MEMORANDUM 2025-21

Draft Language for Single Firm Conduct Provision

This Memorandum[1] presents staff recommendations for draft legislation to address single firm conduct (SFC) in California as requested by the Commission at its January 23, 2025 meeting.[2]

The Commissioners indicated a preference for language targeting single firm conduct that does not mirror the federal Sherman Act §2[3] to avoid importing its limiting jurisprudence. This memorandum presents three options for single firm conduct to be added to the Cartwright Act, with the advantages and disadvantages of adopting each. In addition to the three base provisions, the staff proposes options for findings and declarations that would explain the statute's purpose and guide judicial interpretation. These findings and declaration could be included in any option for single firm conduct.

The staff will present additional memoranda at future Commission meetings addressing the other issues on which the Commission previously voted or otherwise provided feedback, including the addition of a merger regime to California's antitrust laws and its applicable review standard, and exploring legislation to address dominant firms' misuse of market power.[4]

The staff is requesting Commission feedback on the three options for the basic prohibition of SFC and proposed legislative findings and declarations, but is not requesting the Commission select any proposal at this time. This will allow interested parties adequate time to provide public comments on the options for consideration by the Commission at its June 26, 2025 meeting. Staff will also provide a summary of existing comments to date related to the three options. The staff anticipates requesting the Commission to select a SFC option at that meeting.

This Memorandum was compiled with the invaluable assistance of the Commission's

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[1] Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be posted after the meeting and/or without staff analysis.

[2] Minutes (January 2025), p. 4.

[3] 15 U.S.C. § 2.

[4] Minutes (January 2025), p. 4.

Antitrust Study consultant, Cheryl Johnson. The staff would also like to recognize the expert working group members for their important and foundational work and the Commission' externs from UC Law San Francisco for their background research.[5]

OPTION ONE: BASIC SFC PROVISION

The staff is first providing a SFC option that uses language similar to the Sherman Act § 2.[6]

> **Section 16720.1 is added to read:**
>
> It is unlawful for a person to monopolize or monopsonize,[7] to attempt to monopolize or monopsonize, to maintain a monopoly or monopsony, or to combine or conspire with another person to monopolize or monopsonize, in any part of trade or commerce.[8]

This approach is intended to ameliorate concerns about confusion and uncertainty from those opposing any legal standard that departs from federal law. All businesses are currently subject to the Sherman Act § 2, whose language the courts have decades of

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[5] Florence Chang, Gregory Mabra, Ryan Partovi, and Kassandra Williams.

[6] 15 U.S.C. § 2 states in part, "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony…."

[7] The inclusion of "monopsonize," although commonly understood as encompassed within the broader term "monopolize," is intended to help address the historical underenforcement of buyer-side monopolies that impact labor, among others. See also Memoranda 2024-14, pp. 4-6; 2024-25, p. 17.

[8] This language is borrowed from Pennsylvania Open Markets Act, House Bill No. 2012, proposed § 904(b), as amended on July 1, 2024. This bill passed the Pennsylvania House of Representatives but did not pass the Pennsylvania State Senate.

No other state's SFC provisions currently include the term "monopsony," although this term is gaining traction. In addition to the bill noted above, this term also appears in recent versions of the bills referenced in ACR 95 (Cunningham and Wicks, 2022) directing this study, S.130 (Klobuchar, 2025) the Competition and Antitrust Law Enforcement Reform Act of 2025 (CALERA) and S335 (Gianaris, 2025), the Twenty-First Century Anti-Trust Act.

experience interpreting. Moreover, working from familiar federal base language avoids the challenges that can arise when interpreting a completely new law. However, based on public comment the Commission has received to date it is likely that commenters will argue that this modest approach does not go far enough.[9]

Of the states with a SFC provision, nearly all hew closely to the Sherman Act § 2 language.[10] Some states have narrowed the language by restricting it with intent requirements,[11] making successful prosecutions more difficult, or limiting its scope to portions of commerce or industries.[12] Exhibit A provides a chart of other states' general single firm conduct provisions.

The Commission, however, should consider addressing the limits of Option One. Because it is intended to adopt language similar to that used in the Sherman Act § 2 and other states, significant drawbacks could accompany this approach unless a SFC provision includes the recommended language in the Findings and Declarations section of this memorandum. This language explicitly untethers California's law from federal law and certain narrow precedents that might limit California's ability to effectively control competition. While this might be achieved by adopting the findings and declarations of legislative intent recommended in this memorandum, these findings and declarations may be viewed as more advisory than mandatory by the courts. Thus, a risk of this approach is that unless the language is made mandatory in statute, it may be inadequate to distance California from federal antitrust law. The Commission should consider whether to include some or all of the language in statute rather than proposing it as findings and declarations.

OPTION TWO: ENHANCED SFC PROVISION

The second option expands upon the basic SFC provision presented in Option One by

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[9] See e.g. Second Supplement to Memorandum 2024-13, EX 4. "…we advocate that the Commission recommend a single-firm conduct standard that incorporates a broader range of potential harms than set forth in the Working Group Report. We also recommend that the Commission articulate an alternative to the 'rule of reason' framework that limits the ability of harms to be off-set by vague and unrelated potential benefits. Finally, we recommend that the Commission account for potential vagueness in the law by providing an expert administrative agency with rulemaking authority." (American Economic Liberties Project, California Nurses Association, Democracy Policy Network, Economic Security California, Ending Poverty in California, Farm Action, Institute for Local Self-Reliance, Rise Economy, Small Business Majority, TechEquity Action, United Food and Commercial Workers International Union (UFCW) Western States Council, Warehouse Workers Resource Center)

[10] See Exhibit A for a list of states' SFC provisions.

[11] See e.g. Utah Code Ann. § 76-10-3103(1). "'Attempt to monopolize' means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly."

[12] See e.g. Haw. Rev. Stat. Ann. § 480-9. "No person shall monopolize, or attempt to monopolize, or combine or conspire with any other person to monopolize any part of the trade or commerce in any commodity in any section of the State."

combining it with a prohibition on "restraints of trade," a phrase used in both the Cartwright Act[13] and the Sherman Act § 1.[14]

> **Section 16720.1 is added to the Business and Professions Code, to read:**
> (a) It is unlawful for one or more persons to act, cause, take or direct measures, actions, or events:
> (1) In restraint of trade, or to attempt to restrain the free exercise of competition or the freedom of trade or production; or,
> (2) To monopolize or monopsonize, to attempt to monopolize or monopsonize, to maintain a monopoly or monopsony, or to combine or conspire with another person to monopolize or monopsonize in any part of trade or commerce.
> (b) As used in this section, "restraint of trade" shall include, but not be limited to, any actions, measures, or acts included or cognizable under Section 16720, whether directed, caused, or performed by one or more persons.

This approach borrows from other states that have both a SFC provision banning restraints of trade in addition to the core ban on monopoly conduct.[15] The advantage of including both defuses the Sherman Act § 2's singular focus on monopolistic behavior, with its high market thresholds[16] and its decades of narrow interpretations and applications.[17] The addition of a prohibition on unilateral "restraints of trade" is intended to capture the broad range of anticompetitive conduct that may not fall within the currently restricted scope of federal law but is more broadly interpreted in state law for multiple actors.[18]

The benefits and drawbacks to this option is that it introduces language that departs from federal law and establishes a new "restraint of trade" violation for single firm actors. Under this option, state courts would be tasked with distinguishing procompetitive conduct

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[13] Bus. & Prof. Code § 16721.5 establishes additional circumstances constituting an unlawful trust and unlawful restraint of trade.

[14] 15 U.S.C. § 1 provides: "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal…."

[15] See e.g., Haw. Rev. Stat. Ann §§ 480-4, 480-9 and Idaho Code §§ 48-104, 48-105.

[16] See e.g., *Rebel Oil Co. v. Atl. Richfield Co*., 51 F.3d 1421, 1438 (9th Cir. 1995) (noting that "numerous cases hold that a market share of less than 50 percent is presumptively insufficient to establish market power" in a claim of actual monopolization).

[17] See, e.g., *Brooke Group v. Brown & Williamson Tobacco*, 509 U.S. 209 (1993). This case requires a plaintiff, in order to prove predatory pricing, to show that the defendant's prices are below cost and that the market structure is such that the defendant has a reasonable probability of recouping its losses from below-cost sales once rivals are driven from the market. However, the federal predatory pricing rule is poorly suited to products and services with very low or zero marginal costs, such as with the present digital products, as it immunizes virtually all prices from predation claims. See Memorandum 2024-15, p. 6.

Verizon Communications v. Law Offices of Curtis V. Trinko, 540 U.S. 398 (2004). This case is criticized because it determined that a monopolist's selective refusal to deal with another firm, even a competitor, violates antitrust law only in unusual circumstances. See Memorandum 2024-15, p. 7.

[18] *Cianci v. Superior Court*, 40 Cal. 3d 903, 917-18 (1985).

from anticompetitive conduct, but courts have a long history of interpreting the term "restraint of trade" under the Cartwright Act[19] as well as under the Sherman Act § 1.[20] In contrast, the use of common antitrust terminology runs the risk that federal courts may continue to conflate federal and state antitrust unless a SFC provision includes the recommended language in the Findings and Declarations section of this memorandum. This language explicitly untethers California's law from federal law and certain narrow precedents that might limit California's ability to effectively control competition. While this might be achieved by adopting the findings and declarations of legislative intent recommended in this memorandum, these findings and declarations may be viewed as more advisory than mandatory by the courts. Thus, a risk of this approach is that unless the language is made mandatory in statute, it may be inadequate to distance California from federal antitrust law. The Commission should consider whether to include some or all of the language in statute rather than proposing it as findings and declarations.

OPTION THREE: "EXCLUSIONARY CONDUCT" PROVISION

A third and distinct SFC option represents a clean break from existing federal SFC law and its decades of restrictive federal jurisprudence. While Options One and Two rely heavily on using existing underlying antitrust terms and principles governing the analysis of restraints of trade and monopolistic behavior, Option Three uses new terminology and a different analytical framework.

This option draws on the "exclusionary conduct" provision recommended by the SFC Working Group Report.[21] This formulation defines unlawful SFC in relation to its harm to trading partners, balanced against the benefits of the conduct:

> **Section 16720.1 is added to the Business and Professions Code, to read:**
> (a) It shall be unlawful for one or more persons to engage in anticompetitive exclusionary conduct that affects any part of the trade or commerce within the State.
> (b) Conduct, whether by one or multiple actors, is deemed to be anticompetitive exclusionary conduct, if the conduct tends to:
> (1) Diminish or create a meaningful risk of diminishing the competitive constraints imposed by the defendant's rivals and thereby increase or create a meaningful risk of increasing the defendant's market power, and
> (2) Does not provide sufficient benefits to prevent the defendant's trading partners from being harmed by that increased market power.

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[19] See e.g., *In re Cipro Cases I & II*, 61 Cal.4th 116, 146 (2015).

[20] See e.g., *Ohio v. American Express Co*, 585 U.S. 529, 540 (2018).

[21] Memorandum 2024-15, p. 16. Where applicable, the staff distinguishes between the language presented in this memo as Option Three and language included in the SFC Working Group's proposal but not included in Option Three.

(c) "Trading partners" are parties with which the defendant deals, either as a customer or as a supplier.

Under the first prong of Option Three, harm to competition is defined as that which weakens defendant's rivals and increases, or presents a risk of increasing, the defendant's market power. The second prong is intended to exempt conduct that benefits trading partners, such as producing a superior product.[22] This general approach to defining exclusionary conduct is also proposed in CALERA[23] and supported by the Consumer Welfare Standard Working Group Report.[24]

The Consumer Welfare Standard Working Group noted that some criticize the "exclusionary conduct" standard as "ambiguous" and unclear as to "when conduct simply disadvantages a rival and when its impact is of sufficient magnitude to harm competition as a whole."[25] The Consumer Welfare Standard Working Group, however, believes this can be addressed by focusing instead on the conduct's degree of impact to market power, consistent with the SFC Working Group's recommendation.[26] Some business groups have commented that the first prong's focus on harm to competitors will incentivize litigation by disappointed rivals, and the protection of competitors may detract from the goal of protecting consumer welfare.[27]

While this new framework is attractive as a fresh alternative, the staff suggests this proposal would benefit from additional clarifications as to its operation and interpretation.

For instance, the second prong states that conduct is exclusionary if it "does not provide sufficient benefits to prevent the defendant's trading partners from being harmed by that increased market power." However, it is unclear whose benefits are being measured and to which trading partners the harm must be negated in balancing the increased market power.

Further, while the SFC Working Group acknowledges that the law protects all in the economy, the framework's reference to "trading partners" is limited to "customer" and

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[22] Memorandum 2024-15, p. 14.
[23] S.130 (Klobuchar, 2025), § 26A.
[24] Memorandum 2024-33, p. 8.
[25] Memorandum 2024-33, p. 8.
[26] Memorandum 2024-33, p. 8:

To address this concern we believe that, regardless of the label applied, the hallmark of injury to competition, and to the competitive process, is the creation, increase, or maintenance of the defendant's market power as a result of conduct that reduces the competitive constraint provided by rivals or potential rivals. Such conduct could take the form of an agreement among actual or potential competitors not to compete or conduct by one or more firms that reduces the ability of other firms to compete. When market power is implicated, the defendant gains increased ability to deviate from a competitive price or otherwise harm customers or suppliers, including workers. If the harm to rivals is not of that magnitude, it is not sufficient to harm competition as a whole or the competitive process.

[27] See e.g. Memorandum 2024-13, pp. 22, 27 (California Chamber of Commerce Comments).

"supplier," terms understood in the common vernacular as someone who buys an end product and someone who provides material to make the product, respectively.[28] In contrast, existing California antitrust law[29] protects all participants in the trading chain whether directly or indirectly.[30] The staff suggests clarifying the term "trading partner" to avoid confusion.

Option Three leaves some doubt as to the burdens of proof and the extent to which there is to be some application of the traditional rule of reason analytical framework.[31] The second prong of Option 3 requires a finding that any benefits do not *prevent* the defendant's trading partners from being harmed,[32] leaving unclear who has the burden on this prong and whether it is intended to alter the rule of reason standard of weighing the benefits and harms.[33]

The SFC Working Group acknowledged the difficulty in distinguishing between anticompetitive conduct, which is illegal, from competition on the merits,[34] which is legal.

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[28] See, however, the transcript of the Single Firm Working Group's presentation on May 2, 2024, p. 9, explaining their proposed language. "There was and is no serious dispute that the antitrust laws apply to the kinds of harm to competition among buyers and employees that were at issue in those cases. The antitrust laws have long been understood to protect farmers, workers, small businesses, and other sellers, as well as buyers. This language is intended to make that clear." The staff suggests "suppliers" is intended to include "suppliers of labor," a.k.a., workers. See also transcript p. 14, "…But the notion that harming your trading partners, customers, or could be workers, as we've heard as well, if we think about going upstream and downstream, that's the key thing. Does the market power harm these trading parties?" ; see also Memorandum 2024-15, p. 17, "In cases where the trading partners are workers, …."

[29] Bus. & Prof. Code § 16750 (a).

[30] This would include wholesalers, workers, and other competitors.

[31] Memorandum 2024-15, pp. 5-6. 1. The rule of reason framework is broadly understood as the following:

> The plaintiff must show that the conduct in question has an anticompetitive effect, i.e., causes a significant increase in market power, or is reasonably likely to do so in the future.
>
> Second, if the plaintiff meets that burden, the defendant may shift the burden back to the plaintiff by demonstrating a procompetitive justification for its conduct, i.e., "a nonpretextual claim that its conduct is indeed a form of competition on the merits because it involves, for example, greater efficiency or enhanced consumer appeal."
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> Third, if the defendant is able to demonstrate a procompetitive justification for its conduct, the plaintiff may rebut that assertion by proving that the procompetitive benefits could largely have been achieved by conduct that was less harmful to competition.
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> Fourth, if the court finds both that the conduct enhanced the defendant's monopoly power and that it was reasonably necessary to achieve procompetitive benefits, then the court should balance the harm and the benefits. To prevail, "the plaintiff must demonstrate that the anticompetitive harm of the conduct outweighs the procompetitive benefit."

[32] The SFC Working Group proposal also directs that "The burden is on the defendant to prove that any procompetitive justification for the challenged conduct is not pretextual and does not weaken competitive discipline *more than reasonably necessary* to accomplish the procompetitive goal. (emphasis added). Memorandum 2024-15, p. 5.

[33] See Memorandum 2024-15, p. 18. "(i) The burden is on the defendant to prove that any procompetitive justification for the challenged conduct is non-pretextual and does not weaken competitive discipline more than necessary to accomplish the procompetitive goal."

[34] Memorandum 2024-15, p. 15.

It therefore offered supplemental provisions[35] intended to guide interpretations toward enhanced protections against anticompetitive conduct. These supplemental provisions are important in this option because the language of this option departs from existing federal and state law. The staff does not fully explore these provisions in this memorandum and should the Commission choose to explore this approach further, these guidelines should be reexamined.

These areas for additional research are not criticisms of the SFC Working Group's overall report; the Working Groups were initially directed not to provide recommendations,[36] and the antitrust dialogue has been enhanced by the group's proposal. However, its proposal is understood as a work in progress and should be regarded as such.

Adopting this new formula could significantly enhance the independence of California's antitrust law and reduce the creative defense arguments permitted by the ambiguity of the Sherman Act language. However, the novelty of this option's new language could have the opposite effect, challenging the courts as they seek to interpret the new language and leading to an increase in allegations of anticompetitive conduct as litigants seek to shape new precedent.

Given this caution, if the Commission would like to further explore a formula untethered to existing federal and state law, the SFC Working Group report offers a thoughtful base choice along with its many supplemental recommendations. If this option is desired, staff recommends addressing the issues identified above as well as the many interpretative guidelines suggested by the SFC Working Group.

As with Options One and Two, the staff recommends the Commission also include the legislative findings and declarations discussed in the next section to maximize the independence of California law. As discussed with the other options, the Findings and Declarations section of this memorandum contains language that explicitly untethers California's law from federal law and certain narrow precedents that might limit California's ability to effectively control competition. While this might be achieved by adopting the findings and declarations of legislative intent recommended in this memorandum, these findings and declarations may be viewed as more advisory than mandatory by the courts. Thus, a risk of this approach is that unless the language is made mandatory in statute, it may be inadequate to distance California from federal antitrust law.

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[35] Memorandum 2024-15, p. 14-18. The proposal includes a nonexhaustive list of possible anticompetitive practices, including loyalty rebates, exclusive dealing provisions, most-favored nation clauses, discrimination against rivals, agreements to limit competition, and predatory pricing in addition to general guidelines of factors to consider in assessing increased market power and harm to trading partners.

[36] Memorandum 2023-16, p. 3.

The Commission should consider whether to include some or all of the language in statute rather than proposing it as findings and declarations.

FINDINGS AND DECLARATIONS

Federal antitrust law has been criticized over the last few decades for permitting otherwise anticompetitive behavior, justified as "market efficiencies," because it results in lower consumer prices. This has been described by some as embodying the "consumer welfare standard."[37] While the California Supreme Court has described the Cartwright Act's[38] main goal as also protecting "consumer welfare,"[39] this standard in California law has been construed as reaching far beyond protecting "efficiency," or theoretical low prices.[40]

Thus, in proposing revisions to California's antitrust laws, the Commission should consider including an express statement of purpose for the Cartwright Act to help guide the law's interpretation, and to untether that law from federal law and certain narrow precedents, even while drawing on some core federal law terms. Legislative findings and declarations can be used to emphasize the differences between the Cartwright Act and the Sherman Act and their applications, and to reenforce and support the California Supreme Court's repeated, and often ignored, dictates that federal law is not binding. As discussed with the three SFC options, a risk of using findings and declarations that are not in statute may prove inadequate to achieve the desired distance between California and federal antitrust law. The Commission should consider whether to include some or all of the language in statute rather than proposing it as findings and declarations. The staff has presented the findings and declarations as such to preserve their flexibility in applying them to the Commission's preferred SFC provision.

The staff has proposed text drawn from the legislative findings of this study's enabling

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[37] Memorandum 2024-33, pp. 2-3. Neither the Supreme Court nor lower courts have defined the consumer welfare standard, but many have relied on Judge Robert Bork's interpretation that the Sherman Act was passed to optimize efficiency as embodying this concept.

[38] Bus. & Prof. Code §§ 16700 -16770.

[39] Memorandum 2024-33, p. 5, *Cianci v. Superior Court*, 40 Cal. 3d 903, 918 (1985); *Marin County Bd. of Realtors, Inc. v. Palsson*, 16 Cal. 3d 920, 935 (1976).

[40] The California Supreme Court described the Cartwright Act as providing for "the unrestrained interaction of competitive forces . . . will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." *In re Cipro Cases I & II*, 61 Cal. 4th 116, 136 (2015).

legislation,[41] the working group reports,[42] and other states.[43] All of these proposals can be used individually or in combination with any SFC option presented in this Memorandum.

