

March 31, 2026

The Honorable Ash Kalra  
Chair, Assembly Committee on Judiciary  
California State Assembly  
Sacramento, California 95814

The Honorable Alexandra M. Macedo  
Vice Chair, Assembly Committee on Judiciary  
California State Assembly  
Sacramento, California 95814

Re: AB 1776 COMPETE Act – Oppose

Dear Chair Kalra and Vice Chair Macedo,

As organizations representing small and medium-sized technology companies, independent app developers, startup communities, and other innovation-focused businesses, **we urge you to oppose AB 1776**. The bill would create a broad, California-specific antitrust regime for single-firm conduct that departs from established principles and would impose significant new burdens on the small businesses and innovators our organizations represent.

Our members are not the dominant firms that competition law is typically designed to discipline. They are the challengers. They are the startups trying to win its first customers from an established provider, the software companies gaining traction in a niche by building a better product, and the growth-stage firms expanding through partnerships, product integration, and ordinary commercial experimentation. For example, a small developer building a new productivity tool on top of an existing mobile platform or cloud infrastructure relies on that ecosystem's distribution, payments, and security features to reach users and scale.<sup>1</sup> **AB 1776 would make it harder for those firms to compete** by replacing predictable guideposts with a more open-ended and litigation-driven liability standard.

### **Replacing Predictability with Legal Uncertainty**

The bill does this in several ways. By extending liability to conduct by “one or more persons” and instructing courts not to treat familiar antitrust concepts as required safeguards, the bill directs California courts toward an expansive and deterrence-maximizing approach.<sup>2</sup> In practical terms, AB 1776 would weaken the discipline that courts use to distinguish unlawful exclusion from consumer-benefiting competition. But it would also allow plaintiffs to drag small businesses without having to show monopoly-level market power under familiar federal standards, inviting competitors to try and weaken successful small business rivals with nuisance antitrust claims. Market-share thresholds, market-power screens, recoupment in predatory pricing

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<sup>1</sup> Association for Competitive Technology (ACT), "Security and Trust from an App Maker's Point of View" (November 2021), <https://actonline.org/wp-content/uploads/App-Association-Security-and-Trust-from-an-App-Makers-Point-of-View-November-2021.pdf>; ACT | The App Association, Amicus Brief in *Epic Games, Inc. v. Apple Inc.* (9th Cir., June 30, 2025), <https://actonline.org/wp-content/uploads/App-Association-Amicus-Brief-Apple-v.-Epic-Ninth-Circuit-FILED-COPY.pdf>.

<sup>2</sup> California Assembly Bill 1776 (Amended).

claims, as-efficient-rival analysis, and even relevant market definition would no longer serve as meaningful limiting principles. That is not a modest refinement to existing law. It is a structural departure from the framework businesses have long relied on to understand competition rules.<sup>3</sup>

That uncertainty matters most for smaller firms. Startups and independent developers do not operate with large in-house antitrust teams. They make decisions quickly about pricing, customer acquisition, distribution, product design, and commercial relationships. They need legal rules they can understand and follow. Research consistently shows that small firms bear a disproportionate share of regulatory compliance costs, paying approximately 45 percent more per employee than larger firms.<sup>4</sup> A large incumbent may be able to absorb uncertainty through specialists and prolonged litigation. A smaller firm cannot. When the legal standard becomes broader and less predictable, smaller businesses do not gain flexibility. They avoid potentially valuable partnerships, delay product changes, and divert scarce resources from hiring and development into legal review and risk management.<sup>5</sup>

### **Undermining the Ecosystems Small Businesses Depend On**

AB 1776 is especially troubling in modern technology markets, where many small firms compete through integrated products, bundled functionality, third-party infrastructure, and platform-enabled efficiencies. In the app economy and broader digital marketplace, smaller firms often depend on distribution, payments, security, trust, discovery, and other ecosystem functions that reduce overhead and make it possible to reach customers at all.<sup>6</sup> Research shows that 84 percent of small business leaders rely on digital tools to succeed in today's economy, with two-thirds calling them crucial for managing costs and competing with larger firms.<sup>7</sup> These tools

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3 See Crowell & Moring, "California Considering A Massive Expansion of Its Antitrust Laws" (March 24, 2026), <https://www.crowell.com/en/insights/client-alerts/california-considering-a-massive-expansion-of-its-antitrust-laws>; Gibson Dunn, "California Law Revision Commission Proposes Far-Reaching Reform for Single-Firm Conduct Law" (December 23, 2025), <https://www.gibsondunn.com/california-law-revision-commission-proposes-far-reaching-reform-for-single-firm-conduct-law/>.

