

FIRST SUPPLEMENT TO MEMORANDUM 2026-17
2026 Legislative Program (Status Report on AB 1776)

This memorandum¹ presents amendments made to [AB 1776](#) (Aguiar-Curry)² on May 18, 2026.

At its meeting on January 30, 2026, the Commission approved a Recommendation on Antitrust Law: Single Firm Conduct ([Study B-750](#)).³ The Commission's *Handbook of Practices and Procedures* guides the process for amending a Commission bill:

- If a proposed amendment is nonsubstantive, the Executive Director may approve the amendment without first consulting either the Commission or its Chair.⁴
- If the author proposes to make a substantive amendment before the Commission's next scheduled meeting, the Executive Director shall consult with the Chair before the amendment is made. If the amendment is made, the Executive Director shall consult with the full Commission at the next scheduled meeting.⁵

The staff consulted with the Commission Chair on the amendments, and the staff believes the amendments are broadly consistent with the Recommendation. As indicated in Memorandum [2026-17](#) regarding [AB 2563](#) (Pacheco),⁶ the staff is similarly not seeking Commission action on amendments to [AB 1776](#) at this time. The bill is still in the Assembly and must also pass through the Senate, and it is common for additional amendments to be made.

This memorandum sets forth the amendments with staff analysis. The amended bill is attached as Exhibit 1.

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, 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.

² The May 18th amendments also added Assembly Member Bonta and Senator Cortese as coauthors. The full list of coauthors is: Principal coauthors: Assembly Member Mark González and Senator Hurtado; Coauthors: Assembly members Bains, Bonta, Connolly, Elhawary, Lee, Ortega, Rogers, and Schiavo; Senators Cortese and Padilla.

³ [Minutes](#) (Jan. 2026), pp. 4-5.

⁴ California Law Revision Commission, *Handbook of Practices and Procedures* § [560\(b\)](#).

⁵ California Law Revision Commission, *Handbook of Practices and Procedures* § [560\(c\)\(2\)](#).

⁶ Memorandum [2025-17](#), p. 3.

AMENDMENTS TO PROPOSED SECTION 16730: PURPOSE STATEMENT

16730(a)

Proposed Section 16730(a) is amended as follows:

(a) The purpose of ~~this section and Sections 16731, 16732, and 16733~~ the Cartwright Act is the promotion and protection of free and fair ~~competition, competition~~ (Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758, 783), which 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.

This amendment applies the purpose statement to the entire Cartwright Act, rather than just the sections in the bill, and imports the citation to the *Clayworth v. Pfizer* from the Commission’s Comment. The Commission Comment to proposed Section 16730(a) notes that the subsection “expresses the fundamental goal of California’s antitrust law, which is the promotion and protection of free and fair competition,” citing *Clayworth v. Pfizer, Inc.*⁷ The staff believes these amendments are consistent with the Recommendation because the bill amends the Cartwright Act, and *Clayworth* applies generally to the Cartwright Act,⁸ California’s primary antitrust law.

The Commission previously explored this aspect of the purpose statement in Memorandum [2025-52](#).⁹

16730(c)

Proposed Section 16730(c) is amended as follows:

(c) The California Supreme Court has determined that the Cartwright Act is “broader in range and deeper in reach” than the federal Sherman Anti-Trust Act (Cianci v. Superior Court (1985) 40 Cal.3d 903, 920). The California Supreme Court has found the Cartwright Act is not modeled on the federal Sherman Anti-Trust Act and therefore interpretations of federal antitrust law are not conclusive (Aryeh v. Canon Business Solutions, Inc. (2013) 55 Cal.4th 1185, 1195). Further, California courts have recognized that the Cartwright Act departs from the Sherman Anti-Trust Act in many respects, including, but not limited to, inclusion of indirect purchaser ~~recovery, recovery~~ (Section 16750); use of a proximate cause test for Cartwright Act ~~standing, standing and antitrust injury~~ (*Cellular Plus, Inc. v. Superior Court* (1993) 14 Cal. App. 4th 1224, 1232); recognition of broader harms and per se ~~conduct, conduct~~ (Sections 16720 to 16729, inclusive); lower actionable market ~~shares, structured shares~~ (*Fisherman Wharf Bay Cruise v. Superior Ct.*

⁷ *Antitrust Law: Single Firm Conduct* (Preprint – March 2026) pp. 11, 23.

