

ALERT MEMORANDUM

California's Antitrust Law Amended to Prohibit Monopolization

October 1, 2026

On September 30, 2026, Governor Gavin Newsom signed into law a number of bills that were described as supporting California's small businesses, cutting red tape for business permitting, and strengthening competition. One of those new laws, the Compete Act, is an antitrust law that, once effective on January 1, 2027, will extend the Cartwright Act to prohibit anticompetitive single-firm conduct, also known as monopolization.

Key Takeaways

- Private litigants may not bring monopolization claims, which are reserved for the State's Attorney General and district attorneys.
- The government will be required to prove "substantial market power," but the law does not define this term.
- The new law adds existing case law interpreting the Cartwright Act directly into the statute, including that the Act is "broader in range and deeper in reach" than federal antitrust law.

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For more than a century, the key Cartwright Act prohibition has been on anticompetitive *agreements*, including price fixing, bid rigging, and market allocation. The Compete Act extends liability to include single-firm conduct, *i.e.*, monopolization.

On its face, the conduct that the Compete Act focuses on is already prohibited under Section 2 of the (federal) Sherman Act. The language in the Compete Act generally tracks the language in the

Sherman Act.¹ The new law also codifies the federal antitrust law that it is legal for a business to obtain a monopoly "through the superiority of its products, services, or business acumen" rather than anticompetitive conduct.²

When he signed the bill into law, Governor Newsom emphasized that the law targets anticompetitive conduct rather than superior businesses. The Governor demanded that the law be interpreted to

¹ See 15 U.S.C. § 2.

² CAL. BUS. & PROF. CODE § 16730(e) (effective 2027).



“penalize clear wrongdoing, without creating needless uncertainty that risks harming legitimate businesses.”³

However, differences from federal law in the text of the Compete Act may impact antitrust risks for businesses.

No private right of action. Unlike other provisions of the Cartwright Act, only the California Attorney General or a California district attorney can bring a case under the new law.⁴ The private right of action was removed after concerns were raised regarding frivolous lawsuits that would ultimately harm the economy.⁵ The risk of private litigation has been eliminated, but businesses are now exposed to the risk of monopolization investigations and lawsuits by California enforcers, who have been active recently.

“Substantial market power” standard. To prevail on a monopolization claim under the new law, the government will be required to prove “substantial market power.”⁶ That standard is left undefined, and it is not the terminology that has typically been used for monopolization claims under federal law.

Defendants will argue that the government should still need to meet a high standard to show power in the relevant market. There are good reasons for the high standard. Federal law recognizes that a lower standard would risk penalizing a company that gained a strong market position through efficiency and innovation rather than anticompetitive conduct.⁷

However, the Compete Act states that interpretations of federal antitrust law are “at most instructive” when interpreting California’s antitrust laws.⁸ There is some risk that government plaintiffs ask courts to apply a lower bar than the federal standard.

Given this risk, businesses should review their antitrust compliance programs, particularly in areas where market shares could be significant.

The Cartwright Act can be different than federal law. In addition to extending liability to monopolization, the Compete Act adds existing interpretations of the Cartwright Act directly into the statute. These interpretations are not limited to the new prohibition on monopolization.

Specifically, the Compete Act codifies case law that the Cartwright Act is “broader in range and deeper in reach” than federal antitrust law.⁹ The Act also codifies specific interpretations from California courts which depart from federal law, including lower court interpretations that would not typically bind all courts.

At least some California courts have already adopted these interpretations, so it remains to be seen whether this materially alters risks for businesses. However, given the language that the Cartwright Act is “broader in range and deeper in reach” than federal antitrust law, the government may seek to challenge conduct under the Cartwright Act that federal law permits.

Finally, the Compete Act specifies that monopolization claims should be reviewed using an analytical framework from a California Supreme Court case, which is similar to the framework that generally applies under federal law.¹⁰ However, this leaves open questions regarding how the law will apply to categories of conduct that have more specific standards under federal law, such as refusals to deal and predatory pricing.

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³ AB 1776 Signing Message (Sep. 30, 2026), available at <https://www.gov.ca.gov/wp-content/uploads/2026/09/SIGN-msg-AB-1776.pdf>.

⁴ CAL. BUS. & PROF. CODE § 16731(f) (effective 2027).

⁵ See, e.g., Press Release, Cal Chamber of Commerce, Statement on Assembly Passage of AB 1776 (May 27, 2026), available at <https://advocacy.calchamber.com/2026/05/27/calchamber-issues-statement-on-assembly-passage-of-ab-1776/>.

⁶ CAL. BUS. & PROF. CODE § 16731(c) (effective 2027).

⁷ See, e.g., *Alaska Airlines, Inc. v. United Airlines, Inc.*, 948 F.2d 536, 541, 547-48 (9th Cir. 1991).

⁸ See CAL. BUS. & PROF. CODE § 16730(d) (effective 2027).

⁹ See CAL. BUS. & PROF. CODE § 16730(c) (effective 2027).

¹⁰ See CAL. BUS. & PROF. CODE § 16731(b) (effective 2027) (citing *In re Cipro Cases I & II*, 61 Cal.4th 116, 146-47 (2015)).