4 U.S. Senate Committee on Small Business & Entrepreneurship, "Regulatory Reform," <https://www.sbc.senate.gov/public/index.cfm/regulatoryreform> (small firms pay approximately 45 percent more per employee in annual regulatory compliance costs than larger firms); U.S. Chamber of Commerce, "Small Businesses Are Spending More Time, Money on Regulatory Compliance" (December 16, 2024), <https://www.uschamber.com/small-business/small-businesses-are-spending-more-time-money-on-regulatory-compliance> (69 percent of small businesses report spending more per employee to comply with regulations than larger competitors).

5 Small Business & Entrepreneurship Council, "Return of the 'Big Tech' Bill that Hits Small Business? Why it Should Stay Buried" (January 21, 2026), <https://sbecouncil.org/2026/01/21/return-of-the-big-tech-bill-that-hits-small-business-why-it-should-stay-buried/> (61 percent of small business owners concerned government regulations against largest technology companies would negatively affect their businesses; 58 percent said such actions would make it more expensive to access and retain customers).

6 Association for Competitive Technology (ACT), "Security and Trust from an App Maker's Point of View" (November 2021), <https://actonline.org/wp-content/uploads/App-Association-Security-and-Trust-from-an-App-Makers-Point-of-View-November-2021.pdf>; Developers Alliance, "Comments on Competition in the Mobile App Ecosystem" (NTIA-2022-0001, May 23, 2022), [https://downloads.regulations.gov/NTIA-2022-0001-0135/attachment\\_1.pdf](https://downloads.regulations.gov/NTIA-2022-0001-0135/attachment_1.pdf).

7 Connected Commerce Council, "New Study Finds Small Business Leaders Rely on Digital Tools and AI to Succeed in Today's Uncertain Economy" (March 13, 2025),

can lower barriers to entry for small companies that could not replicate the same infrastructure on their own. But AB 1776 would make it easier to challenge these common and beneficial business practices, undermining the very mechanisms that help build trust with users and provide a pathway for small businesses to scale and reach customers, while weakening the legal safeguards that normally distinguish harmful conduct from ordinary, pro-competitive behavior.<sup>8</sup>

The bill's same-market limitation in Section 16731(b) is particularly concerning for these businesses. Many software and digital firms operate in multisided environments where costs and benefits are distributed across different products, services, or user groups. A commission, platform rule, or product design choice may impose marginal costs in one market while generating offsetting benefits in another. For example, a modest fee on in-app transactions can fund fraud prevention, payment processing, and developer tools that lower barriers to entry and expand access for small firms.<sup>9</sup> On today's app stores, the commission on in-app purchases on popular gaming platforms allows the stores to charge a negligible annual developer registration fee, which is the total amount paid by developers of about 85 percent of apps on the stores. Thus, current fee structures for app distribution are distinctly *progressive*, contributing to the democratization of software development that characterizes these markets now. A legal framework that limits courts' ability to consider those broader competitive realities is a poor fit for how modern technology markets work and risks mischaracterizing ordinary platform economics as anticompetitive conduct. When legislators attempt to break apart integrated digital services, the consequences fall hardest on the small businesses that depend on those services for distribution, customer acquisition, and day-to-day operations.<sup>10</sup>

### Turning Startup Success into Legal Risk

AB 1776 also places ordinary startup and growth strategies under a legal cloud. Emerging firms often compete through discounted pricing, low-cost or free entry offers, bundled services, integrated features, differentiated commercial terms, and partnerships that help lower costs and attract users. These are not edge-case tactics. They are often the primary ways smaller firms challenge established rivals. Competition law should protect the competitive process without making ordinary growth strategies newly suspect under a vague, state-specific standard.

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<https://connectedcouncil.org/new-study-finds-small-business-leaders-rely-on-digital-tools-and-ai-to-succeed-in-todays-uncertain-economy/>.

<sup>8</sup> Association for Competitive Technology (ACT), "Antitrust at a Crossroads: Protecting Innovation in the AI Era" (June 12, 2025), <https://actonline.org/wp-content/uploads/Antitrust-at-a-Crossroads-Protecting-Innovation-in-the-Age-of-AI-June-12-2025.pdf> (policymakers should "avoid antitrust claims that seek to outlaw conduct based on speculative harms").

<sup>9</sup> Association for Competitive Technology (ACT), Amicus Brief in *Epic Games, Inc. v. Apple Inc.* (9th Cir., June 30, 2025), <https://actonline.org/wp-content/uploads/App-Association-Amicus-Brief-Apple-v.-Epic-Ninth-Circuit-FILED-COPY.pdf> (describing the symbiotic relationship between small developers and platform ecosystems).