⁸ Bus. & Prof. Code §§ [16730-16770](#).

⁹ Memorandum [2025-52](#), pp. 3-4; [Minutes](#) (January 2025) p. 5.

(2003) 114 Cal. App. 4th 309, 326); structured rule of reason analysis, analysis (In re Cipro Cases I & II (2015) 61 Cal.4th 116, 147); and differing burdens of proof.

These amendments add case citations verifying that the Cartwright Act departs from federal law in certain respects. All but one of the citations are drawn from the Commission Comment for 16730(c); the amendment cites *Cellular Plus, Inc. v. Superior Court* rather than *Kolling v. Dow Jones & Co.*¹⁰ However, both cases support the assertion, and *Cellular* cites *Kolling*. The staff believes these amendments are consistent with the Recommendation.¹¹

16730(d)

Proposed Section 16730(d) is amended as follows:

~~(d) Federal case law on the subject of this article is not binding on California state courts, but courts may consider federal case law as persuasive authority to the extent they find it consistent with California law, including this section.~~

(d) Interpretations of federal antitrust laws are at most instructive, not conclusive, when construing California's antitrust laws, as they are not modeled on federal antitrust statutes (Aryeh v. Canon Business Sols., Inc. (2013) 55 Cal.4th 1185, 1195).

These amendments nonsubstantively restate the subdivision. The staff understands that the amendment was made for clarity and draws directly from the California Supreme Court case cited.¹² The staff believes this amendment is consistent with the Recommendation.¹³

AMENDMENTS TO PROPOSED SECTION 16731: SINGLE FIRM CONDUCT

16731(a)

Proposed Section 16731(a) is amended as follows:

(a) It is unlawful for one or more persons to act, cause, take, or direct measures, actions, or events that ~~are either of the following:~~ do either of the following:

~~(1) In restraint of trade. As used in this paragraph, "restraint of trade" includes, but is not limited to, any actions, measures, or acts included or cognizable under Section 16720, whether directed, caused, or performed by one or more persons. Unreasonably restrain trade.~~

¹⁰ *Kolling v. Dow Jones & Co.* (1982) 137 Cal.App.3d 709, 723.

¹¹ *Antitrust Law: Single Firm Conduct* (Preprint – March 2026) pp. 23-24.

¹² *Aryeh v. Canon Business Sols., Inc.* (2013) 55 Cal.4th 1185, 1195 (“Interpretations of federal antitrust law are at most instructive, not conclusive, when construing the Cartwright Act, given that the Cartwright Act was modeled not on federal antitrust statutes but instead on statutes enacted by California's sister states around the turn of the 20th century.”)

¹³ *Antitrust Law: Single Firm Conduct* (Preprint – March 2026), p. 24.

(2) ~~To monopolize~~ 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.

The amendments replace the “in restraint of trade language” and reference to existing Cartwright Act Section 16720 with “unreasonably restrain trade” and make other minor and conforming changes.

Decoupling the “restraint of trade” language from existing Cartwright Act section is likely intended to address opponents’ concerns arguing that the referenced section applies to two actors, not one.¹⁴ The staff does not believe this is a substantive change.

The Commission originally preferred incorporating the term “unreasonable”¹⁵ in the Recommendation but later determined to include it in the Comment instead as “restraint of trade” is widely considered by courts to be “unreasonable restraint of trade.”¹⁶ Because the comment states that “restraint of trade” means “unreasonable restraint of trade,” the staff believes this amendment is consistent with the Recommendation.

16731(c)

Proposed Section 16731(c) is added as follows:

(c) Courts adjudicating a claim brought under this section shall use the guidance of the California Supreme Court in the manner described in In re Cipro Cases I & II (2015) 61 Cal. 4th 116.

The staff understands this subdivision was added to provide explicit guidance to courts in evaluating whether conduct unreasonably restrains trade. The staff believes this amendment is consistent with the Recommendation.

16731(d)

Proposed Section 16731(d) is added as follows:

(d) A plaintiff bringing an action pursuant to this section shall be required to allege and, to prevail at trial, prove market power, either through direct or indirect evidence.

