



Testimony of

DANA A. DORAN
Executive Director
Professional Logging Contractors of the Northeast

Before the Joint Standing Committee on Innovation, Development, Economic Advancement and Business in Opposition to LD 1815, An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers

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Senator Curry, Representative Roberts, and members of the Joint Standing Committee on Innovation, Development, Economic Advancement and Business, my name is Dana Doran, and I am the Executive Director of the Professional Logging Contractors of the Northeast (PLC). The PLC is a trade association that represents logging and associated trucking contractors throughout the Northeast, predominately in the state of Maine.

As background, the PLC was created in 1995 to give logging and associated trucking contractors a voice in a rapidly changing forest products industry. As of 2021, logging and trucking contractors in Maine employed over 3,000 people directly and were indirectly responsible for the creation of an additional 2,500 jobs. This employment and the investments that contractors make contributed \$582 million to the state's economy. Our membership, which includes 200 contractor members and an additional 120 associate members, employs more than 75% of the individuals who work in this industry and is also responsible for 80% of Maine's annual timber harvest.

Thank you for providing me the opportunity to testify on behalf of our membership in opposition to LD 1815, "An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers". Industries across the United States, including logging and trucking, are well regulated by strict anti-trust laws that have been the law of the land for well over 100 years. Since July 2, 1890, the Sherman Act has governed examination of business activity for antitrust violations. It is such a strong law that it has remained substantively unchanged since then, resulting in a strong and robust body of law governing business activity, including logging and trucking, across the United States. Virtually every state has enacted a similar set of laws, including Maine with Title 10, Section 201.

The bill before this Committee would not only add to those already stringent laws, but it could create a complex layer of regulation that is in direct conflict to existing laws, both federal and state, creating uncertainty and unpredictability to any and all businesses operating in a for profit space. This uncertainty could lead to unnecessary and expensive litigation for any business

interested in purchasing a competitor in rural Maine. This litigation could be brought forward by virtually anyone who has a belief that they personally or professionally sustained damages as a result of some type of dominance in a labor market, as small as Millinocket/Lincoln or Fort Kent/Madawaska.

LD 1815 also establishes a presumption of dominance for companies that are interested in pursuing the purchase of a similar company in a similar geographic area, where, “a person that has a share of 50% or more of a relevant market as a buyer is presumed to have a dominant position in that market.” Not only does this create complexity for compliance but it also creates a landscape of unpredictability, essentially minimizing business activity in the long run. Further, who would have the authority to determine this percentage? This definition by itself is very ambiguous and would have serious implications for entities within any industry, especially loggers and truckers that operate in very rural areas. It could also apply to all products, services, or materials used by a company, making the scope nearly limitless and undefinable in terms of damages.

As mentioned previously, there are logging contractors which are all considered small businesses, but vary in size from companies with 50 employees to sole proprietors, in every rural area of the state. With the labor market being undefined, a relevant market could range across the whole state or just a single town. Depending on what is considered a relevant labor market, small businesses could be ultimately be considered the dominant position regardless of their location.

In addition to the lack of definition and broad language, Maine would be on an island regarding this policy. The federal system has been in place for over a century, and this would make changes that would be vastly different than what the federal government regulates and a multitude of other states. This would surely lead to restrictions on business growth and cause current businesses to rethink investment, especially if they are subject to frivolous litigation. In a time when Maine should be encouraging economic growth and making it easier for businesses, LD 1815 would be counter to the principles of a free market.

Our contractors are facing difficult issues with workforce availability and markets. This is not the time to make doing business in the state of Maine more difficult for our membership. I encourage you to vote ought not to pass on LD 1815 and thank you for your service to the people of Maine.