



Written testimony in support of LD 1815/ HB 1161

January 9, 2024

Dear Chair Roberts, Ranking Member Collamore and members of the Joint Committee on Innovation, Development, Economic Advancement and Business:

On behalf of the American Booksellers Association, the not-for-profit trade association of independent bookstores, including 16 members in Maine, we are writing to express our strong support for “An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers” (LD 1815/HB 1161).

This legislation would strengthen laws preventing corporate concentration and monopoly power, and would create a level playing field for small businesses in the state. The bill makes it “unlawful for a person with a dominant position in the conduct of any business, trade or commerce, in any labor market or in the furnishing of any service in this State to abuse that dominant position.” It also establishes that any seller that owns 60 percent or more of the market is “dominant.” It would also allow any person that sustained damages as a result of a violation of a corporation’s abuse of dominance to sue for injury in a civil action, including as a class action.

Small businesses in Maine – and indeed across the country – are in crisis, one that has been decades in the making. Maine has seen small businesses decline sharply across most major sectors of the state’s economy. One reason for this decline is that large, dominant corporations have consolidated their market power and have used it to squeeze small businesses and muscle them out. And, because of failed antitrust policy, dominant corporations have been allowed to engage in predatory behavior.

Independent bookstores were among the first small businesses to feel the impact of corporate and monopoly power, due to the anticompetitive tactics of Amazon. By the mid-2000s, ABA’s Advocacy division began receiving regular complaints that Amazon was pricing books at below cost. (Unlike other retail items, books have the price on the cover, so determining if a book is

being sold at below 40 percent¹ is simple.) It was part of a strategy to lure customers to its website: sell consumers with higher-ticket and more profitable items.

There are numerous public reports of Amazon forcing publishers to give steep discounts, cutting into expected profits. And publishers have no choice but to accede to Amazon's demands, and in doing so, publishers increasingly looked to recover their losses from their contracts with others. Rather than lower costs, monopsony power drives up costs for consumers.

Amazon's anti-competitive tactics have helped it grab hold of well over 60 percent of the bookselling market. Under LD1815/HB1161, regulators could finally do something about this.

Independent bookstores, the small stores that you see lining Main Streets across the state, support this legislation. LD1815/HB1161 would represent a major step toward leveling the playing field for small, independent Maine businesses. We urge the committee to support this important legislation.

Thank you for your consideration.

Sincerely,

David Grogan, Director
ABFE, Advocacy & Public Policy
American Booksellers Association