<sup>10</sup> Connected Commerce Council, "Breaking Integrated Digital Tools and Services Hurts Small Businesses" (June 2022), <https://connectedcouncil.org/wp-content/uploads/2022/06/Breaking-Integrated-Digital-Tools-and-Services-Hurts-Small-Businesses.pdf> (87 percent of SMBs concerned that Congressional proposals to regulate tech would make small business digital tools and services more expensive and less useful); Connected Commerce Council, "Antitrust: When You Change the Model, You Change the Math for American Small Businesses" <https://connectedcouncil.org/antitrust-when-you-change-the-model-you-change-the-math-for-american-small-businesses/>.

The bill's departure from established market-power discipline raises a similar concern. By explicitly stating in Section 16732(i) that proving market power is not required, familiar market-share screens no longer serve as meaningful limiting principles. Successful smaller firms, growth-stage companies, and niche leaders may face litigation risk simply because they have begun to win share. Under this bill, a private competitor could sue a successful startup without having to prove the startup holds monopoly-level market power under familiar federal standards. Antitrust law should protect competition, not become a tool for competitors to challenge a rival merely because it is growing, integrating, discounting, or outperforming others. For smaller firms, the cost of defending even weak claims can alter business behavior, delay expansion, or force settlement.<sup>11</sup>

### **The Measurable Cost of "Regulate First" in AI and Emerging Tech**

This concern is especially acute in artificial intelligence and other emerging technology markets. California is home not only to large platform providers but also to countless smaller firms building AI-enabled applications in healthcare, education, agriculture, productivity, and other sectors. Those firms depend on access to tools, infrastructure, and commercial relationships that support rapid iteration and deployment. A legal framework that injects broad uncertainty into how platform conduct, integration, distribution, and product design will be judged risks slowing the very innovation ecosystem California seeks to lead.

This concern is playing out right now in global markets. We have seen the results of this "regulate first" approach in Europe. Recent survey data shows that broad, *ex-ante* digital regulations in the EU and UK have created a widening transatlantic opportunity gap.<sup>12</sup> Six in 10 EU/UK small tech companies report delayed access to frontier AI models, costing affected firms an average of \$186,000 to \$528,000 annually in lost revenue and foregone savings. Nearly 60 percent of EU/UK developers report launch delays due to regulatory burdens. California cannot lead the world in AI innovation while simultaneously importing a regulatory philosophy that has demonstrably stalled startup growth, delayed product launches, and punished risk-taking elsewhere.

### **Conclusion**

California already has substantial antitrust enforcement tools. The question is not whether harmful conduct should be addressed. It should. The question is whether California should create a separate and more expansive state regime for single-firm conduct that weakens established limiting principles and makes ordinary competitive

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11 Morgan Reed, President, Association for Competitive Technology (ACT), Testimony before the U.S. House of Representatives Judiciary Committee, "Europe's Threat to American Speech and Innovation" (September 3, 2025), <https://www.congress.gov/119/meeting/house/118565/witnesses/HHRG-119-JU00-Wstate-ReedM-20250903-U8.pdf> ("Small business gets crushed in the fight between billionaires and trillionaires."); see also Association for Competitive Technology (ACT), "Brings Small Business Voice to High-Stakes Tech Regulation Debate" (September 17, 2025), <https://actonline.org/2025/09/17/act-the-app-association-brings-small-business-voice-to-high-stakes-tech-regulation-debate/>.

12 Association for Competitive Technology (ACT), "The Hidden Cost of AI Regulations for EU and UK Startups and SMEs" (October 2025), survey conducted by TechnoMetrica, <https://actonline.org/the-hidden-cost-of-ai-regulations-a-survey-of-eu-uk-and-u-s-companies/>; Developers Alliance, "Analysis Finds Europe's Precautionary Tech Regulations Stunt Innovation, Economic Growth" (March 5, 2026), <https://devalliance.org/news/analysis-finds-europes-precautionary-tech-regulations-stunt-innovation-economic-growth>.

conduct harder to assess in advance. For the small businesses and innovators we represent, the answer is no.

We strongly urge you to reject AB 1776 and similar proposals that would replace predictable competition rules with a vague, California-specific liability framework that small firms will be least able to navigate.

Sincerely,

Association for Competitive Technology (ACT)

Association for Enterprise Opportunity

Connected Commerce Council

Developers Alliance

Small Business Entrepreneurship Council