

California's new COMPETE Act

Broadening the state's antitrust arsenal

October 2026

On September 30, 2026, California Governor Gavin Newsom signed [Assembly Bill 1776](#), the Competition and Opportunity in Markets for a Prosperous, Equitable and Transparent Economy (COMPETE) Act, expanding California antitrust law to reach anticompetitive conduct by a single firm. The new law takes effect January 1, 2027.

Up until now, California's antitrust laws have focused principally on unlawful conduct by multiple firms, leaving monopolization claims to be addressed at the federal level, largely under Section 2 of the Sherman Act. The COMPETE Act changes that framework by adding a new Section 16731 to the California Business and Professions Code, which regulates unilateral conduct.

What is the COMPETE Act?

Scope of conduct covered

The new provision makes it unlawful to monopolize or monopsonize, attempt to monopolize or monopsonize, maintain a monopoly or monopsony, or combine or conspire to monopolize or monopsonize any part of trade or commerce. A government plaintiff must establish that the defendant possesses "substantial market power," which may be demonstrated through direct or indirect evidence.

Importantly, the final bill narrowed the scope of conduct outlawed. Earlier versions would also have created a broader prohibition on unilateral restraints of trade and included provisions expressly departing from certain federal precedents involving practices such as refusals to deal and predatory pricing. Those provisions were removed from the final legislation.

Who can bring an enforcement action

The COMPETE Act only authorizes the California attorney general or a district attorney to bring an enforcement action. It does not create a private right of action under the new monopolization provision. The Act also generally prevents private plaintiffs from using an alleged violation of the new provision as the basis for a claim under California's Unfair Competition Law.

Rule of reason framework applies

Although the statutory language resembles Section 2 of the Sherman Act, the COMPETE Act expressly provides that federal antitrust decisions are "at most instructive" and are not controlling in interpreting California law. The act also directs courts to construe California antitrust law liberally to promote competition and effective deterrence.

At the same time, as with the Sherman Act, the legislature recognizes that businesses may lawfully acquire and maintain market or monopoly power through superior products, services or business acumen.

Courts evaluating claims under the new provision are directed to apply the analytical framework identified by the California Supreme Court in *In re Cipro Cases I & II*, which employs a structured rule-of-reason analysis. How courts adapt that framework to unilateral conduct will be an important issue as the law develops.

What does this mean for businesses?

The COMPETE Act represents a significant expansion of California's antitrust enforcement arsenal.

California prosecutors now have an independent state-law mechanism for challenging unilateral conduct by firms with substantial market power, including conduct involving exclusive dealing or distribution, access or interoperability restrictions, pricing practices, and other strategies alleged to maintain or extend market power.

The law may also develop differently from federal Section 2 doctrine. Because federal precedent is expressly nonbinding, and California courts are instructed to construe the state's antitrust laws liberally, conduct that has traditionally been assessed under established federal monopolization standards could face a different analysis under California law.

The Act's express coverage of monopsonization is also significant, particularly for businesses with substantial purchasing power. The statute specifically recognizes competition for workers as part of the Cartwright Act's protection of competition, potentially providing California prosecutors another avenue to investigate conduct affecting labor markets and other buyer-side markets.

Actions businesses can take to reduce risk

Businesses with significant positions in California markets should consider reviewing exclusivity provisions, distribution practices, access and interoperability restrictions, pricing strategies, and practices affecting suppliers, customers, competitors or workers before the law takes effect on January 1, 2027. The absence of a private right of action may limit immediate litigation exposure, but the COMPETE Act nevertheless gives California prosecutors a significant new enforcement tool and creates the potential for California monopolization law to develop independently of federal precedent.

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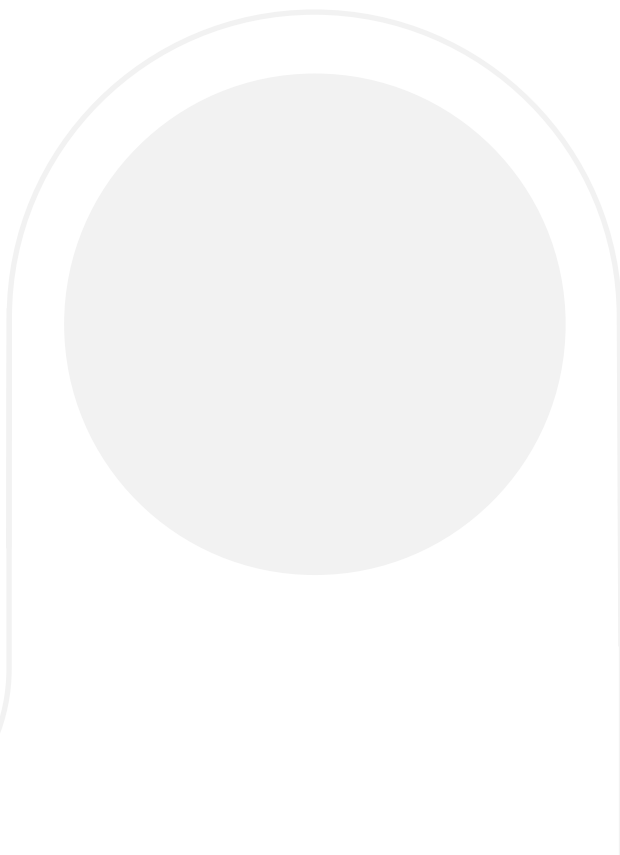
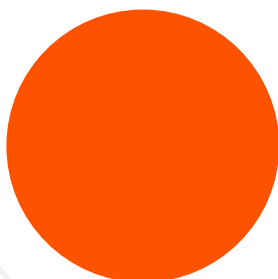
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