

FIRST SUPPLEMENT TO MEMORANDUM 2026-14

**Antitrust Law: Status Update (Public Comment and Technical Correction)**

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This supplement presents a public comment received by the Commission related to Memorandum [2026-14](#) and makes a technical correction to that memorandum.<sup>1</sup> The public comment is attached as an Exhibit to this supplement.

<u>Exhibit</u>	<u>Exhibit page</u>
<b>Writers Guild of America West (3/16/26)</b> .....	<b>1</b>

As with prior memoranda, a brief description of each commentator is below.

*Writers Guild of America West*

This comment was submitted by Erica Knox, Director of Research and Public Policy, and Shelagh Wagener, Political and Legislative Director, of the Writers Guild of America West (WGAW). According to its [website](#), WGAW is:

... a labor union representing the thousands of creators who write scripted series, features, news programs, and other content. Founded in 1933, the Guild negotiates and administers contracts that protect the creative and economic rights of our members. We are involved in a wide range of programs that advance the interests of writers, and are active in public policy and legislative matters on the local, national, and international levels.

PUBLIC COMMENT

WGAW supports Option Four with Revisions.<sup>2</sup> Similar to its September 2025 letter,<sup>3</sup> WGAW also suggests setting a lower structural presumption for labor markets, because:

Numerous unique characteristics of the labor market for writers in the professional entertainment industry increase employer market power beyond what a pure market share or Herfindahl-Hirschman Index assessment would suggest, an observation

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<sup>1</sup> 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](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise. 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 presented without staff analysis.

<sup>2</sup> Memorandum [2026-14](#), pp. 10-13.

<sup>3</sup> [First Supplement](#) to Memorandum 2025-42, EX 4.

acknowledged in the 2023 Merger Guidelines regarding labor markets generally. WGAW has seen powerful media companies without overwhelming market shares hold down wages and impose lower-quality employment terms on writers.<sup>4</sup>

However, WGAW does not suggest an alternative.

### TECHNICAL CORRECTION

The staff notes an error in Memorandum [2026-14](#) on pages 4 and 5-6, which omitted a line proposed to be stricken. Subdivision (c) should read as follows:

(c) A merger that may produce a firm controlling an undue percentage share of the relevant market and results in a significant increase in the concentration of firms in that market shall be deemed to substantially lessen competition in the absence of evidence clearly showing that the merger is not likely to have such anticompetitive effects. ~~This section is intended to codify the holding in *United States v. Philadelphia National bank* (1963) 374 U.S. 321.~~<sup>21</sup>

On page 10, (c) should read as follows:

(c) A merger that may produce a firm controlling an undue percentage share of the relevant market and results in a significant increase in the concentration of firms in that market shall be deemed to ~~substantially to lessen competition~~ create an appreciable risk of lessening competition more than a de minimis amount in the absence of evidence clearly showing that the merger is not likely to have such anticompetitive effects. ~~This section is intended to codify the holding in *United States v. Philadelphia National bank* (1963) 374 U.S. 321.~~

Respectfully submitted,

Sarah Huchel  
Chief Deputy Director

Sharon Reilly  
Executive Director

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<sup>4</sup> EX 1-2.



March 16, 2026

The Honorable Richard Simpson, Chairperson, and Honorable Commissioners  
California Law Revision Commission  
c/o Legislative Counsel Bureau  
925 L Street, Suite 275  
Sacramento, CA, 95814

**RE: Antitrust Law – Study B-750 of the California Law Revision Commission**

Dear Chairperson Simpson and Honorable Commissioners:

We commend the California Law Revision Commission (CLRC) and staff on their committed work to modernize and strengthen state antitrust law through Antitrust Law – Study B-750. We are pleased to provide comments on the draft language under consideration regarding mergers (Memorandum 2026-14, “Draft Language for Merger Provisions”). We urge the Commission to adopt a broadly applicable merger statute. We recommend the Commission support the revised option that combines Options Two, Three, and Four from Memorandum 2026-14.

Today, California lacks explicit statutory grounding in state law to challenge mergers. Enhancing California’s antitrust law would enable state enforcers to try antitrust cases in state court and allow California judges to develop stronger legal standards. The proposed acquisition of Warner Bros. by Paramount Skydance highlights the urgent need for California law addressing mergers and acquisitions. Decades of unchecked consolidation in media and entertainment have negatively impacted Californians, and another merger will likely result in layoffs for California workers and reduced choice for California consumers.

Options Two and Three revive the structural presumption standard established in *Philadelphia National Bank*, and codifies key sections of the federal 2023 Merger Guidelines. The WGAW strongly supported the revised 2023 Merger Guidelines<sup>1</sup> and we are pleased to see the Commission consider designating the Guidelines as a persuasive authority in interpreting this presumption and codifying select bright line standards.

While the WGAW supports these bright line standards for consumer markets, we recommend the Commission set lower bright light standards for labor markets. Numerous unique characteristics of the labor market for writers in the professional entertainment industry increase employer market power beyond what a pure market share or Herfindahl-Hirschman Index assessment would suggest,<sup>2</sup> an observation acknowledged in the 2023 Merger Guidelines

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<sup>1</sup> Writers Guild of America West and American Federation of Musicians, “Comment on Draft FTC-DOJ Merger Guidelines,” (Sept. 18, 2023), [https://www.wga.org/uploadedfiles/news\\_and\\_events/public\\_policy/wgaw-afm-comment-on-doj-ftc-draft-merger.pdf](https://www.wga.org/uploadedfiles/news_and_events/public_policy/wgaw-afm-comment-on-doj-ftc-draft-merger.pdf)

<sup>2</sup> Demand for film and TV writers is irregularly timed, skills are highly varied, available opportunities are limited by genre type and job level, and idiosyncratic preferences play an outsized role in matching talent and employers.

regarding labor markets generally.<sup>3</sup> WGAW has seen powerful media companies without overwhelming market shares hold down wages and impose lower-quality employment terms on writers.

Option Four proposes a broader “appreciable risk” standard which would lower the burden of proof for what is considered a harmful merger and would allow state courts to establish improved case law distinct from overly permissive federal precedents. With these enhanced merger provisions in California antitrust law, state enforcers would be empowered to effectively and efficiently challenge harmful mergers in the media and entertainment industry, protecting Californians against higher prices, lower wages, less diverse content, and limits to creative innovation.

Thank you for the opportunity to comment on this critical study and for your work on this important subject. The task of updating state antitrust law to serve today’s realities is long overdue, and urgently needed in this moment as federal antitrust enforcers fail to challenge anticompetitive conduct that harms workers and consumers. We urge the Commission to take these imperative steps to support a vibrant economy for all Californians.

Respectfully submitted,



Erica Knox  
Director of Research and Public Policy



Shelagh Wagener  
Political and Legislative Director

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<sup>3</sup> “The level of concentration at which competition concerns arise may be lower in labor markets than in product markets, given the unique features of certain labor markets.” U.S. Department of Justice and the Federal Trade Commission, “2023 Merger Guidelines,” (Dec. 18, 2023) p. 27.