This amendment is a corollary of proposed Section 16732(j) which states that a

¹⁴ Memorandum [2025-30](#), pp. 7-8. These arguments are unfounded, however, because the U.S. Supreme Court has affirmed that individual firms can restrain trade. *Copperweld Corp. v. Independence Tube Corp.* (1984) 467 U.S. 752, 775.

¹⁵ [Minutes](#) (June 2025) p. 5; Memorandum [2025-41](#), pp. 9-10

¹⁶ [Minutes](#) (September 2025) p. 5. The Comment for this section states in part, “‘Restraint of trade’ means ‘unreasonable’ restraint of trade, as recognized by the California Supreme Court.” [citations omitted] [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026), p. 24.

definition of relevant market is not needed where there is direct evidence of market power.¹⁷ This is declarative of existing law and echoes a Commission Comment.¹⁸ Since the purpose of defining a market and market share is to determine whether an arrangement has the *potential* for genuine adverse effects on competition, proof of *actual* detrimental effects can obviate the need for that inquiry.¹⁹ The staff believes this amendment is consistent with the Recommendation.

16731(e)

Proposed Section 16731(e) is added as follows:

(e) Section 16731 shall not apply to any small business, meaning an independently owned and operated business, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the three years prior to the filing of the complaint.

This amendment creates an explicit exemption for small businesses, based on existing Government Code Section [14837\(d\)\(1\)\(A\)](#).

The staff notes that this new subdivision is within the spirit of existing law to the extent that small businesses generally do not have sufficient market power to cause the unreasonable restraint of trade targeted by this bill. Current law requires proof of anticompetitive effects on the market, and this amendment establishes objective metrics to exempt businesses whose conduct is unlikely to cause anticompetitive effects.

While the Commission declined to create a separate antitrust structure for large firms,²⁰ it did not specifically address exempting small businesses likely for the reasons addressed by this amendment.

AMENDMENTS TO PROPOSED SECTION 16732: JUDICIAL GUIDANCE

16732

The introductory clause of proposed Section 16732 is amended as follows:

~~Any of the following may constitute evidence of a violation of Section 16731, but establishing liability shall not require a finding, including, but not limited to, of any of the following:~~

¹⁷ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 25. This subdivision was also nonsubstantively amended; see discussion *infra*, p. 7.

¹⁸ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 27.

¹⁹ *Id.*

²⁰ [Minutes](#) (September 2025) p. 8.

Interpretations of federal antitrust laws are at most instructive, and not conclusive, when construing California’s antitrust laws, and as such, the following are not required to find liability:

The staff believes this amendment merely rephrases the introductory clause and is consistent with the Recommendation.²¹

16732(a-b)

Proposed Section 16732(a-b) is amended as follows:

(a) When alleging an anticompetitive refusal to deal, either:

~~(a)~~ (1) 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)~~ (2) The defendant treated persons subject to the exclusionary conduct differently than the defendant treated other persons.

This amendment clarifies that the circumstances listed in (1) and (2) relate to allegations of anticompetitive refusals to deal, as reflected in the cases cited in the Commission Comment.²² The staff believes this amendment is consistent with the Recommendation.

16732(c)

Proposed Section 16732(c) is amended as follows:

(b) When alleging predatory pricing, either:

~~(c)~~ The defendant’s price for a

(1) The defendant offered a product or service that was below any measure of the costs to the defendant for providing the product or service required under federal antitrust law.

(2) The defendant is likely to recoup the losses it sustains from below-cost pricing of the products or services at issue.

~~(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 issue.~~

This amendment restates former subdivision (g) as (b)(2) and pairs it with former subdivision (c), which becomes (b)(1), clarifying that they both relate to allegations of predatory pricing, as reflected in the cases cited in the Commission Comment.²³ The staff believes this amendment is consistent with the Recommendation.

²¹ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 25.

²² [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) pp. 25-26.

²³ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026) p. 26.

16732(e)

Proposed Section 16732(e) is amended as follows:

~~(e)~~-(d) The conduct's risk of harming competition or actual harm ~~must be is~~ entirely proven with quantitative evidence. evidence, where qualitative evidence may be used to prove harm to competition or actual harm.

This amendment clarifies the existing language by stating that the risk of harm or actual harm may be proven by either qualitative or quantitative evidence. The staff believes this amendment is consistent with the Recommendation.

