

tailored.¹³

As described below, the factual allegations in the complaints would support concluding that each Respondent's use of the challenged No Compete Restrictions is an unfair method of competition under Section 5.

First, each Respondent's use of No Compete Restrictions is a method of competition. The challenged No Compete Restrictions

Compete Restriction¹⁹ by contrast, create a legal impediment that restricts workers from leaving their employment even if they find more attractive employment terms elsewhere. For this reason, Non-Compete Restriction¹⁹ have long been considered proper subjects for scrutiny under the nation's antitrust laws.

Third, the factual allegations in the complaints support a finding that each Respondent's challenged conduct has the tendency or likely effect of negatively affecting competition in the U.S. glass container industry. Specifically, the complaints allege that (i) each of the Respondents required employees across a variety of positions, including salaried employees who work with the glass container plants' furnace and forming equipment and in other glass production engineering, and quality assurance roles, to refrain from working for competing glass manufacturing companies for at least one year after the conclusion of employment, (ii) the ability to identify and employ personnel with skill and experience in glass container manufacturing is a substantial barrier to entry and expansion, and (iii) the challenged restrictions have a tendency or likely effect of impeding the entry and expansion of rivals.

Fourth, the factual allegations in the complaints support a finding that each Respondent's challenged conduct has the tendency or likely effect of negatively affecting competitive conditions affecting workers in the U.S. glass container industry. In well-functioning labor markets, workers compete to attract employers and employers compete to attract workers. For example, workers may attract potential employers by offering

who value those offerings more and will, for example, tend to stay at those jobs longer as a result. Competition for labor allows for job mobility and benefits workers by allowing them to accept new employment, create or join new businesses, negotiate better terms in their current jobs, and generally pursue career advancement as they see fit.

By preventing workers and employers from freely choosing their preferred jobs and candidates, respectively, Non-compete Restrictions tend to impede and undermine competition in labor markets.²³ Research suggests that Non-compete Restrictions measurably reduce worker mobility,²⁴ lower workers' earnings,

notable impediment to their ability to achieve any legitimate business objectives

IV. Proposed Orders

The proposed orders seek to remedy the Respondents' unfair methods of competition. Section II of each proposed order proposes to: