

What Companies Should Know About California's COMPETE Act

A photograph of a modern building's curved glass facade, showing multiple floors with large windows, set against a light blue sky.

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Long story short. Starting January 1, 2027, California can pursue monopolization and related cases against companies with “substantial market power,” a standard that may reach firms below federal thresholds. Only the California Attorney General and district attorneys can sue, so investigations will likely precede lawsuits. Companies with a significant California footprint and “substantial market power” should take a fresh look at exclusive contracts, bundled offerings, decisions to cut off rivals, and platform rules.

Background. On September 30, 2026, Governor Gavin Newsom signed into law the COMPETE Act (AB 1776), which takes effect January 1, 2027. The COMPETE Act amends California's principal antitrust law, the Cartwright Act, to address single-firm conduct for the first time, with a broader reach than its federal equivalent.

It prohibits monopolization (using, maintaining, or attempting to obtain monopoly power) and monopsonization (the buyer-side equivalent, including power over workers), whether alone or through a combination or conspiracy.

But its enforcement is limited, as only the California Attorney General or a district attorney may sue under the new provision.

A potentially lower, looser standard. The COMPETE Act requires proof of “substantial market power” through direct or indirect evidence, but does not define how to satisfy that test or specify what kind of additional conduct must be shown to establish liability.

First, it appears to apply more broadly. The COMPETE Act underscores that California law recognizes lower actionable market shares than federal law (which often requires a share of 60% or more, depending on the market), citing *Fisherman’s Wharf Bay Cruise Corp. v. Superior Court*, 114 Cal. App. 4th 309, 326, 7 Cal. Rptr. 3d 628 (2003).

Second, the law does not say what additional conduct or effects must accompany substantial market power. In his signing statement, Governor Newsom suggests that “the bill’s reference to ‘substantial market power’ should be understood as a necessary—but not sufficient—condition to prove unlawful conduct.” But the statute itself does not explain what other showing might be required, emphasizing that federal antitrust interpretations are “at most instructive” and directing that the law be read “liberally” to maximize “effective deterrence of antitrust violations.”

Third, some aspects of the legal framework will be familiar. Courts will apply the California Supreme Court’s structured rule-of-reason framework from *In re Cipro Cases I & II*, 61 Cal. 4th 116, 146–147, 348 P.3d 845 (2015), so procompetitive justifications will be an important factor in litigation even as courts work through the statute’s ambiguities.

Practical implications. Companies with substantial market power should focus on practices that can exclude rivals, particularly where conduct affects suppliers, distributors, customers, or workers. Four areas warrant particular attention:

- **Refusals to deal with rivals.** Ending a distribution, supply, or interoperability arrangement a rival relies on to reach customers could trigger scrutiny, especially where the company has substantial market power, even if federal law would permit the decision. Consider the competition effects that refusing to deal with a rival could be perceived as having, even if there is not necessarily an established course of dealing.
- **Platform conduct.** The California Law Revision Commission identified self-preferencing, data-portability restraints, and so-called “killer acquisitions” as concerns. Although the enacted text does not directly address those topics, ranking a platform’s own service above rivals or restricting developer functionality can attract scrutiny. Audit those practices for effects that disadvantage or entrench rivals, and document product and efficiency justifications.
- **Supplier and distributor agreements.** Exclusive dealing, minimum-purchase, loyalty-discount, and parity provisions can raise risk when they limit a supplier’s or distributor’s ability to work with rivals. Review their duration, coverage, and practical effects, document procompetitive justifications, and consider relevant Cartwright Act precedent.
- **Tying and bundling.** Tying or bundling can create risk when access to one product — such as a payment system, identity service, or data set — is conditioned on purchasing or using another, particularly because a monopolization or monopsonization theory may not require an agreement. This is especially relevant in technologically interdependent markets, where

bundling is part of product design. Assess whether the arrangement excludes rivals while documenting the efficiency aims behind product-design decisions.

What comes next. Because only the California Attorney General and district attorneys can enforce the new provision, do not expect a wave of litigation immediately after the statute goes into effect. Enforcers may issue subpoenas and reach out to customers and competitors while building evidence of substantial market power and a monopolization theory before filing suit.

What to do now. Companies with meaningful California sales, supplier relationships, or hiring activity that could be alleged to reflect “substantial market power” should act before January 1, 2027:

- Monitor and document customer, supplier, and worker responses to changes to agreements and practices;
- connect those changes to forecasted or documented customer benefits and efficiencies where warranted;
- preserve evidence showing ongoing competition with rivals;
- review exclusivity, product integration or bundling, interoperability, access, data portability, and platform practices; and
- avoid assuming that a practice poses a low antitrust risk simply because federal precedent has not condemned it.



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