

# 競業避止義務と労働市場との関係 ～日米比較から～

2019年6月20日

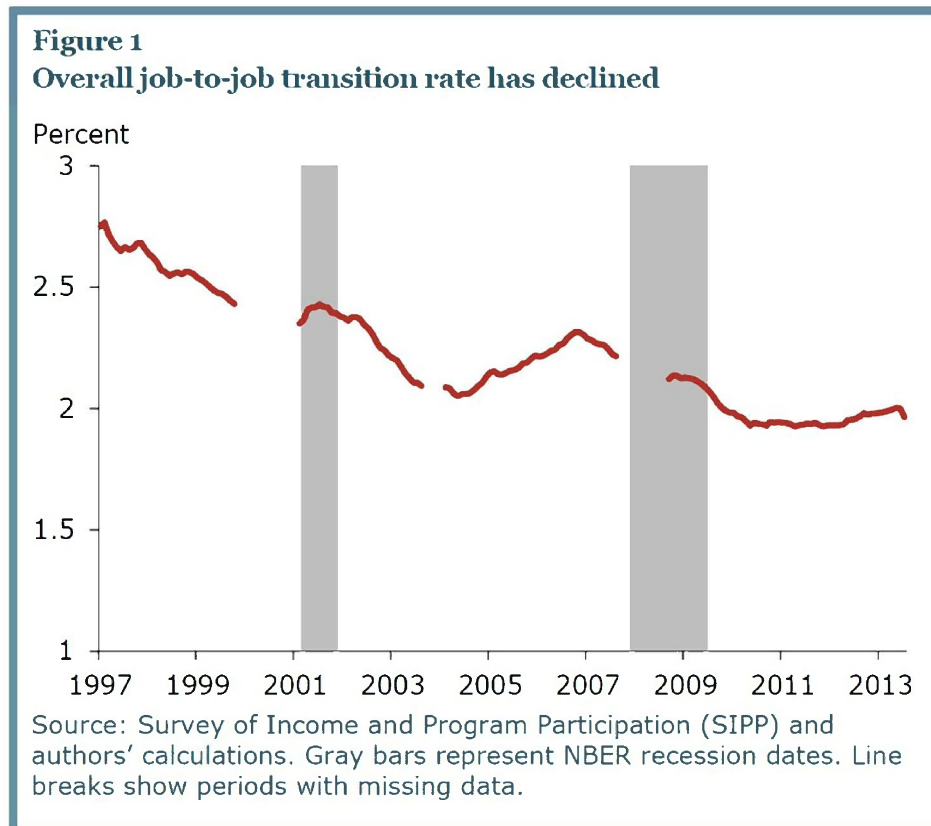
第17回CPRC国際シンポジウム

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# 1. 労働市場とCNC

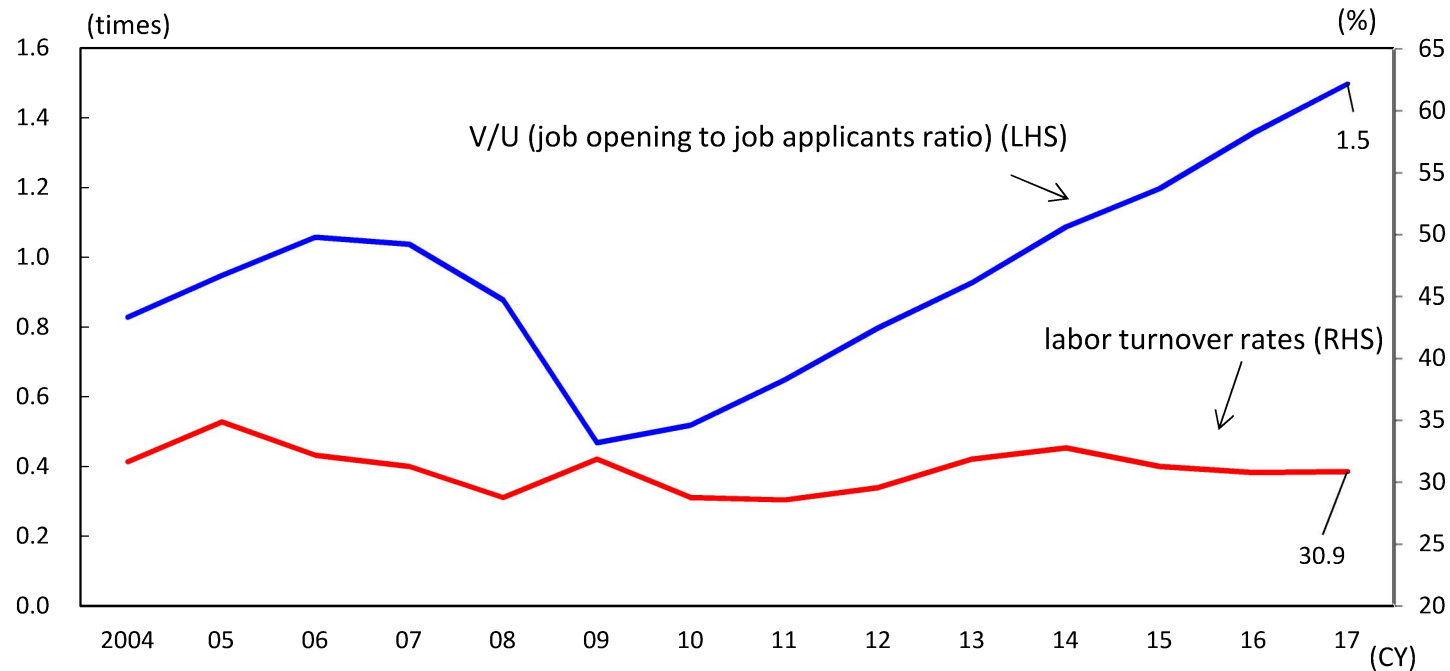
- 合衆国における労働市場の流動性の低下



Canyon Bosler and Nicolas Petrosky-Nadeau, *FRBSF Economic Letter* 2016-34

# 1. 労働市場とCNC

- 日本における安定的な労働市場の流動性



Source: Ministry of Health, Labour and Welfare.

From the presentation material of Cabinet Office for *Workshop for Noncompetes in the U.S. and Japan* on 28<sup>th</sup> May 2019. (do not cite without authors' permission)

# 1. 労働市場とCNC

「競業避止義務」は労働市場の流動性を制約しているのではないか？

## YES!

- 使用者の強い交渉力を高め過ぎている

## NO!

- 被用者に対する教育訓練など、投資を保護する必要がある
- 契約自由の原則

## 2. 競業避止義務の現状

| Object sample                                      | U.S. (2014) <sup>*1</sup> |
|--|---------------------------|
| Employees with CNC                                 | 18.1%                     |
| Employees who had CNC at some point in their lives | 38.1%                     |
| Employees with CNC in the private profit sector    | 19%                       |
| Employees with CNC in the private nonprofit sector | 9.8%                      |

JP (2013)

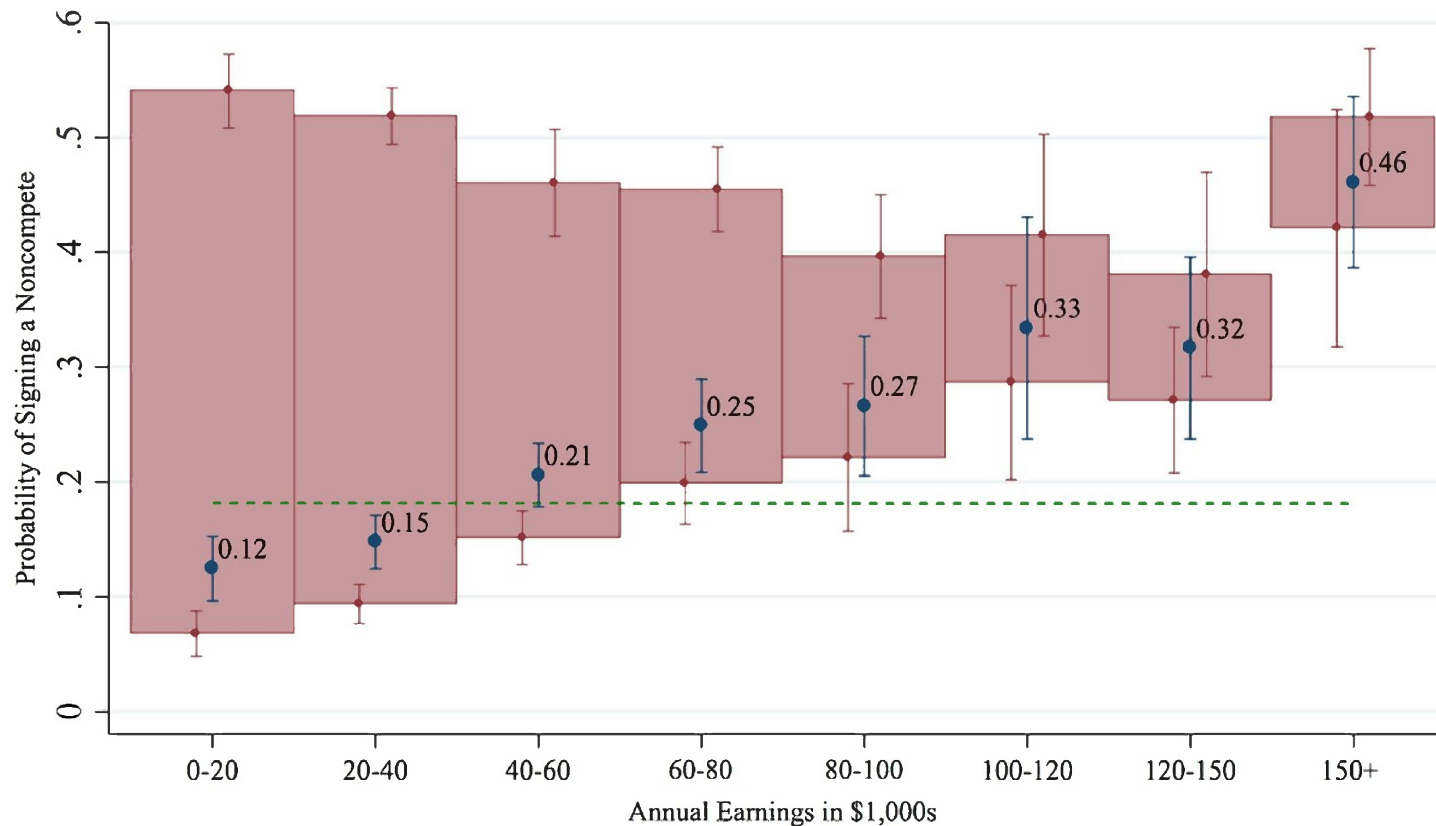
14.3% (# of firms)

\*1 The U.S. data refer Starr et al.(2019) which they used multiple imputation methods.

「営業秘密の管理実態に関するアンケート」調査結果

## 2. 競業禁止義務の現状

Figure 4: Incidence of noncompetes by annual earnings



Starr, Evan and Prescott, J.J. and Bishara, Norman D, *Noncompetes in the U.S. Labor Force* (April 10, 2019). U of Michigan Law & Econ Research Paper No. 18-013.

## 2. 競業禁止義務の現状

|            |  | Object sample   | U.S. (2014) <sup>*1</sup> |
|------------|--|---|---------------------------|
| (Timing)   |  | Those with CNC first leaned they would be asked to agree to the provision before accepting their offer. | 61%                       |
|            |  | Those who tried to negotiate before when given notice they accepted their offer.                        | 11.6%                     |
|            |  | Those who did not try to negotiate, and given notice after offer they accepted their offer.             | 6%                        |
| (response) |  | Those who just read CNC and signed it.  | 88%                       |
|            |  | Those who did not read the CNC and signed it.   | 6.7%                      |
|            |  | Those who consulted with friends, family, or a lawyer and signed it.                                    | 17%                       |
|            |  |   |                           |

\*1 The U.S. data refer Starr et al.(2019) which they used multiple imputation methods.

\*2 Government officials, and those who claimed that their industry and occupation were unable to clarify are excluded in this data.  
Company executive are confined to mainly engaged worker.

## 2. 競業避止義務の現状

- 単純な日米比較から見えること
  - － 競業避止義務の普及度合いは大差ない可能性
  - － 契約過程との関連では差がある可能性
    - ⇒ とくに契約時に相談できる第三者の存在には注目すべきだろう



### 3. 労働市場への影響：合衆国

| Model: OLS         | (1)                            | (2)                                       |
|--------------------|--------------------------------|---|
| Dependent Variable | Ln(Hourly Wage)                |   |
| Noncompete         | 0.109***<br>(0.026)<br>[1.033] | 0.066***<br>(0.023)<br>[0.497]<br>{0.216} |
| R-Squared          | 0.503                          | 0.541                                     |

Starr, Evan and Prescott, J.J. and Bishara, Norman D, *Noncompetes in the U.S. Labor Force* (April 10, 2019). U of Michigan Law & Econ Research Paper No. 18-013.

