



**Broadcast Free Market Agreement Act
Pennsylvania Senate Committee on Labor & Industry
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**Statement of Kerri Wood Einertson
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Hello, I am Kerri Wood Einertson, National Director of Government Affairs & Public Policy for the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA). We are an American labor union which represents over 160,000 film and television actors, journalists, broadcasters, and other media professionals worldwide.

Thank you for the opportunity to testify before this body on a crucial issue to our broadcast members and broadcast employees throughout our state. A special thanks as well to Senator Bartolotta, for recently leading the film incentive push in Pennsylvania, another critical issue to SAG-AFTRA's membership.

SAG-AFTRA holds the strong position, nationally and without limitation, that non-compete clauses and agreements are inherently "anti-competitive" in their inclusion in employment arrangements, and in their enforcement. Non-compete clauses prevent the free market movement of workers, skills, ideas and resources. This challenges the essence of a free market, where an individual should have the freedom to market herself and secure employment.

The original intent of these agreements was essentially to protect trade secrets. My home state of California houses one of the most intensive trade secret industries in the world. If non-competes were necessary, the Silicon Valley would not exist and many of our favorite technology companies would not have been created.

Non-competes are not enforceable generally for California and specifically for broadcast employees in AZ, CT, DC, IL, MA, ME, NY, and WA; all with bi-partisan support. These states house large, competitive, revenue-generating media markets, and we have not seen negative impacts on the industry from the implementation of these non-compete laws. Equally important is that all of these states have smaller markets where in some ways prohibiting non-compete clauses are even more important for home grown talent to be able to stay in their communities.

Some argue that non-competes encourage investment in workers. There is evidence in narrow circumstances, but we need to recognize the trade-offs. When an employee enters into a personal contract, they are bound to the employer for the length of the contract. This law doesn't change that. What this law does is prohibit POST CONTRACT restrictions, which only

serve to restrict movement and depress salaries. Despite individualized benefits to any given company, there is broader harm to the labor market. The market does not currently have non-compete clauses for teachers, police, firefighters, or the vast majority of industries that have similar “trade secret” access as broadcasters. The presumption should be that employees are free to market their labor.

For the broadcast industry in particular, non-compete clauses expanded greater than most other industries – and have ultimately suppressed worker mobility. When workers are bound to such agreements, which include geographical limitations, they are forced to uproot their families.

Stations already have a long-term incentive to invest in their broadcasters. Most have exclusivity clauses in their contracts that protect broadcasters’ long-term investment and that is not part of our objection. What we contest is when a broadcaster is done with their contract and no longer employed with a station.

Proponents of noncompetes argue that they encourage investment in workers and employee retention. Companies who seek to retain quality employees could offer positive incentives, rather, like enhanced benefits. In fact this helps successful businesses compete for the best talent, and not be restricted by who they can recruit for their station. This helps the overall US economy as well as keeps families together in their communities.

Lastly, we are not asking the government to get involved in a private contract. A contract is a contract. We are asking the State of Pennsylvania to level the playing field and support competition once that contract has expired; a successful model throughout the country and one we hope to bring to Pennsylvania.

Thank you for your time.

Kerri Wood Einertson, National Director, Government Affairs & Public Policy
SCREEN ACTORS GUILD - AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS