

## **Rethinking Restraint of Trade in the Digital Economy: Balancing Innovation, Employee Mobility, and Competition**

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### **Abstract**

The brisk expansion of the digital economy has inherently reshaped employment relationships, challenging traditional legal approaches to restraint of trade agreements. Previously justified as mechanisms to protect legitimate business interests such as trade secrets, confidential information, and client connections, these agreements are progressively scrutinised in a context defined by remote work, cross-border employment, and accelerated innovation cycles. This paper critically examines whether existing legal doctrines to wit; the test of reasonableness and considerations of public policy, remain adequate in regulating restraint of trade agreements in the modern business environment. Adopting a comparative business law perspective, the study analyses how different jurisdictions respond to the growing tension between employer interests and employee mobility. It explores whether restrictive covenants, especially non-compete clauses, inadvertently stifle innovation, limit knowledge diffusion, and hinder entrepreneurial activity in technology-driven markets. At the same time, the paper acknowledges the legitimate need for businesses to safeguard proprietary information in highly competitive industries. The paper argues that a recalibration of legal standards is necessary to better align restraint of trade enforcement with the realities of the digital economy. It proposes a more nuanced, context-sensitive approach that balances commercial protection with the promotion of competition and labour market fluidity. By integrating legal analysis with economic considerations, the study contributes to ongoing debates on how best to regulate post-employment restrictions in a globalised, digital workforce.

**Keywords:** *Restraint of trade, non-compete clauses, digital economy, employee mobility, innovation, competition law, business law, public policy, reasonableness, cross-border employment*