



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

Office of Commissioner
Andrew N. Ferguson

Concurring Statement of Commissioner Andrew N. Ferguson
Joined by Commissioner Melissa Holyoak
In the Matter of Planned Building Services, Inc.
Matter Number 2410029

January 6, 2025

Today, the Commission issues an administrative complaint and accepts a proposed consent agreement with building services contractors Planned Building Services, Inc., Planned Security Services, Inc., Planned Lifestyle Services, Inc., and Planned Technologies Services, Inc. (“Planned”).¹ Planned is headquartered in New Jersey and employs more than 3,000 building services workers, primarily in the Northeast and Mid-Atlantic, but also in the metro regions of Boston, the District of Columbia, Atlanta, San Francisco, and Florida. Planned’s employees provide cleaning, maintenance, security, and concierge services at residential and commercial buildings.

The Complaint alleges that Planned’s standard contracts with its customers include “no-hire” provisions.² These no-hire provisions restrict Planned’s customers from directly or indirectly hiring a Planned employee in a similar capacity within six months of that employee separating from Planned, or within six months after the end of the building’s contract with Planned.³ In the event that a customer violates a no-hire provision, the customer must pay to Planned a placement or conversion fee.⁴ The Complaint charges⁵ that Planned’s no-hire provisions violate Section 1 of the Sherman Act⁶ and Section 5 of the Federal Trade Commission Act.⁷

As I have said before, the Commission should devote resources to protecting competition in labor markete

primarily vertical agreements, violates the antitrust laws where

With respect to procompetitive justifications, [REDACTED]

It is a mistake for the Commission not to allege these facts in the Complaint. Although the statutes governing confidentiality of material obtained by the Commission prevent us from publicly alleging the specific details of Planned's challenged conduct,²⁸ the Commission nonetheless could have included additional information in the Complaint. Doing so would have provided important guidance to similarly situated firms of the Commission's view of Section 1's requirements for no-hire provisions and would have promoted governmental transparency. But that decision was not mine. And Section 5 does not limit me to the text of the Complaint in determining whether we have "reason to believe" the law has been violated.²⁹ Given the record before me, I have "reason to believe" that the anticompetitive effects of Planned's challenged no-hire provisions outweigh their procompetitive justifications. I therefore concur in the filing of the Complaint.

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²⁸ 15 U.S.C. §§ 46(f), 57b-2(b), 57b-2(c); 16 C.F.R. § 4.10(g).

²⁹ 15 U.S.C. § 45(b).