Subdivision (e) recognizes **that antitrust harm or the risk of harm can be proven by quantitative or qualitative evidence.** California law, like much of federal law, acknowledges that damages can be shown with a reasonable probability of a causal connection between the challenged conduct and loss, and that damages can be proven with probable and inferential proof. *Suburban Mobile Homes, Inc. v. Amfac Communities, Inc.* (1950) 101 CalApp.3d 532. (emphasis added).²⁴

16732(i)

Proposed Section 16732(i) is amended as follows:

~~(i)A~~-(g) When relying on indirect evidence to show market power, a single firm or person has or might achieve a market share or has market power at or above a threshold recognized or required under Section 2 of Title 15 of the United States Code.

This amendment clarifies that indirect evidence does not have to show the same market power in a Cartwright Act case that must be proven in federal courts. The staff believes this amendment is consistent with the Recommendation because the Commission Comment cites *Fisherman's Wharf Bay Cruise v. Superior Ct.*,²⁵ in which a California court held that a 20% market share foreclosure was enough to pursue an action against monopolist practices; federal law typically requires a much higher threshold.²⁶

16732(j)

Proposed Section 16732(j) is amended as follows:

~~(j)A~~-(h) When using direct evidence to show market power, a definition of a "relevant market" where there is direct evidence of market power. market."

²⁴ *Id.*

²⁵ (2003) 114 Cal.App.4th 309.

²⁶ [Antitrust Law: Single Firm Conduct](#) (Preprint – March 2026), p. 27.

This amendment nonsubstantively restates the existing subdivision, and the staff believes this amendment is consistent with the Recommendation.

Respectfully submitted,

Sharon Reilly
Executive Director

AMENDED IN ASSEMBLY MAY 18, 2026

AMENDED IN ASSEMBLY APRIL 9, 2026

AMENDED IN ASSEMBLY MARCH 23, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1776

Introduced by Assembly Member Aguiar-Curry

(Principal coauthor: Assembly Member Mark González)

(Principal coauthor: Senator Hurtado)

**(Coauthors: Assembly Members Bains, Bonta, Connolly, Elhawary,
Lee, Ortega, Rogers, and Schiavo)**

(~~Coauthor: Senator~~ (Coauthors: Senators Cortese and Padilla))

February 9, 2026

An act to add Sections 16730, 16731, 16732, and 16733 to the Business and Professions Code, relating to business regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1776, as amended, Aguiar-Curry. Cartwright Act: violations.

Existing law, commonly known as the Cartwright Act, identifies certain acts as unlawful restraints of trade and unlawful trusts and prescribes provisions for its enforcement. Chapter 338 of the Statutes of 2025 provides that in a complaint for any violation of the Cartwright Act, it is sufficient to contain factual allegations demonstrating that the existence of a contract, combination in the form of a trust, or conspiracy to restrain trade or commerce is plausible. Chapter 338 of the Statutes of 2025 also provides that a complaint for any violation of the Cartwright Act is not required to allege facts tending to exclude the possibility of independent action. *Existing case law, In re Cipro Cases I & II (2015) 61 Cal. 4th 116, establishes a rule of reason analysis for certain claims*

under the Cartwright Act, which, among other things, determines whether an act was made for the purpose of avoiding competition and whether the anticompetitive effects of the agreement outweigh any procompetitive justifications.

This bill would prohibit one or more persons from acting, causing, taking, or directing measures, actions, or events that are to monopolize or monopsonize in any part of trade or commerce, as specified, or in restraint of trade. ~~For these purposes, the bill would define “restraint of trade” to include any actions, measures, or acts included or cognizable under a specified provision of the Cartwright Act that defines “trust,” whether directed, caused, or performed by one or more persons.~~ The bill would prohibit anticompetitive effects in one market from being offset by purported benefits in a separate market and would prohibit the harm to a person or persons from the challenged conduct from being offset by purported benefits to another person or persons. *The bill would require courts to use the guidance provided in In re Cipro Cases I & II. The bill would require a plaintiff bringing an action under its provisions to allege, and prove at trial, market power through either direct or indirect evidence. The bill would exempt a small business, as defined, from these provisions.*

The bill would provide that federal antitrust laws are, at most, instructive and not conclusive when interpreting California’s antitrust laws. The bill would authorize any of specified conditions to constitute evidence of liability under the Cartwright Act but would prohibit requiring a finding, including, but not limited to, of any of the specified conditions to establish liability. The bill would also make related findings and declarations. The bill would require courts to liberally interpret California’s antitrust laws to best promote free and fair competition, as provided.