### 3. 労働市場への影響：合衆国

| Model: OLS         | (3)                         | (4)                          | (5)                            | (6)                         | (7)                         | (8)                         |
|--------------------|-----------------------------|------------------------------|--------------------------------|-----------------------------|-----------------------------|-----------------------------|
| Dependent Variable | 1(Firm Shares Info)         |                              | 1(Training Last Year)          |                             | 1(Satisfied in Job)         |                             |
|                    | Panel A: Baseline           |                              |                                |                             |                             |                             |
| Noncompete         | 0.031<br>(0.030)<br>[1.361] | -0.020<br>(0.025)<br>[0.715] | 0.077***<br>(0.019)<br>[1.180] | 0.006<br>(0.019)<br>[0.104] | 0.015<br>(0.019)<br>[1.463] | 0.006<br>(0.017)<br>[1.399] |
|                    |                             | {0.302}                      |                                | {0.048}                     |                             | {0.829}                     |
| R-Squared          | 0.100                       | 0.146                        | 0.160                          | 0.199                       | 0.099                       | 0.149                       |

『会社がすべての情報をシェアしていると思うか？』

### 3. 労働市場への影響

- CNCと賃金との関連
  - 正の相関 (およそ +10%)
  - しかし訓練が多くなったり、満足度が高くなったりするわけではない。

### 3. 労働市場への影響

| Dependent Variable                                 | Ln(Hourly Wage)                           | 1(Firm Shares Info)                        | 1(Training Last Year)                    | 1(Satisfied in Job)                       |
|--|---|--|--|---|
| First Learned of Noncompet<br>Before Accepting Job | 0.093***<br>(0.031)<br>[0.638]<br>{0.275} | 0.043*<br>(0.024)<br>[1.254]<br>{0.518}    | 0.055**<br>(0.025)<br>[0.920]<br>{0.406} | 0.045**<br>(0.020)<br>[3.846]<br>{1.972}  |
| After Accepting Job                                | 0.024<br>(0.037)<br>[0.316]<br>{0.151}    | -0.134***<br>(0.039)<br>[8.474]<br>{3.097} | -0.058<br>(0.039)<br>[1.112]<br>{0.480}  | -0.085**<br>(0.035)<br>[9.004]<br>{6.978} |
| With Promotion                                     | 0.136<br>(0.086)<br>[0.741]<br>{0.269}    | 0.011<br>(0.104)<br>[0.307]<br>{0.186}     | -0.125<br>(0.113)<br>[2.221]<br>{0.850}  | 0.051<br>(0.071)<br>[2.385]<br>{9.855}    |
| Doesn't Remember                                   | 0.010<br>(0.064)<br>[0.146]<br>{0.506}    | -0.073<br>(0.064)<br>[4.343]<br>{2.164}    | -0.093<br>(0.064)<br>[4.668]<br>{4.559}  | 0.042<br>(0.047)<br>[4.866]<br>{40.34}    |
| P-value: $\beta_{Before} = \beta_{After}$          | 0.127                                     | 0.000                                      | 0.021                                    | 0.000                                     |
| R-Squared  | 0.541                                     | 0.150                                      | 0.201                                    | 0.151                                     |
| Observations                                       | 11,010                                    | 11,010                                     | 11,010                                   | 11,010                                    |
| Basic Controls                                     | Yes                                       | Yes  | Yes                                      | Yes                                       |
| Advanced Controls                                  | Yes                                       | Yes  | Yes                                      | Yes                                       |

### 3. 労働市場への影響

- タイミングによって異なる
  - 契約前
    - 賃金に対して正の相関
    - 訓練/満足度にも正の相関
  - 契約後
    - 賃金に対して正の相関はない
    - 訓練/満足度はむしろ負の相関

## 4. 議論のために

- とくに日本の結果はまだ詳細な検討が必要だが、正負両面があり、その比較考量が必要であることはわかる。