PHIL 1404-01 Ethics and Social Responsibility

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Non-compete agreements are one means introduced into employment contracts by companies to prevent information leakage to competitors and to ensure their competitive advantage. This creates a conflict of interest between the employer and the employee. This essay will discuss why non-compete agreements are entered into and how the interests of different parties should be reconciled in such agreements.

Non-compete agreements are entered into to protect a company's confidential information and competitive strategy. It is a means of protecting a company's intellectual property by restricting for a certain period an employee's ability to work in a similar job at another company in the same industry after the employment contract ends. However, this contract creates a conflict of interest between the employee and the employer. From the perspective of the key employee, future employment opportunities and freedom to work are unilaterally restricted. It also makes it difficult to change jobs in search of a higher salary. On the other hand, from the employer's point of view, it may be desirable to restrict the employee with confidential information or competitive strategies from working for another company in the same industry, as this may damage the company's competitive advantage.

Fair contract terms should be established to reconcile such interests. The weight is to avoid excessive restrictions or unfair contract terms for general employees, to set reasonable contract periods and geographic scope, and to conclude contracts on terms that are acceptable to both parties. It is also important to have mechanisms to resolve conflicts through legal processes, such as legal rules and negotiations by labor unions.

On the other hand, a different process is needed when executives or others who hold more important corporate information leave the company. If an executive at Jimmy John's or another major sandwich franchise leaves while holding trade secrets, he or she should be compensated financially in exchange for waiting a negotiated period before working for a competitor. This is because the company could lose important information and unfairly distort competition. While the executive receives financial compensation throughout the term of the contract, the company is protected from information leaks.

Furthermore, if a high-level executive possesses proprietary and confidential information about a previous employer, fairness dictates that the information be obtained by legal and legitimate means and not given to a competitor. Fair competition should be promoted and all parties treated appropriately. However, it is ethically difficult to limit the part of the information, such as the part that is in the memory of individual managers, and one way to limit this part might be to prevent leakage due to ethical avoidance by having a good relationship rather than a contract.

To consider non-compete agreements from an ethical aspect, I consider the duty theory and the merit theory. Under the duty theory, in a covenant not to compete, the performance of the contract is considered a legal and ethical obligation. In all cases, it will be important to abide by the terms of the contract. On the other hand, utilitarianism processes that the agreed-upon covenant not to compete is itself in the best interest of society. In both theories, it is important to make and enforce the contract, so it is necessary to define what kind of contract needs to be made while protecting the employee's freedom.

I have discussed the arguments against non-compete agreements in various positions. Proponents of non-compete agreements sometimes take the position that they are a necessary means to protect a company's intellectual property and to keep competition in a healthy environment. On the other hand, some argue that they restrict employees' labor rights and deprive them of economic freedom. To have fair contracts in different positions, it is important to set meritorious contract terms and duration for each employee's position and to ensure a fair bargaining process.

Non-compete agreements present complex issues that create conflicts of interest for both the company and the employee. If fair contract terms and conditions and an appropriate legal framework are in place, and the conflict resolution process is transparent and fair, the likelihood of finding a solution that is acceptable to both parties will increase. A balance must be struck between the rights of employees and the interests of the company, which will ensure that the competitive environment remains healthy and fair.