Because the bill would expand the scope of activities prohibited by the Cartwright Act, the violation of which is punishable as a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16730 is added to the Business and
2 Professions Code, to read:

3 16730. (a) ~~The purpose of this section and Sections 16731,~~
4 ~~16732, and 16733 the Cartwright Act~~ is the promotion and
5 protection of free and fair ~~competition~~, *competition* (*Clayworth v.*
6 *Pfizer, Inc. (2010) 49 Cal.4th 758, 783*), which is fundamental to
7 a healthy marketplace that protects all trade participants, including
8 workers and consumers, and to an environment that is conducive
9 to the preservation of our democratic, political, and social
10 institutions.

11 (b) Protecting competition includes protecting competition
12 between businesses when they compete for workers by prohibiting
13 anticompetitive business practices that impede workers' freedom
14 to choose employment.

15 (c) The California Supreme Court has determined that the
16 Cartwright Act is "broader in range and deeper in reach" than the
17 federal Sherman Anti-Trust Act (*Cianci v. Superior Court (1985)*
18 *40 Cal.3d 903, 920*). The California Supreme Court has found the
19 Cartwright Act is not modeled on the federal Sherman Anti-Trust
20 Act and therefore interpretations of federal antitrust law are not
21 conclusive (*Aryeh v. Canon Business Solutions, Inc. (2013) 55*
22 *Cal.4th 1185, 1195*). Further, California courts have recognized
23 that the Cartwright Act departs from the Sherman Anti-Trust Act
24 in many respects, including, but not limited to, inclusion of indirect
25 purchaser ~~recovery~~, *recovery* (*Section 16750*); use of a proximate
26 cause test for Cartwright Act ~~standing~~, *standing and antitrust injury*
27 (*Cellular Plus, Inc. v. Superior Court (1993) 14 Cal. App. 4th*
28 *1224, 1232*); recognition of broader harms and per se ~~conduct~~,
29 *conduct* (*Sections 16720 to 16729, inclusive*); lower actionable
30 market ~~shares~~, *structured shares* (*Fisherman Wharf Bay Cruise v.*
31 *Superior Ct. (2003) 114 Cal. App. 4th 309, 326*); *structured rule*
32 of reason ~~analysis~~, *analysis* (*In re Cipro Cases I & II (2015) 61*
33 *Cal.4th 116, 147*); and differing burdens of proof.

34 ~~(d) Federal case law on the subject of this article is not binding~~
35 ~~on California state courts, but courts may consider federal case~~
36 ~~law as persuasive authority to the extent they find it consistent~~
37 ~~with California law, including this section.~~

1 (d) Interpretations of federal antitrust laws are at most
2 instructive, not conclusive, when construing California’s antitrust
3 laws, as they are not modeled on federal antitrust statutes (*Aryeh*
4 *v. Canon Business Sols., Inc.* (2013) 55 Cal.4th 1185, 1195).

5 (e) California agrees with the United States Department of
6 Justice and the Federal Trade Commission in recognizing that
7 unilateral action and multiparty actions, horizontal and vertical
8 relationships, and various forms of corporate entities can interfere
9 with free and fair competition, as reflected in the Federal Trade
10 Commission and Department of Justice 2023 Merger Guidelines.

11 SEC. 2. Section 16731 is added to the Business and Professions
12 Code, to read:

13 16731. (a) It is unlawful for one or more persons to act, cause,
14 take, or direct measures, actions, or events that ~~are either of the~~
15 ~~following:~~ *do either of the following:*

16 (1) ~~In restraint of trade. As used in this paragraph, “restraint of~~
17 ~~trade” includes, but is not limited to, any actions, measures, or acts~~
18 ~~included or cognizable under Section 16720, whether directed,~~
19 ~~caused, or performed by one or more persons. Unreasonably~~
20 *restrain trade.*

21 (2) ~~To monopolize—Monopolize or monopsonize, to attempt to~~
22 ~~monopolize or monopsonize, to maintain a monopoly or~~
23 ~~monopsony, or to combine or conspire with another person to~~
24 ~~monopolize or monopsonize in any part of trade or commerce.~~

25 (b) Anticompetitive effects and procompetitive justifications of
26 the challenged conduct shall be evaluated within the same relevant
27 market.