Basic purpose statement

A succinct purpose provision could simply state that California's antitrust laws protect free competition for all marketplace participants, including consumers and workers. For example:

> The Legislature finds and declares that the promotion and protection of free and fair competition is fundamental to a healthy marketplace that protects all trade participants, including workers and consumers, and to an environment that is conducive to the preservation of our democratic, political, and social institutions.[44]

Enhanced purpose statement

A more detailed provision modeled on ACR 95,[45] the proposed New York Twenty-First Century Anti-Trust Act,[46] CALERA,[47] and the working group reports[48] could be used to describe the harms of unrestrained anticompetitive conduct and the need for reform from an economic and legal standpoint. For example:

> The Legislature hereby finds and declares all of the following:
>
> (a) That protecting competition includes protecting competition between businesses when they compete for workers and prohibiting anticompetitive business practices that impede workers' freedom to choose employment.
> (b) There is widespread concern about the growing consolidation in our marketplaces and that the accumulation of market power by a few dominant corporations harms our marketplace opportunities, undermines the power of workers, consumers, and small businesses, and threatens our democratic

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[41] 2022 Cal. Stat. res. ch. 147 (ACR 95).
[42] Memoranda 2024-15, pp. 14-15, 2024-33.
[43] Approximately 20 states have legislative declarations of purpose. See e.g., Colo. Rev. Stat. § 6-4-102, which states in part:

> (1) The general assembly finds and declares that (a) Competition is fundamental to (I) The free market system; and (II) a healthy marketplace that protects workers and consumers; and (b) The unrestrained and fair interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality commodities and services, and the greatest material progress while at the same time providing an environment that is conducive to the preservation of our democratic, political, and social institutions and to the protection of consumers.

See also Exhibit A.
[44] *In re Cipro Cases I & II*, 61 Cal. 4th 116, 136 (2015).
[45] 2022 Cal. Stat. res. ch. 147 (ACR 95).
[46] S335 (Gianaris, 2025-26), § 2.
[47] S.130 (Klobuchar, 2025), § 2.
[48] Memoranda 2024-15, pp. 14-18, 2024-33, p. 8.

values.

(c) Effective enforcement against anticompetitive activity has been limited and impeded by the federal courts by applying narrow definitions of monopolies and monopolization, limiting the scope of unilateral conduct, making it excessively difficult to challenge unfair competition, and unreasonably heightening the standards that plaintiffs and government enforcers must overcome to establish violations of those laws.

(d) A goal of California's antitrust laws is to protect consumer welfare, which includes ensuring open and fair labor markets.

Statement rejecting federal principles

The Consumer Welfare Standard Working Group Report identified two unfounded principles based on Chicago School[49] narratives that have impeded federal antitrust enforcement. Specifically, it cites the false positives framework[50] and the presumption that "vertical arrangements and unilateral conduct are unlikely to harm competition"[51] as having "eroded the capacity of the antitrust enterprise to protect competition."[52] The Commission can nullify these principles by asserting in that it favors overdeterrence and need not follow federal law.

The Legislature hereby finds and declares all of the following:

(a) Courts shall liberally interpret California's antitrust laws to best promote free and fair competition and be mindful that California favors the risk of over-enforcement of antitrust laws over the risk of under-enforcement.

(b) Actions that restrain trade, or create or attempt to create a monopoly or monopsony, can be harmful and anticompetitive whether done by unilateral action or multiple parties and should be treated similarly. The 2023 Merger Guidelines[53] recognize that unilateral action and vertical relationships can interfere with free and fair competition, and the guidance

[49] The "Chicago School" of antitrust policy was popularized in the 1970s and emphasized the risks of overintervention. Instead, it argued for a narrowly tailored enforcement standard focused on economic metrics such as price, output, and efficiency. As a result, decades of rather passive antitrust enforcement are associated with this policy named after a group of scholars from the University of Chicago including Robert Bork, Richard Posner and Milton Friedman. Francine McKenna, What Made the Chicago School so Influential in Antitrust Policy? Chicago Booth Review (Aug. 7, 2023)

[50] Memorandum 2024-33, pp. 6-7. The false positives framework "rests on the premise that over-aggressive antitrust enforcement can chill competition, because 'antitrust courts are likely to make unusually serious mistakes' while the benefits of antitrust enforcement are less clear. This notion has led to the idea that antitrust courts should be more concerned about the risk of false positives (the risk of condemning conduct that increases welfare) than the risk of false negatives (the risk of permitting anticompetitive conduct)."

[51] Memorandum 2024-33, p. 7. Horizontal arrangements are agreements among, or the integration of, rivals. Vertical arrangements are agreements among, or the integration of, market participants on adjacent levels along the supply chain. Unilateral conduct refers to actions of a market participant arising from independent business decisions.

[52] Memorandum 2024-33, p. 7. These precepts are criticized and addressed in the Federal Trade Commission and Department of Justice 2023 Merger Guidelines (December 18, 2023), in which the guidance notes that competition concerns can also arise in traditional vertical relationships (p.13) and unilateral conduct can harm competition (p. 37).

[53] Federal Trade Commission and Department of Justice 2023 Merger Guidelines (December 18, 2023).

of the Guidelines should be followed whenever possible.

(c) The California Supreme Court has determined that the Cartwright Act is "broader in scope and deeper in reach"[54] than the federal Sherman Act; that the Cartwright Act is not modeled on the Sherman Act; that the Cartwright Act departs from the Sherman Act in many respects, including, but not limited to, inclusion of indirect purchaser recovery; use of a proximate cause test for Cartwright Act standing; recognition of broader harms and per se conduct, lower actionable market shares, structured rule of reason analysis, and differing burdens of proof. Courts interpreting this law shall not be bound by federal precedent interpreting the Sherman Act and shall make their own determinations of whether challenged conduct by a single firm violates California law and is in keeping with the language and spirit of that law.

Statement rejecting federal precedents

CALERA[55] provides a template for specifically rejecting particularly consequential federal precedent by nullifying the principles of three of the most misused or criticized federal decisions, *Brooke*[56], *Trinko*[57], and *Amex.*[58] The SFC Working Group Report not only closely followed CALERA and used similar language in its proposed SFC statute,[59]

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[54] California ex rel. Van de Kamp v. Texaco, Inc., 46 Cal. 3d 1147 (Cal. 1988).

[55] S.130 (Klobuchar, 2025), § 26A(e).

[56] *Brooke Group v. Brown & Williamson Tobacco*, 509 U.S. 209 (1993). This case requires a plaintiff, in order to prove predatory pricing, to show that the defendant's prices are below cost and that the market structure is such that the defendant has a reasonable probability of recouping its losses from below-cost sales once rivals are driven from the market. However, the federal predatory pricing rule is poorly suited to products and services with very low or zero marginal costs, such as with the present digital products, as it immunizes virtually all prices from predation claims. See Memorandum 2024-15, p. 6.

[57] *Verizon Communications v. Law Offices of Curtis V. Trinko*, 540 U.S. 398 (2004). This case is criticized because it determined that a monopolist's selective refusal to deal with another firm, even a competitor, violates antitrust law only in unusual circumstances. See Memorandum 2024-15, p. 7.

[58] *Ohio v. American Express ("Amex")*, 138 S. Ct. 2274 (2018) held that a credit card network platform is a single market with a merchant services side and a consumer cardholder side, and both sides must be analyzed for anticompetitive effects sufficient to establish a violation. This created a confusing precedent.

[59] Memorandum 2024-15, p. 17.

§ 16720.1(f)(8) Although the following circumstances may constitute evidence of a violation of this section, liability under section (a) does not require finding:

(i) That the unilateral conduct of the defendant altered or terminated a prior course of dealing between the defendant and a person subject to the exclusionary conduct;

(ii) That the defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons;

(iii) That any price of the defendant for a product or service was below any measure of the costs to the defendant for providing the product or service;

(iv) That the conduct of the defendant makes no economic sense apart from its tendency to harm competition;

(v) That the risk of harming competition presented by the conduct or any resulting actual harm must be quantified or proven with quantitative evidence;

(vi) That when a defendant operates a multi-sided platform business, the conduct of the defendant

but also prohibited reliance on two additional federal approaches limiting antitrust enforcement: a requirement that rivals must be as efficient as the defendant[60] and that the Sherman Act § 2 market share thresholds should govern the legality of single firm conduct under California law.[61] These disavowals are consistent with California case law that does not require meeting federal thresholds of market power.[62] The proposal below borrows from these templates:

> The Legislature hereby finds and declares that although the following may constitute evidence of a violation of this section, liability shall not require a finding that:
>
> (a) The unilateral conduct of the defendant altered or terminated a prior course of dealing between the defendant and a person subject to the exclusionary conduct;
> (b) The defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons;
> (c) Any price of the defendant for a product or service was below any measure of the costs to the defendant for providing the product or service;
> (d) The conduct of the defendant makes no economic sense apart from its tendency to harm competition;
> (e) The risk of harming competition presented by the conduct or any resulting actual harm must be quantified or proven with quantitative evidence;
> (f) In cases where a defendant's business is a multi-sided platform, that the defendant's conduct presents harm to competition on more than one side of the multi-sided platform, or that the harm to competition on one side of the multi-sided platform outweighs any benefits to competition on any other side(s) of the multi-sided platform;
> (g) In a claim of predatory pricing, the defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at

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presents harm to competition on more than one side of the multi-sided platform;

(vii) That in a claim of predatory pricing, the defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at issue; or

(viii) That the rival whose ability to compete has been reduced are as efficient, or nearly as efficient, as the defendant.

[60] See *Cascade Health Solutions v. PeaceHealth*, 515 F.3d 883, 906 (9th Cir. 2008); *Ortho Diagnostic Sys., Inc. v. Abbott Labs, Inc.*, 920 F. Supp. 455, 467, 469-70 (SDNY 1996).

[61] Memorandum 2024-15, p. 18:

(h) A single firm may violate section (a) [It is unlawful for one or more persons to engage in anticompetitive exclusionary conduct that affects any part of the trade or commerce within the State. Furthermore, any violation of Section 2 of the Sherman Act shall be deemed a violation of this Act.] regardless of whether it has or may achieve a market share above a threshold recognized under Section 2 of the Sherman Act. Furthermore, this statute does not require the plaintiff to establish any threshold of market power, as the focus of concern is on increases in market power.

[62] *Fisherman's Wharf Bay Cruise v. Superior Ct.*, 114 Cal.App.4th 309, 326 (Cal. Ct. App. 2003). In a predatory pricing case under the Unfair Competition Law, the court held that a 20% market foreclosure was enough to pursue a cause of action against a competitor.

issue;

(h) The rivals whose ability to compete has been reduced or harmed are as efficient, or nearly as efficient, as the defendant's; or,

(i) A single firm or person has or may achieve a market share at or above a threshold recognized under Section 2 of the Sherman Act or any specific threshold of market power.

