “Half the time it was after they showed up for work. On the first day, they enroll in a 401(k), set up direct deposit, and, oh yeah, are given this non-compete thing to sign. People get savvy as they get older, but a lot of people are blindsided by it.”

As a remedy, the state of Oregon, for one, recently passed a law requiring firms to make clear in offer letters if employees will be expected to sign a non-compete agreement.

The geography of the non-compete

The uneven mixture of state-level regulations concerning non-compete agreements adds some further wrinkles to the issue. Ten states — including a pair of high-tech hubs, California and Washington — restrict the use of non-compete agreements, thus allowing workers to move

around more freely. In Massachusetts, by contrast, non-compete agreements are enforced, although the state legislature has held hearings this year on the subject of non-compete agreement reform.

In his ongoing research, Marx is examining whether an awareness of non-compete agreements pushes high-tech workers to look for jobs in states such as California where non-compete agreements are a non-factor.

“Although non-competes prevent people from changing jobs within a state,” Marx notes, the agreements may “encourage mobility out of a state. If people can’t get jobs locally, they [may] go to other states like California where they have that flexibility.”

Marx, who has conducted several studies of non-compete agreements, has produced “convincing” work “showing that there really are career effects in this area,” says Olav Sorenson, a professor at the Yale School of Management, who notes that there are “potential benefits to firms as well” from reducing use of the agreements.

“It’s not a zero-sum game if you’re getting a good match between employees and firms,” Sorenson says. “And one of the difficulties with the non-compete agreements is that it makes it more difficult for employees to find the right firm for them.” In the economy as a whole, Sorenson adds, some highly skilled technology workers “are locked up in firms where they’re not creating as much value as they could elsewhere.”

To further analyze this dynamic, Marx is also currently researching whether non-compete agreements affect the flow of workers within industries, and whether they affect the pool of talent available to smaller companies and startup firms.

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