28 (c) Courts adjudicating a claim brought under this section shall
29 use the guidance of the California Supreme Court in the manner
30 described in *In re Cipro Cases I & II* (2015) 61 Cal. 4th 116.

31 (d) A plaintiff bringing an action pursuant to this section shall
32 be required to allege and, to prevail at trial, prove market power,
33 either through direct or indirect evidence.

34 (e) Section 16731 shall not apply to any small business, meaning
35 an independently owned and operated business, the principal office
36 of which is located in California, the officers of which are
37 domiciled in California, and which, together with affiliates, has
38 100 or fewer employees and average annual gross receipts of ten
39 million dollars (\$10,000,000) or less over the three years prior to
40 the filing of the complaint.

1 SEC. 3. Section 16732 is added to the Business and Professions
2 Code, to read:

3 ~~16732. Any of the following may constitute evidence of a~~
4 ~~violation of Section 16731, but establishing liability shall not~~
5 ~~require a finding, including, but not limited to, of any of the~~
6 ~~following:~~

7 *16732. Interpretations of federal antitrust laws are at most*
8 *instructive, and not conclusive, when construing California’s*
9 *antitrust laws, and as such, the following are not required to find*
10 *liability:*

11 (a) *When alleging an anticompetitive refusal to deal, either:*

12 ~~(a)~~

13 (1) *The unilateral conduct of the defendant altered or terminated*
14 *a prior course of dealing between the defendant and a person*
15 *subject to the exclusionary conduct.*

16 ~~(b)~~

17 (2) *The defendant treated persons subject to the exclusionary*
18 *conduct differently than the defendant treated other persons.*

19 (b) *When alleging predatory pricing, either:*

20 ~~(c) The defendant’s price for a~~

21 (1) *The defendant offered a product or service that was below*
22 *any measure of the costs to the defendant for providing the product*
23 *or service required under federal antitrust law.*

24 (2) *The defendant is likely to recoup the losses it sustains from*
25 *below-cost pricing of the products or services at issue.*

26 ~~(d)~~

27 (c) *The defendant’s conduct makes no economic sense apart*
28 *from its tendency to harm competition.*

29 ~~(e)~~

30 (d) *The conduct’s risk of harming competition or actual harm*
31 ~~must be~~ *is entirely proven with quantitative evidence; evidence,*
32 *where qualitative evidence may be used to prove harm to*
33 *competition or actual harm.*

34 ~~(f)~~

35 (e) *In a case where a defendant’s business is a multisided*
36 *platform, the defendant’s conduct presents harm to competition*
37 *on more than one side of the multisided platform, or the harm to*
38 *competition on one side of the multisided platform outweighs any*
39 *benefits to competition on any other side of the multisided*
40 *platform.*

1 ~~(g) In a claim of predatory pricing, the defendant is likely to~~
2 ~~recoup the losses it sustains from below-cost pricing of the products~~
3 ~~or services at issue.~~

4 ~~(h)~~

5 (f) The rival whose ability to compete has been reduced or
6 harmed is as efficient, or nearly as efficient, as the defendant.

7 ~~(i) A~~

8 (g) *When relying on indirect evidence to show market power,*
9 *a single firm or person has or might achieve a market share or has*
10 ~~*market power*~~ *at or above a threshold recognized or required under*
11 *Section 2 of Title 15 of the United States Code.*

12 ~~(j) A~~

13 (h) *When using direct evidence to show market power, a*
14 ~~*definition of a “relevant market” where there is direct evidence of*~~
15 ~~*market power. market.”*~~

16 SEC. 4. Section 16733 is added to the Business and Professions
17 Code, to read:

18 16733. Courts shall liberally interpret California’s antitrust
19 laws to best promote free and fair competition and be mindful that
20 California favors “maximizing” effective deterrence of antitrust
21 violations (Clayworth v. Pfizer, Inc. (2010) 49 Cal.4th 758).

22 SEC. 5. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

O