Respectfully submitted,

Sharon Reilly
Executive Director

Sarah Huchel
Chief Deputy Director

States without Sherman Act Section 2- style statute

Purposes & Legislative Findings

Harmonization Provisions

Mergers

Statute Appendix SFC – All current as of 2024

State	Code Section	Language
Alabama	Ala. Code §§ 8-10-1 — 8-10-3 Ala. Code § 8-10-3	Any person or corporation, domestic or foreign, which shall restrain, or attempt to restrain, the freedom of trade or production, or which shall monopolize, or attempt to monopolize, the production, control, or sale of any commodity or the prosecution, management, or control of any kind, class, or description of business or which shall destroy, or attempt to destroy, competition in the manufacture or sale of a commodity shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $500 nor more than $2,000 for each offense.
Alaska	Alaska Stat. §§ 45.50.562 — 45.50.598 Alaska Stat. § 45.50.564 1975	It is unlawful for a person to monopolize, or attempt to monopolize, or combine or conspire with another person to monopolize any part of trade or commerce.
Alaska – Mergers	Alaska Stat. § 45.50.568 1975	(a) It is unlawful for a person to acquire and hold, directly or indirectly, the whole or a part of the stock, or other share capital, or assets of any corporation after August 5, 1975 if the effect of the acquisition and holding may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in the state or in a section of the state. This subsection does not apply to persons purchasing such stock solely for investment if it is not used by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nothing in this subsection prevents a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions of it, or from owning and holding all or a part of the stock of the subsidiary corporation, when the effect of the formation is not substantially to lessen competition. (b) When the court finds that the effect of the holding of such stock, share capital, or assets is substantially to lessen competition or tends to create a monopoly and no other remedy will eliminate the lessening of competition or the tendency to create a monopoly, the court shall order the divestiture or other disposition of the stock, share capital, or assets and shall prescribe a reasonable time, manner, and degree of the divestiture or other disposition of it. (c) This section does not apply to mergers, acquisitions, or holding companies permitted by AS 06.05.235 or to a merger carried out in accordance with AS 21.69.590 — 21.69.600, or to mergers, acquisitions, or holding companies permitted and regulated by a regulatory agency of the United States having jurisdiction and control over those mergers and acquisitions.

Arizona	A.R.S. §§ 44-1401 — 44-1416 Ariz. Rev. Stat. § 44-1403 1974	The establishment, maintenance or use of a monopoly or an attempt to establish a monopoly of trade or commerce, any part of which is within this state, by any person for the purpose of excluding competition or controlling, fixing or maintaining prices is unlawful.
Arizona – Harmonization	Ariz. Rev. Stat. § 44-1412 Uniformity 1974	This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states that enact it. It is the intent of the legislature that in construing this article, the courts may use as a guide interpretations given by the federal courts to comparable federal antitrust statutes.
Arkansas - Constitution	NOT STATUTE Ark. Const. Art. 2, § 19	Perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honors ever be granted or conferred in this State.
Colorado	Colorado State Antitrust Act of 2023 (§§ 6-4-101 — 6-4-122) Colo. Rev. Stat. § 6-4-105 2023	It is illegal for any person to monopolize, attempt to monopolize, or combine or conspire with any other person to monopolize any part of trade or commerce.
Colorado – Purpose & Legislative Findings	Colo. Rev. Stat. § 6-4-102	(1) The general assembly finds and declares that: (a) Competition is fundamental to: (I) The free market system; and (II) A healthy marketplace that protects workers and consumers; and (b) The unrestrained and fair interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality commodities and services, and the greatest material progress while at the same time providing an environment that is conducive to the preservation of our democratic, political, and social institutions and to the protection of consumers.
Colorado – Mergers	Colo. Rev. Stat. § 6-4-107 2023	(1) It is illegal for any person engaged in trade or commerce to acquire, directly or indirectly, the whole or any part of the stock, other share capital, or assets of another person engaged in trade or commerce if the effect of the acquisition may substantially lessen competition or tend to create a monopoly. (2) Nothing in this section prohibits any person from:

		(a) Acquiring stock of another person solely for investment purposes, so long as the acquisition of stock is not used, by voting or otherwise, to bring about or to attempt to bring about the substantial lessening of competition; or (b) Causing the formation of subsidiary corporations or from owning and holding all or any part of the stock of a subsidiary corporation. (3) The attorney general shall not challenge the merger or acquisition of any bank or bank holding company by or with any other bank or bank holding company that is subject to the provisions of any of the federal banking laws, except as specifically provided in those federal banking laws.
Connecticut	Connecticut Antitrust Act §§ 35-24 — 35-49 Conn. Gen. Stat. § 35-27 1971	Every contract, combination, or conspiracy to monopolize, or attempt to monopolize, or monopolization of any part of trade or commerce is unlawful.
Delaware	Del. Code Ann. tit. 6, §§ 2101 — 2114 Del. Code Ann. tit. 6, § 2103(b) 2023	(b) It is unlawful for a person to monopolize, attempt to monopolize, or combine or conspire with any other persons, to monopolize trade or commerce of this State.
Delaware – Purpose & Legislative Findings	Del. Code Ann. tit. 6, § 2101	The purpose of this chapter shall be to promote the public benefits of a competitive economic environment based upon free enterprise. It is the intent of the General Assembly to promote efficiency in business operations, an equitable return on capital investments, an efficient allocation of goods and services and freedom of economic opportunity.
Delaware – Harmonization	Del. Code Ann. tit. 6, § 2113	This chapter shall be construed in harmony with ruling judicial interpretations of comparable federal antitrust statutes.
District of Columbia	D.C. Code §§ 28-4501 — 28-4518 D.C. Code § 28-4503 1981	It shall be unlawful for any person to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of trade or commerce, all or any part of which is within the District of Columbia.

District of Columbia – Purpose & Legislative Findings	D.C. Code § 28-4501 (b) 1981	(b) The purpose of this chapter is to promote the unhampered freedom of commerce and industry throughout the District of Columbia by prohibiting restraints of trade and monopolistic practices.
District of Columbia – Harmonization	D.C. Code § 28-4515 1981	It is the intent of the Council of the District of Columbia that in construing this chapter, a court of competent jurisdiction may use as a guide interpretations given by federal courts to comparable antitrust statutes.
Florida	Fla. Stat. Ann. §§ 542.15 — 542.36 Fla. Stat. Ann. § 542.19	It is unlawful for any person to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of trade or commerce in this state.
Florida – Purpose & Legislative Findings	Fla. Stat. Ann. § 542.16	The Legislature declares it to be the purpose of this act to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition. It is the intent of the Legislature that this act be liberally construed to accomplish its beneficial purpose.
Florida – Harmonization	Fla. Stat. Ann. § 542.32	It is the intent of the Legislature that, in construing this chapter, due consideration and great weight be given to the interpretations of the federal courts relating to comparable federal antitrust statutes. In particular, the failure to include in this chapter the substantive provisions of s. 3 of the Clayton Act, 15 U.S.C. s. 14, shall not be deemed in any way to limit the scope of s. 542.18 or s. 542.19.
Georgia – Constitution	NOT STATUTE Ga. Const. Art. III, § VI, Para. V 2010	(c) (1) The General Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of encouraging a monopoly, which is hereby declared to be unlawful and void. Except as otherwise provided in subparagraph (c)(2) of this Paragraph, the General Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of defeating or lessening competition, which is hereby declared to be unlawful and void.
Guam	CHAPTER 69. ANTITRUST LAW 9 GCA Section 69.20	The establishment, maintenance or use of a monopoly, or an attempt or conspiracy to establish a monopoly, of trade or commerce in a relevant market by any person, for the purpose of excluding competition or controlling, fixing, or maintaining prices is unlawful.

Hawaii	Antitrust Provisions §§ 480-1 — 480-24 Haw. Rev. Stat. Ann. § 480-9 1961	No person shall monopolize, or attempt to monopolize, or combine or conspire with any other person to monopolize any part of the trade or commerce in any commodity in any section of the State.
Hawaii – Harmonization	Haw. Rev. Stat. Ann. § 480-3 Interpretation.	This chapter shall be construed in accordance with judicial interpretations of similar federal antitrust statutes, except that lawsuits by indirect purchasers may be brought as provided in this chapter.
Hawaii – Mergers	Haw. Rev. Stat. Ann. § 480-7 2005	(a) No person shall acquire and hold, directly or indirectly, the whole or any part of the stock, interest, or membership of any other person, or the whole or any part of the assets of any other person, where the effect of the acquisition and holding may be substantially to lessen competition, or to tend to create a monopoly in any line of commerce in any section of the State; provided that this subsection shall not apply to any person acquiring and holding the stock, interest, or membership solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition or the creation of a monopoly in any line of commerce in any section of the State. Nor shall anything in this subsection prevent a person from causing the formation of a subsidiary business entity for the actual carrying on of its immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock, interest, or membership of a subsidiary business entity, when the effect of the formation is not substantially to lessen competition. As used in this subsection: “Control” means: (1) Owning or having the power to vote eighty per cent or more of any class of voting securities of the subsidiary; (2) Having the power to elect, by any means, a majority of the directors; or (3) Having the power to exercise a dominant influence over the management and policies of the subsidiary. “Subsidiary” means any person that is under the control of a person. (b) Notwithstanding any other provision in this chapter to the contrary, any person who may or shall be injured in the person's business or property because of anything prohibited under subsection (a) may bring an action for injunctive relief against the proposed merger or acquisition. In any action brought pursuant to this subsection, the court, as it deems just, may

		award to a prevailing party and enter as part of its order or judgment, a reasonable sum for costs and expenses incurred, including reasonable attorney's fees. (c) Where the court finds that the holding of the whole or any part of the stock, interest, membership, or assets of any other person may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the State, and is therefore not in the public interest, then the court may order the divestiture or other disposition of the stock, interest, membership, or assets of the person, and prescribe a reasonable time, manner, and degree of the divestiture or other disposition thereof; provided that the court shall not order the divestiture or other disposition of the assets of the person unless it is necessary to eliminate the lessening of competition or the tendency to create a monopoly.
Idaho	Idaho Competition Act §§ 48-101 — 48-119 Idaho Code § 48-105 2000	It is unlawful to monopolize, attempt to monopolize, or combine or conspire to monopolize any line of Idaho commerce.
Idaho – Purpose & Legislative Findings	Idaho Code § 48-102 (1-2) 2000	48-102. Legislative findings, purpose, interpretation and scope of chapter. (1) The Idaho legislature finds that fair competition is fundamental to the free market system. The unrestrained interaction of competitive forces will yield the best allocation of Idaho's economic resources, the lowest prices, the highest quality, and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic and social institutions. (2) The purpose of this chapter is to maintain and promote economic competition in Idaho commerce, to provide the benefits of that competition to consumers and businesses in the state, and to establish efficient and economical procedures to accomplish these purposes and policies.
Idaho – Harmonization	Idaho Code § 48-102 (3-4) 2000	(3) The provisions of this chapter shall be construed in harmony with federal judicial interpretations of comparable federal antitrust statutes and consistent with this chapter's purposes, as set forth in subsection (2) of this section. (4) This chapter applies to conduct proscribed herein that affects Idaho commerce.
Idaho – Mergers	Idaho Code § 48-106 2000	(1) It is unlawful for a person to acquire, directly or indirectly, the whole or any part of the stock, share capital, or other equity interest or the whole or any part of the assets of, another person engaged in Idaho commerce, where the effect of such acquisition may be substantially to lessen competition or to tend to create a monopoly of any line of Idaho commerce. (2) This section shall not apply to persons purchasing the stock or other equity interest of another person solely for investment and not using those assets by voting or otherwise to bring

		about, or attempt to bring about, the substantial lessening of competition. Nothing contained in this section shall prevent a person engaged in Idaho commerce from causing the formation of subsidiary corporations or other business organizations, or from owning and holding all or a part of the stock or equity interest of such subsidiary corporations or other business organizations.
Illinois	Illinois Antitrust Act §§ 10/1 — 13 740 Ill. Comp. Stat. Ann. 10/3	(3) Establish, maintain, use, or attempt to acquire monopoly power over any substantial part of trade or commerce of this State for the purpose of excluding competition or of controlling, fixing, or maintaining prices in such trade or commerce; or
Illinois – Purpose & Legislative Findings	740 ILCS 10/2 1965	The purpose of this Act is to promote the unhampered growth of commerce and industry throughout the State by prohibiting restraints of trade which are secured through monopolistic or oligarchic practices and which act or tend to act to decrease competition between and among persons engaged in commerce and trade, whether in manufacturing, distribution, financing, and service industries or in related for-profit pursuits.
Illinois – Harmonization	740 ILCS 10/11	When the wording of this Act is identical or similar to that of a federal antitrust law, the courts of this State shall use the construction of the federal law by the federal courts as a guide in construing this Act. However, this Act shall not be construed to restrict the exercise by units of local government or school districts of powers granted, either expressly or by necessary implication, by Illinois statute or the Illinois Constitution.
Indiana	Ind. Code Ann. §§ 24-1-2-1 — 24-1-2-12 Ind. Code Ann. § 24-1-2-2 1907	A person who monopolizes any part of the trade or commerce within this state commits a Class A misdemeanor.
Iowa	Iowa Code §§ 553.1 — 553.19 Iowa Code § 553.5	A person shall not attempt to establish or establish, maintain, or use a monopoly of trade or commerce in a relevant market for the purpose of excluding competition or of controlling, fixing, or maintaining prices.
Iowa – Harmonization	Iowa Code § 553.2	This chapter shall be construed to complement and be harmonized with the applied laws of the United States which have the same or similar purpose as this chapter. This construction shall not be made in such a way as to constitute a delegation of state authority to the federal government, but shall be made to achieve uniform application of the state and federal laws prohibiting restraints of economic activity and monopolistic practices.

Kansas	Kan. Stat. Ann. §§ 50-101 — 50-1,105 Kan. Stat. Ann. § 50-132 2000	No person, servant, agent or employee of any person doing business within the state of Kansas shall conspire or combine with any other persons, within or without the state for the purpose of monopolizing any line of business, or shall conspire or combine for the purpose of preventing the producer of grain, seeds or livestock or hay, or the local buyer thereof, from shipping or marketing the same without the agency of any third person.
Kansas – Purpose & Legislative Findings	Kan. Stat. Ann. § 50-163 (a), (c)-(g)	(a) The purpose of this section, and the amendments to K.S.A. 50-101, 50-112, 50-158 and 50-161 by this act, (c) An arrangement, contract, agreement, trust, understanding or combination shall not be deemed a trust pursuant to the Kansas restraint of trade act and shall not be deemed unlawful, void, prohibited or wrongful under any provision of the Kansas restraint of trade act if that arrangement, contract, agreement, trust, understanding or combination is a reasonable restraint of trade or commerce. An arrangement, contract, agreement, trust, understanding or combination is a reasonable restraint of trade or commerce if such restraint is reasonable in view of all of the facts and circumstances of the particular case and does not contravene public welfare. (d) The Kansas restraint of trade act shall not be construed to prohibit: (1) Actions or proceedings concerning intrastate commerce; (2) actions or proceedings by indirect purchasers pursuant to K.S.A. 50-161, and amendments thereto; (3) recovery of damages pursuant to K.S.A. 50-161, and amendments thereto; (4) any remedy or penalty provided in the Kansas restraint of trade act, including, but not limited to, recovery of civil penalties pursuant to K.S.A. 50-160, and amendments thereto; and (5) any action or proceeding brought by the attorney general pursuant to authority provided in the Kansas restraint of trade act, or any other power or duty of the attorney general provided in such act. (e) The Kansas restraint of trade act shall not be construed to apply to: (1) Any association that complies with the provisions and application of article 16 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, the cooperative marketing act; (2) any association, trust, agreement or arrangement that is governed by the provisions and application of 7 U.S.C. § 291 et seq., the Capper-Volstead act; (3) any corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, or which becomes subject to the electric cooperative act in any manner therein provided; or any limited liability company or corporation, or wholly owned subsidiary thereof, providing electric service at wholesale in the state of Kansas that is owned by four or

		more electric cooperatives that provide retail service in the state of Kansas; or any member-owned corporation formed prior to 2004; (4) any association that is governed by the provisions and application of article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, the credit union act; (5) any association, trust, agreement or arrangement that is governed by the provisions and application of 7 U.S.C. § 181 et seq., the packers and stockyards act; and (6) any franchise agreements or covenants not to compete. (f) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable. (g) This section shall be a part of and supplemental to the Kansas restraint of trade act.
Kansas – Harmonization	Kan. Stat. Ann. § 50-163 (b)	(b) Except as otherwise provided in subsections (d) and (e), the Kansas restraint of trade act shall be construed in harmony with ruling judicial interpretations of federal antitrust law by the United States supreme court. If such judicial interpretations are in conflict with or inconsistent with the express provisions of subsection (c), the provisions of subsection (c) shall control.
Kentucky	Ky. Rev. Stat. §§ 367.110 — 367.361 Ky. Rev. Stat. § 367.175 (2) 2023	(2) It shall be unlawful for any person or persons to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this Commonwealth.
Kentucky – Purpose & Legislative Findings	Ky. Rev. Stat. § 367.120. Legislative intent — Title. 2023	(1) The General Assembly finds that the public health, welfare and interest require a strong and effective consumer protection program to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services; toward this end, a Consumers' Advisory Council and the Office of Consumer Protection in the Office of the Attorney General are hereby created for the purpose of aiding in the development of preventive and remedial consumer protection programs and enforcing consumer protection statutes. (2) KRS 367.110 to 367.300 may be cited as the "Consumer Protection Act."
Kentucky – Harmonization	Ky. Rev. Stat. § 367.176. Construction of KRS 367.175. 1976	(1) No provision of KRS 367.175 shall be construed to make illegal the activities of any person or organization, including but not limited to any labor organization, agricultural or horticultural cooperative organization, or consumer organization, or of individual members thereof which are legitimate under the laws of this Commonwealth or the United States, or of any utility as defined in KRS 278.010(3).

		(2) KRS 367.175 shall not apply to activities authorized or approved under any federal or state statute or regulation.
Louisianna	La. Rev. Stat. Ann. §§ 51:121 — 51:152 La. Rev. Stat. Ann. § 51:123	No person shall monopolize, or attempt to monopolize, or combine, or conspire with any other person to monopolize any part of the trade or commerce within this state.
Louisianna – Mergers	La. Rev. Stat. Ann. § 51:125. Corporations; transactions lessening competition; exceptions.	A. No corporation, engaged in commerce, shall acquire, directly or indirectly, the whole or any part of the shares of another corporation, engaged in the same line of commerce, where the effect of the acquisition: (1) May be to substantially lessen competition between the corporation whose stock is acquired and the corporation making the acquisition; (2) May be to restrain commerce in any section or community; or (3) Tends to create a monopoly in any line of commerce. B. No corporation shall acquire, directly or indirectly, the whole or any part of the shares of two or more corporations, engaged in the same line of commerce, where the effect of the acquisition, or the use of the shares by voting or granting of proxies, or otherwise: (1) May be to substantially lessen competition between the corporations, or any of them, whose shares are acquired; (2) May be to restrain commerce in any section or community; or (3) Tends to create a monopoly of any line of commerce. C. Nothing in this Section shall: (1) Prohibit corporations from purchasing shares solely for investment, and not using them by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition; (2) Prevent a corporation engaged in commerce from causing the formation, holding, owning, and voting shares of subsidiary corporations for the purpose of carrying on their immediate lawful business, or their natural and legitimate branches or extensions, when the effect of the formation is not to substantially lessen competition; (3) Prohibit any common carrier from aiding in the construction of branches or short lines so located as to become feeders to the lines of the company aiding in the construction, or from acquiring or owning all or any part of the shares of the branch lines; (4) Prevent any common carrier from acquiring or owning all or any part of the shares of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line and the company owning the main line acquiring the property or an interest therein; nor

		(5) Prevent a common carrier from extending any of its lines through the medium of the acquisition of shares, or otherwise, of any other common carrier where there is no substantial competition between the company extending its lines and the company whose shares, property, or interest are acquired.
Maine	Me. Rev. Stat. tit. 10, §§ 1101 - - 1110 Me. Rev. Stat. tit. 10, § 1102 1977	Whoever shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this State shall be guilty of a Class C crime.
Maine – Mergers	Me. Rev. Stat. tit. 10, § 1102-A. Acquisition of assets of person engaged in commerce which tends to create a monopoly 1980	No person engaged in commerce in this State may acquire, directly or indirectly, the whole or any part of the stock or other share capital, or the whole of any part of the assets of another person also engaged in commerce in this State, where in any line of commerce or any activity affecting commerce in any section of this State, the effect of the acquisition or use of that share capital, or the acquisition of those assets, may be substantially to lessen competition or tend to create a monopoly. This section does not apply to persons purchasing these stocks solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition, nor may anything contained in this section prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of those subsidiary corporations, if the effect of that formation is not to substantially lessen competition. This section does not apply to the acquisition of stock, share capital or assets of a public utility when the acquisition has been approved by the Public Utilities Commission. Any financial institution subject to the provisions of Title 9-B is exempt from this section.
Maryland	Md. Code Ann., Com. Law §§ 11-201 — 11-213 Md. Code Ann., Com. Law § 11-204(a)(2) 2009	(a) A person may not: (2) Monopolize, attempt to monopolize, or combine or conspire with one or more other persons to monopolize any part of the trade or commerce within the State, for the purpose of excluding competition or of controlling, fixing, or maintaining prices in trade or commerce
Maryland – Purpose &	Md. Code Ann., Com. Law § 11-202	(a)(1) The General Assembly of Maryland declares that the purpose of this subtitle is to complement the body of federal law governing restraints of trade, unfair competition, and

