

## Testimony 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

Senator Curry, Representative Roberts, and Honorable Members of the Joint Standing Committee on Innovation, Development, Economic Advancement and Business:

My name is Alexander Price, and I am submitting this testimony in opposition to LD 1815 on behalf of the Maine Jobs Council, which is a statewide, nonpartisan, member-driven advocacy organization that advances public policies to support the creation and preservation of foundational jobs in Maine.

We oppose LD 1815 because the creation of an “abuse of dominance” right of action would be antithetical to our mission of advocating for economic prosperity by promoting the growth and maintenance of foundational jobs. If passed, LD 1815 would restrict Maine’s ability to see economic progress by increasing regulations on Maine’s consumers and businesses at a time when most are already struggling. Maine’s economic, regulatory, and demographic rankings are consistently in the bottom ten in the nation. We are 44th in the nation in overall economic ranking and 42nd in the nation in venture capital investment. Maine has the 3rd highest tax burden, the 9th highest healthcare costs, the 11th highest cost of living, and the 13th highest energy costs.

This proposal would add an extra-judicial layer on top of the already robust reviews provided by both federal and state antitrust laws, yet another burdensome regulation on Maine consumers and businesses. This is both inefficient and unnecessary. Since 1890, antitrust laws have been enforced to protect and encourage open competition between businesses, not to protect individual competitors. This legislation would make Maine less competitive by discouraging efficient and innovative practices by successful businesses, as such practices could be seen as threatening to weaken or displace less efficient competitors. The provisions in this bill would render routine business practices illegal or impracticably risky, even procompetitive practices. Further, this bill is vague and potentially arbitrary. What is abuse? What is dominance? Uncertainty breeds litigation, which in itself can cripple businesses either through fear or expense.

Additionally, no other state in the nation has adopted this approach. In fact, New York, New Jersey, and Minnesota have all rejected similar proposals. Maine is already an outlier with numerous legal and regulatory requirements that make it uncompetitive with most U.S. states. If this bill passes, it will continue to make Maine even more of an outlier at a time when Maine’s economic and regulatory rankings are among the lowest in the nation. Before any further requirements are added, there should be a comprehensive study of Maine’s standing vis-à-vis other states, and goals with limits set to make Maine competitive. It is virtually certain that improving Maine’s competitive standing and changes to attract foundational jobs and investment requires fewer mandates and requirements, not more.

For these and several other reasons, LD 1815 should be defeated. This bill is an extraordinary expansion of interference in the economic and labor markets of Maine, and will likely deny the ability to sell or purchase business, labor, and goods. It is significantly anticompetitive for Maine. The hard-won foundations of modern antitrust law have resulted in a strong and robust body of law governing business activity in the United States, which is why most of those laws have remained largely unchanged since 1890. Now is not the time to make unnecessary changes to laws that have been working well for decades.

The Maine Jobs Council thanks the committee for its time and consideration of this issue, and we would welcome any opportunity to discuss it with you.

Thank you,

Alexander Price, Pierce Atwood  
On behalf of the Maine Jobs Council