

# **Should No-Poaching Agreements Be Prohibited in Corporate Transactions? From the View of Taiwanese Competition Law**

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## Abstract

No-poaching agreements (NPAs) prohibit parties from recruiting each other's employees. While the agreements can prevent unethical recruitment in corporate transactions, they reduce external job options for laborers, thereby significantly harming their bargaining power. Yet, employment law and labor law appear to face difficulties of addressing the problem. This article seeks to tackle the problem by examining the legality of NPAs under Taiwanese competition law. With reference to the major jurisdictions and Taiwan's competition law and previous cases, this article clarifies the relevant market of NPAs and their anticompetitive harms and

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procompetitive benefits. It argues that NPAs should be prohibited under competition law, even to protect parties' interests in corporate transactions, because organizing an independent team to manage employee information is a less restrictive way to achieve the same goal.

**Keywords:** No-poaching Agreements, Restriction of Competition, Corporate Transaction, Unethical Recruitment, Labor Protection