Legislative Findings	1984	unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and honest intrastate competition. (2) It is the intent of the General Assembly that, in construing this subtitle, the courts be guided by the interpretation given by the federal courts to the various federal statutes dealing with the same or similar matters, including: (i) Act of July 2, 1890, ch. 647, 26 U.S. Stat. 209, 15 U.S.C. §§ 1 through 7; (ii) Act of Oct. 15, 1914, ch. 323, 38 U.S. Stat. 730, 15 U.S.C. §§ 12 through 27, 44; (iii) Act of August 17, 1937, ch. 690, Title VIII, 50 U.S. Stat. 693, 15 U.S.C. § 1; (iv) Act of July 7, 1955, ch. 281, 69 U.S. Stat. 282, 15 U.S.C. §§ 1 through 3; (v) Act of May 26, 1938, ch. 283, 52 U.S. Stat. 446, 15 U.S.C. § 13c; and (vi) Any similar act passed in the future. (3) It is also the intent of the General Assembly that, in deciding whether conduct restrains or monopolizes trade or commerce or may substantially lessen competition within the State, determination of the relevant market or effective area of competition may not be limited by the boundaries of the State. (b)(1) For the purpose and intent stated in subsection (a) of this section, this subtitle shall be liberally construed to serve its beneficial purposes. (2) It is also the intent of the General Assembly that this subtitle may not be construed to prohibit acts or practices which are reasonable in relation to the development and preservation of business or which are not injurious to the public interest.
Maryland – Harmonization	Md. Code Ann., Com. Law § 11-202(2) 1984	(2) It is the intent of the General Assembly that, in construing this subtitle, the courts be guided by the interpretation given by the federal courts to the various federal statutes dealing with the same or similar matters, including: (i) Act of July 2, 1890, ch. 647, 26 U.S. Stat. 209, 15 U.S.C. §§ 1 through 7; (ii) Act of Oct. 15, 1914, ch. 323, 38 U.S. Stat. 730, 15 U.S.C. §§ 12 through 27, 44; (iii) Act of August 17, 1937, ch. 690, Title VIII, 50 U.S. Stat. 693, 15 U.S.C. § 1; (iv) Act of July 7, 1955, ch. 281, 69 U.S. Stat. 282, 15 U.S.C. §§ 1 through 3; (v) Act of May 26, 1938, ch. 283, 52 U.S. Stat. 446, 15 U.S.C. § 13c; and (vi) Any similar act passed in the future.
Massachusetts	Regulation of Trade and Certain Enterprises Mass. Ann. Laws §§ 1 — 114 Mass. Ann. Laws ch. 93, § 5	It shall be unlawful for any person or persons to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce in the commonwealth.

	1978	
Massachusetts – Purpose & Legislative Findings	Mass. Ann. Laws ch. 93, § 1 1986	It is the purpose of this chapter to encourage free and open competition in the interests of the general welfare and economy by prohibiting unreasonable restraints of trade and monopolistic practices in the commonwealth.
Massachusetts – Harmonization	Mass. Ann. Laws ch. 93, § 1 1986	This chapter shall be construed in harmony with judicial interpretations of comparable federal antitrust statutes insofar as practicable.
Michigan	Mich. Comp. Laws Serv. §§ 445.771 — 445.788 Mich. Comp. Laws Serv. § 445.773 1985	The establishment, maintenance, or use of a monopoly, or any attempt to establish a monopoly, of trade or commerce in a relevant market by any person, for the purpose of excluding or limiting competition or controlling, fixing, or maintaining prices, is unlawful.
Michigan – Harmonization	Mich. Comp. Laws Serv. § 445.784	(1) To the extent that this act incorporates provisions of or provisions similar to the uniform state antitrust act, this act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states that enact similar provisions. (2) It is the intent of the legislature that in construing all sections of this act, the courts shall give due deference to interpretations given by the federal courts to comparable antitrust statutes, including, without limitation, the doctrine of per se violations and the rule of reason.
Minnesota	Restraint of Trade Minn. Stat. Ann. §§ 325D.01 — 325D.72 Minn. Stat. Ann. § 325D.52 1971	The establishment, maintenance, or use of, or any attempt to establish, maintain, or use monopoly power over any part of trade or commerce by any person or persons for the purpose of affecting competition or controlling, fixing, or maintaining prices is unlawful.
Mississippi	Miss.Code Ann. Sects 75-21-1 to75-21-39 Miss. Code Ann. § 75-21-3(b) 1926	Any corporation, domestic or foreign, or individual, partnership, or association of persons whatsoever, who, with intent to accomplish the results herein prohibited or without such intent, shall accomplish such results to a degree inimical to public welfare, and shall thus: (b) Or shall monopolize or attempt to monopolize the production, control or sale of any commodity, or the prosecution, management or control of any kind, class or description of business;

Mississippi – Mergers	Miss. Code Ann. § 75-21-13. Corporations not to purchase competing one. 2023	(1) No corporation shall acquire directly or indirectly, the whole or any part of the capital stock of any competing corporation doing business in this state, nor directly or indirectly acquire the franchise, plant or equipment of any other competing corporation doing business in this state if such other corporation be engaged in the same kind of business and be a competitor therein, where the effect of such acquisition of stock, franchise, plant or equipment may be to substantially lessen competition or to restrain trade or competition in the state, or any community thereof, or tend to create a monopoly of any line of commerce and will be inimical to public welfare. This section shall not apply to corporations purchasing such stock in payment of an indebtedness, and not using the same by voting, or otherwise, to bring about or attempting to bring about, the substantial lessening of competition. Provided, however, that fire and marine insurance corporations may own stock in other insurance companies and may be licensed to do business in this state, or authorized to continue business in this state, but the state insurance commissioner may refuse permission to any company to be licensed in the first instance or he may subsequently revoke the license of any company if it appears after notice and hearing that to permit one (1) insurance corporation owning stock in a competing corporation to continue to do business in this state would be injurious to, or contrary to the public interest. (2) The provisions of this chapter shall not apply to: (a) Any action taken by a board of trustees of a community hospital if acting in accordance with Section 41-13-35(5)(t) through (ff), including, but not limited to, entering into agreements, collaboratives, mergers and other similar arrangements with other public or private health care-related organizations, or with for-profit or nonprofit corporations, or other similar organizations; (b) Any action taken by the academic medical center and its health care collaboratives if acting in accordance with Sections 37-115-50 through 37-115-50.3, including, but not limited to, entering into agreements, collaboratives, mergers and other similar arrangements with other public or private health care-related organizations, or with for-profit or nonprofit corporations, or other similar organizations; or (c) Any action taken by a private hospital as defined in Section 41-9-305 if acting in accordance with Sections 41-9-301 through 41-9-311.
Missouri	Mo. Rev. Stat. §§ 416.011 — 416.658 Mo. Rev. Stat. § 416.031 (2) 1974	2. It is unlawful to monopolize, attempt to monopolize, or conspire to monopolize trade or commerce in this state

Missouri – Harmonization	Mo. Rev. Stat. § 416.141. How construed as to comparable federal acts 1974	Sections 416.011 to 416.161 shall be construed in harmony with ruling judicial interpretations of comparable federal antitrust statutes.
Montana	Mont. Code Ann. §§ 30-14-201 — 30-14-228 Mont. Code Ann. § 30-14-205 (2)(g) 1947	It is unlawful for a person or group of persons, directly or indirectly: (2) for the purpose of creating or carrying out any restriction in trade, to: (g) create a monopoly in the manufacture, sale, or transportation of an article of commerce;
Montana – Purpose & Legislative Findings	Mont. Code Ann. § 30-14-201 Purpose. 2005	The legislature declares that the purpose of this part is to safeguard the public against the creation or perpetuation of monopolies and foster and encourage competition by prohibiting unfair and discriminatory practices by which fair and honest competition is destroyed or prevented. This part must be liberally construed so that its beneficial purposes may be accomplished.
Nebraska	Neb. Rev. Stat. Ann §§ 59-801 — 59-831 Neb. Rev. Stat. Ann § 59-802 1983	Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce, within this state, shall be deemed guilty of a Class IV felony
Nebraska	Neb. Rev. Stat. Ann § 59-1604. Monopolies and attempted monopolies; unlawful.	It shall be unlawful for any person to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce.
Nebraska – Harmonization	Neb. Rev. Stat. Ann § 59-829. Antitrust action; construction; federal law. 2005	When any provision of sections 59-801 to 59-831 and sections 84-211 to 84-214 or any provision of Chapter 59 is the same as or similar to the language of a federal antitrust law, the courts of this state in construing such sections or chapter shall follow the construction given to the federal law by the federal courts.
Nebraska – Mergers	Neb. Rev. Stat. Ann § 59-1606. Acquisition of corporate stock by another corporation to lessen competition; unlawful;	(1) It shall be unlawful for any corporation to acquire, directly or indirectly, the whole or any part of the stock or assets of another corporation when the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

	exceptions; judicial order to divest. 2002	(2) This section shall not apply to corporations which purchase such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition; nor shall anything contained in this section prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition. (3) In addition to any other remedy provided by the Consumer Protection Act, the district court may order any corporation to divest itself of the stock or assets held contrary to this section, in the manner and within the time fixed by such order.
Nevada	Nev. Rev. Stat. Ann. § 598A.060(1)(e) 2001	1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity in this state: (e) Monopolization of trade or commerce in this state, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this state.
Nevada – Purpose & Legislative Findings	Nev. Rev. Stat. Ann. § 598A.030 1975	1. The legislature hereby finds that: (a) The free, open and competitive production and sale of commodities and services is necessary to the economic well-being of the citizens of the State of Nevada. (b) The acts of persons which result in the restraint of trade and commerce: (1) Act to destroy free and open competition in our market system and, thereby, result in increased costs and the deterioration in quality of commodities and services to the citizens of the State of Nevada. (2) Result in economic hardships in the form of increased consumer prices and increased taxes upon many citizens of the State of Nevada least able to bear such increased costs. 2. It is the policy of this state and the purpose of this chapter to: (a) Prohibit acts in restraint of trade or commerce, except where properly regulated as provided by law. (b) Preserve and protect the free, open and competitive nature of our market system. (c) Penalize all persons engaged in such anticompetitive practices to the full extent allowed by law, in accordance with the penalties provided herein.
Nevada – Harmonization	Nev. Rev. Stat. Ann. § 598A.050. Construction of chapter.	598A.050. Construction of chapter. The provisions of this chapter shall be construed in harmony with prevailing judicial interpretations of the federal antitrust statutes.

	1975	
Nevada – Mergers	Nev. Rev. Stat. Ann. § 598A.060	1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity in this state: (e) Monopolization of trade or commerce in this state, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this state. (f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this state or the acquisition of any assets of another person engaged in commerce in this state that may: (1) Result in the monopolization of trade or commerce in this state or would further any attempt to monopolize trade or commerce in this state; or (2) Substantially lessen competition or be in restraint of trade. 2. The provisions of paragraph (f) of subsection 1 do not: (a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his or her acquisition to bring about or attempt to bring about the substantial lessening of competition in this state. (b) Prevent a person who is engaged in commerce in this state from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.
New Hampshire	N.H.Rev. Stat.Ann. Sects 356:1-356:14 N.H. Rev. Stat. Ann. § 356:3 1979	The establishment, maintenance or use of monopoly power, or any attempt to establish, maintain or use monopoly power over trade or commerce for the purpose of affecting competition or controlling, fixing or maintaining prices is unlawful
New Hampshire – Harmonization	N.H. Rev. Stat. Ann. § 356:14. Interpretation of Statute. 1973	In any action or prosecution under this chapter, the courts may be guided by interpretations of the United States' antitrust laws.
New Jersey	N.J STAT. ANN. Sects 56:9-1 to 56:9-19. N.J. Stat. § 56:9-4(a)	(a) It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize trade or commerce in any relevant market within this State.

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New Jersey – Harmonization	N.J. Stat. § 56:9-18. Uniform construction N.J. Stat. § 56:9-17. Cooperation with Federal Government and with other states 1970	§ 56:9-18. Uniform construction This act shall be construed in harmony with ruling judicial interpretations of comparable Federal antitrust statutes and to effectuate, insofar as practicable, a uniformity in the laws of those states which enact it. § 56:9-17. Cooperation with Federal Government and with other states The Attorney General may cooperate with officials of the Federal Government and the several states in the enforcement of this act.
New Jersey – Mergers	N.J. Stat. § 56:9-4(b)-(d) 1970	b. No corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition within this State between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community of this State, or tend to create a monopoly of any line of commerce within this State. c. No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition within this State between such corporations, or any of them, or to restrain such commerce in any section or community of this State, or tend to create a monopoly of any line of commerce within this State. d. This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.
New Mexico	N.M. Stat.Ann. §§ 57-1-1 to 57-1-19. N.M. Stat. Ann. § 57-1-2 1979	It is hereby declared to be unlawful for any person to monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, trade or commerce, any part of which trade or commerce is within this state.

New Mexico – Harmonization	N.M. Stat. Ann. § 57-1-15. Construction. 1979	Unless otherwise provided in the Antitrust Act [57-1-1 to 57-1-17 NMSA 1978], the Antitrust Act shall be construed in harmony with judicial interpretations of the federal antitrust laws. This construction shall be made to achieve uniform application of the state and federal laws prohibiting restraints of trade and monopolistic practices.
New York – None	n/a	n/a
North Carolina	N.C. Gen. Stat. §§ 75-1 — 75-49 N.C. Gen. Stat. § 75-2.1 1952	It is unlawful for any person to monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of trade or commerce in the State of North Carolina.
North Dakota	N.D. Cent. Code §§ 51-08.1-01 — 51-08.1-12) N.D. Cent. Code § 51-08.1-02 1987	A contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in a relevant market is unlawful.
North Dakota	N.D. Cent. Code § 51-08.1-03 1987	Establishment, maintenance, or use of monopoly. The establishment, maintenance, or use of a monopoly, or an attempt to establish a monopoly, of trade or commerce in a relevant market by any person, for the purpose of excluding competition or controlling, fixing, or maintaining prices, is unlawful.
Ohio – None	Ohio Rev. Code Ann. §§ 1331.01 — 1331.99 n/a	n/a
Ohio - Merger	Ohio Rev. Code Ann. § 1331.021	No person, corporation, partnership, or combination shall acquire control of an Ohio corporation or its assets where the effect of such acquisition may be to substantially lessen competition in any market for petroleum products in Ohio, or to substantially lessen, directly or indirectly, the number of competitors in any market for petroleum products in Ohio, or to diminish the availability of supply of any petroleum product to persons purchasing such product for resale in Ohio. Upon request of the governor or the general assembly, the attorney general shall bring an action in the court of common pleas of Franklin county to enjoin any actual or threatened violation of this provision. The attorney general shall have the sole authority to enforce the provisions of this section.

Oklahoma	ANTITRUST REFORM ACT OKLA. STAT. tit. 79, §§ 201 to 212 OKLA. STAT. tit. 79, § 203. Trust in restraint of trade -- monopoly of trade -- refusal of access to essential facility -- actions by competitors 1998	A. Every act, agreement, contract, or combination in the form of a trust, or otherwise, or conspiracy in restraint of trade or commerce within this state is hereby declared to be against public policy and illegal. B. It is unlawful for any person to monopolize, attempt to monopolize, or conspire to monopolize any part of trade or commerce in a relevant market within this state. D. As used in this section: 1. "Monopolize" means: a. the possession of monopoly power in the relevant market, and b. the willful acquisition or maintenance of that power by exclusionary conduct as distinguished from growth or development as a consequence of a superior product and/or service, business acumen, or historic accident; 2. "Monopoly power" means the power to control market prices or exclude competition;
Oklahoma – Harmonization	OKLA. STAT. tit. 79, § 212. Interpretation with Federal Antitrust Law 1998	The provisions of this act shall be interpreted in a manner consistent with Federal Antitrust Law 15 U.S.C., Section 1 et seq. and the case law applicable thereto.
Oklahoma – Mergers	Okla. Stat. tit. 79, § 208. Acquisition of Competitors Stock or Assets 1998	No person engaged in trade or commerce in this state shall acquire, in any manner whatever, the stock or the whole or any part of the assets of any competing person engaged in the same or similar line of trade or commerce, in or out of this state, where, in any relevant market in this state or in any line of trade or commerce in this state, the effect of the acquisition is to substantially lessen competition or to tend to create a monopoly; provided, however, that this section shall have no application to corporations owning or holding the stock of subsidiary corporations when the ownership of stock in subsidiary corporations does not violate Section 3 of this act.
Oregon	OREGON ANTITRUST LAW OR. REV. STAT. tit. 50, §§ 646.705 to 646.836 Or. Rev. Stat. Ann. § 646.730 Monopolies prohibited. 1975	Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of trade or commerce, shall be in violation of ORS 136.617, 646.705 to 646.805 and 646.990.

Oregon – Purpose & Legislative Findings	Or. Rev. Stat. Ann. § 646.715 (1) 2001	(1) The Legislative Assembly deems it to be necessary and the purpose of ORS 646.705 to 646.805 and 646.990 is to encourage free and open competition in the interest of the general welfare and economy of the state, by preventing monopolistic and unfair practices, combination and conspiracies in restraint of trade and commerce, and for that purpose to provide means to enjoin such practices and provide remedies for those injured by them.
Oregon – Harmonization	Or. Rev. Stat. Ann. § 646.715 (2) 2001	(2) Without limiting the scope of ORS 646.705 to 646.805 and 646.990, it is the legislative purpose that it apply to intrastate trade or commerce, and to interstate trade or commerce involving an actual or threatened injury to a person or property located in this state. The decisions of federal courts in construction of federal law relating to the same subject shall be persuasive authority in the construction of ORS 646.705 to 646.805 and 646.990.
Pennsylvania – None	n/a	n/a
Puerto Rico	PUERTO RICAN ANTI-MONOPOLY ACT 10 P.R. LAWS ANN. §§ 257 TO 276 10 P.R. LAWS ANN. § 260. Monopolies (link in Spanish) 1973	Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in the Commonwealth of Puerto Rico, or in any section thereof, shall be guilty of a misdemeanor.
Puerto Rico – Mergers & Acquisitions	10 L.P.R.A. § 261 (link in Spanish) 1964	(a) It shall be unlawful for any person to acquire or contract to acquire the whole or any part of the stock or other share capital of any corporation or the whole or any part of the assets of any person engaged in trade or commerce in Puerto Rico, where in any line of commerce in any section of the Commonwealth of Puerto Rico, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly. The prohibition established in this subsection shall not apply to the acquisition of assets intended for the original establishment of an industry or business nor to the acquisition of stock of a corporation organized to that end; nor does it extend to the addition of new units to existing industries or businesses, without the absorption of another firm also in existence. Likewise, the prohibition herein established shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this subsection prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or from owning and holding all or part of

		the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition. (b) The fact that at the time of the acquisition the acquirer is not doing business in Puerto Rico does not exclude by itself the determination that the acquisition may have the effects herein proscribed, if from the economic potentiality of the acquirer such probability may be reasonably inferred. (c) The Secretary of Justice is empowered, and by his delegation the Assistant Secretary of Justice in charge of monopolistic affairs, to, at the request of the acquirer, give his opinion on the legality of any acquisition of assets or share capital prior to the accomplishment thereof. The application for an opinion shall be filed in writing in the Office of Monopolistic Affairs and the same must include a disclosure of every material fact of the intended transaction. At any time the applicant may be requested to furnish additional information and to place at the disposal of said office the documents concerning its production and sales or any other necessary documents to determine its economic potentiality. All information submitted for the purposes of this subsection will be kept in strict confidence, except insofar as its use may be necessary for the purposes of any judicial action on the part of the State against the applicant. In no case will an opinion be given on an acquisition which responds to a plan already in operation or which is inconsistent with any other provision of this chapter. An opinion that the proposed acquisition is lawful, may state, as necessary to keep the immunity referred to in the next subsection, such conditions as shall reasonably tend to safeguard the effectiveness of this chapter and prevent the abuse of the immunity to be granted. Every application filed in accordance with this subsection and on which the Secretary of Justice is to render an opinion, shall be referred to the Economic Development Administrator, and to the Secretary of Economic Development and Commerce, who shall advise the Secretary of Justice in that respect. (d) An opinion favorable to an acquisition entails immunity against any action on the part of the state for violation of this section. However, the state reserves the right to file any criminal, civil or administrative proceeding when a violation of the conditions of the opinion is committed, or when, after the acquisition is accomplished, the operation of the plan of acquisition or the activities which in effect are developed result inconsistent with the facts submitted to the Office of Monopolistic Affairs to obtain the opinion on the acquisition. (e) An unfavorable opinion on an acquisition shall only have the nature of an orientation ruling to the parties, in accordance with its terms. In no judicial proceeding may the said unfavorable opinion be used to establish a violation of this chapter. Actions to enforce this section shall correspond only to the State.

Rhode Island	RI Gen Laws Sec. 6-36-1 to 6-36-26 RI Gen Laws Sec. § 6-36-5 Establishment, maintenance, or use of monopoly power. 1979	The establishment, maintenance, or use of a monopoly, or an attempt to establish a monopoly, of trade or commerce by any person, for the purpose of excluding competition or controlling, fixing, or maintaining prices, is unlawful.
Rhode Island – Purpose & Legislative Findings	R.I. Gen. Laws Section 6-36-2(a) 2014	(a) The purposes of this chapter are: (1) To complement the laws of the United States governing monopolistic and restrictive trade practices; and (2) To promote the unhampered growth of commerce and industry throughout the state by prohibiting unreasonable restraints of trade and monopolistic practices, inasmuch as these have the effect of hampering, preventing, or decreasing competition. It is intended, that as a result, the prices of goods and services to consumers will be fairly determined by free-market competition in activities affecting trade or commerce in this state, including the manufacturing, distribution, financing, and service sectors of the economy, except as otherwise provided by the statutes, regulations, and judicial decisions of this state. The general assembly intends to fully exercise its power to affect and regulate commerce in order to effectuate the purpose of this chapter.
Rhode Island – Harmonization	R.I. Gen. Laws Section 6-36-2(b) 2014	(b) This chapter shall be construed in harmony with judicial interpretations of comparable federal antitrust statutes insofar as practicable, except where provisions of this chapter are expressly contrary to applicable federal provisions as construed.
South Carolina	S.C. Code Ann. §§ 39-3-110 — 39-3-200 S.C. Code Ann. § 39-3-120 1902	A monopoly is declared to be unlawful and against public policy and all persons engaged therein shall be guilty of a conspiracy to defraud and shall be subject to the penalties prescribed in this article.
South Dakota	S.D. Codified Laws Sects. 37-1-3.1-37-1-33 S.D. Codified Laws Sects. 37-1-3.2. Monopoly or attempt at monopoly unlawful.	37-1-3.2. Monopoly or attempt at monopoly unlawful. The monopolization by any person, or an attempt to monopolize, or combine, or conspire with any other person or persons, to monopolize any of the trade or commerce within this state shall be unlawful. 37-1-3.3. Monopoly or restraint of trade a felony.

	S.D. Codified Laws Sects. 37-1-3.3. Monopoly or restraint of trade a felony. 1977	Any person violating any of the provisions of § 37-1-3.1 or 37-1-3.2 is guilty of a Class 6 felony.
Tennessee	Tenn. Code Ann. §§ 47-25-101 to 47-25-115 Tenn. Code Ann. § 47-25-102. Monopolization. 2024	47-25-102. Monopolization. It is unlawful for any corporation or person to monopolize, attempt to monopolize, conspire to monopolize, or maintain a monopoly over any part of trade or commerce affecting this state.
Tennessee – Purpose & Legislative Findings	Tenn. Code Ann. § 47-25-105. Construction. 2024	Where necessary to consider the competitive effects of conduct or an agreement challenged under this part, a court shall consider exclusively the actual or reasonably likely effects of the challenged conduct or agreement on full and free competition. A full and free competitive process advances consumer welfare, which is served by competition on dimensions of price, quality, innovation, output, and consumer choice. This section does not confer standing on, or serve as proof of damages as to, any party.
Texas	Tex. Bus. & Com. Code § 15.05 Tex. Bus. & Com. Code § 15.05. Unlawful Practices. (b) 1991	(b) It is unlawful for any person to monopolize, attempt to monopolize, or conspire to monopolize any part of trade or commerce.
Texas – Purpose & Legislative Findings	Tex. Bus. & Com. Code § 15.04 1983	Sec. 15.04. Purpose and Construction. The purpose of this Act is to maintain and promote economic competition in trade and commerce occurring wholly or partly within the State of Texas and to provide the benefits of that competition to consumers in the state. The provisions of this Act shall be construed to accomplish this purpose and shall be construed in harmony with federal judicial interpretations of comparable federal antitrust statutes to the extent consistent with this purpose.
Texas – Harmonization	Tex. Bus. & Com. Code § 15.04 1983	Sec. 15.04. Purpose and Construction. The purpose of this Act is to maintain and promote economic competition in trade and commerce occurring wholly or partly within the State of Texas and to provide the benefits of that competition to consumers in the state. The provisions of this Act shall be construed to

		accomplish this purpose and shall be construed in harmony with federal judicial interpretations of comparable federal antitrust statutes to the extent consistent with this purpose.
Texas – Mergers	Tex. Bus. & Com. Code § 15.05 (d)	(d) It is unlawful for any person to acquire, directly or indirectly, the whole or any part of the stock or other share capital or the assets of any other person or persons, where the effect of such acquisition may be to lessen competition substantially in any line of trade or commerce. This subsection shall not be construed: (1) to prohibit the purchase of stock or other share capital of another person where the purchase is made solely for investment and does not confer control of that person in a manner that could substantially lessen competition; (2) to prevent a corporation from forming subsidiary or parent corporations for the purpose of conducting its immediately lawful business, or any natural and legitimate branch extensions of such business, or from owning and holding all or a part of the stock or other share capital of a subsidiary, or transferring all or part of its stock or other share capital to be owned and held by a parent, where the effect of such a transaction is not to lessen competition substantially; (3) to affect or impair any right previously legally acquired; or (4) to apply to transactions duly consummated pursuant to authority given by any statute of this state or of the United States or pursuant to authority or approval given by any regulatory agency of this state or of the United States under any constitutional or statutory provisions vesting the agency with such power.
Utah	Utah Antitrust Act (§§ 76-10-3101 — 76-10-3118 Utah Code Ann. § 76-10-3103 2015	As used in this part: (1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.
Utah	Utah Antitrust Act (§§ 76-10-3101 — 76-10-3118 Utah Code Ann. § 76-10-3104 2013	(2) It shall be unlawful for any person to monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of trade or commerce.
Utah – Purpose & Legislative Findings	Utah Code Ann. § 76-10-3102. Legislative findings — Purpose of act.	The Legislature finds and determines that competition is fundamental to the free market system and that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress,

	2013	while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions. The purpose of this act is, therefore, to encourage free and open competition in the interest of the general welfare and economy of this state by prohibiting monopolistic and unfair trade practices, combinations and conspiracies in restraint of trade or commerce and by providing adequate penalties for the enforcement of its provisions.
Utah – Harmonization	Utah Code Ann. § 76-10-3118 2013	The Legislature intends that the courts, in construing this act, will be guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state antitrust statutes.
Vermont	Vt. Stat. Ann. tit. 9, § 2461c(a)	(a) No person, with the intent to harm competition, shall price goods or services in a manner that tends to create or maintain a monopoly or otherwise harms competition. A violation of this subsection is deemed to be an unfair method of competition in commerce and a violation of section 2453 of this title.
Vermont - Harmonization	Vt. Stat. Ann. tit. 9, § 2461c(b)	(b) It is the intent of the General Assembly that in construing subsection (a) of this section, the courts of the State will be guided by similar terms contained in federal anti-trust law as construed by the courts of the United States and as amended by Congress.
Virginia	Virginia Antitrust Act. (§§ 59.1-9.1 — 59.1-9.18) Va. Code Ann. § 59.1-9.6 1974	Every conspiracy, combination, or attempt to monopolize, or monopolization of, trade or commerce of this Commonwealth is unlawful.
Virgina – Purpose & Legislative Findings	Va. Code Ann. § 59.1-9.2 1974	The purpose of this chapter is to promote the free market system in the economy of this Commonwealth by prohibiting restraints of trade and monopolistic practices that act or tend to act to decrease competition. This chapter shall be construed in accordance with the legislative purpose to implement fully the Commonwealth's police power to regulate commerce.
Virgina – Harmonization	Va. Code Ann. § 59.1-9.17 1974	This chapter shall be applied and construed to effectuate its general purposes in harmony with judicial interpretation of comparable federal statutory provisions
Washington	Wash Rev Code Ann §§ 19.86.010 to 19.86.920	It shall be unlawful for any person to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce.

	Wash. Rev. Code Ann. § 19.86.040 1961	
Washington – Purpose & Legislative Findings Washington – Harmonization	Wash. Rev. Code Ann. § 19.86.920 1985	The legislature hereby declares that the purpose of this act is to complement the body of federal law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and honest competition. It is the intent of the legislature that, in construing this act, the courts be guided by final decisions of the federal courts and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters and that in deciding whether conduct restrains or monopolizes trade or commerce or may substantially lessen competition, determination of the relevant market or effective area of competition shall not be limited by the boundaries of the state of Washington. To this end this act shall be liberally construed that its beneficial purposes may be served. It is, however, the intent of the legislature that this act shall not be construed to prohibit acts or practices which are reasonable in relation to the development and preservation of business or which are not injurious to the public interest, nor be construed to authorize those acts or practices which unreasonably restrain trade or are unreasonable per se.
Washington – Mergers	Wash. Rev. Code Ann. § 19.86.060. Acquisition of corporate stock by another corporation to lessen competition declared unlawful — Exceptions — Judicial order to divest. 1961	It shall be unlawful for any corporation to acquire, directly or indirectly, the whole or any part of the stock or assets of another corporation where the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly in any line of commerce. This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition. In addition to any other remedy provided by this chapter, the superior court may order any corporation to divest itself of the stock or assets held contrary to this section, in the manner and within the time fixed by said order.
West Virginia	W. VA. Code §§ 47-18-1 to 47-18-23 W. Va. Code § 47-18-4	The establishment, maintenance or use of a monopoly or an attempt to establish a monopoly of trade or commerce, any part of which is within this State, by any persons for the purpose of excluding competition or controlling, fixing or maintaining prices is unlawful.

	1978	
West Virginia – Harmonization	W. Va. Code § 47-18-16 1978	This article shall be construed liberally and in harmony with ruling judicial interpretations of comparable federal antitrust statutes.
Wisconsin	Wis. Stat. Ann. §§ 133.01 to 133.18 Wis. Stat. Ann. § 133.03 2001	Every person who monopolizes, or attempts to monopolize, or combines or conspires with any other person or persons to monopolize any part of trade or commerce is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than $100,000 if a corporation, or, if any other person, may be fined not more than $50,000
Wisconsin – Purpose & Legislative Findings	Wis. Stat. Ann. § 133.01 1979	The intent of this chapter is to safeguard the public against the creation or perpetuation of monopolies and to foster and encourage competition by prohibiting unfair and discriminatory business practices which destroy or hamper competition. It is the intent of the legislature that this chapter be interpreted in a manner which gives the most liberal construction to achieve the aim of competition. It is the intent of the legislature to make competition the fundamental economic policy of this state and, to that end, state regulatory agencies shall regard the public interest as requiring the preservation and promotion of the maximum level of competition in any regulated industry consistent with the other public interest goals established by the legislature.
Wyoming Wyoming – Mergers	Wyo. Stat. Ann. Sects 40-4-101 to 123. Wyo. Stat. Ann. § 40-4-101 2021	(a) Any person, firm, corporation, foreign or domestic, or other entity doing business in the state of Wyoming shall not: (i) Make, enter into, form or become a party to any plan, contract, agreement, conspiracy, asset acquisition, consolidation, merger or combination of any kind whatsoever to prevent or substantially lessen competition, create a monopoly or to control or influence production or prices thereof; (iv) Monopolize, attempt to monopolize or combine or conspire to monopolize any part of trade or commerce. (b) Any person, firm, corporation or other entity violating subsection (a) of this section is guilty of unfair discrimination and any agreement, contract, whether express or implied, or any provision of an agreement or contract violating subsection (a) of this section is illegal and void to the extent it violates subsection (a) of this section. (c) This chapter shall not: (i) and (ii) Repealed by Laws 2009, ch. 172, § 2. (iii) Prevent the sale of goods at commercial discounts customary in the sale of the goods;

		(iv) Prohibit cooperative agreements for antitrust exceptions approved and operating pursuant to W.S. 35-24-101 through 35-24-116; (v) Prohibit the development, agreement on and use of standards designed to permit or encourage competition or interoperability among products or services, provided the standards do not include provisions fixing or colluding on the prices or colluding to prevent competition by limiting the availability of the products or services; (vi) Prohibit any person, firm, corporation or other entity from entering into any agreement or contract with a customer which specifies the price charged, or the services furnished, to the customer, or which gives discounts or additional services to the customer for purchasing specified volumes or multiple products of the same or similar product or service; or (vii) Prohibit any person, firm, corporation or other entity from offering a customer loyalty program.