



## Senate Standing Committee on Consumer Protection

### **NOTICE OF ONLINE PUBLIC HEARING**

**Subject:** The Twenty-First Century Antitrust Act (S.8700/Gianaris)

**Purpose:** To discuss antitrust laws and issues, as well as seek input on S.8700/Gianaris - the Twenty-First Century Antitrust Act, which updates and expands current New York State antitrust laws to include abuse of dominance and unilateral conduct that would create monopolies.

Monday, September 14, 2020

10 AM

Web link: <https://www.nysenate.gov/events>

### **Oral Testimony by Invitation Only**

Antitrust laws were designed to promote a diverse economy by allowing for competition and preventing monopolies. However, in the growing field of technology, new antitrust issues are arising within marketplace monopolization, particularly with Big Tech companies. These companies operate platforms that allow consumers to engage with one another, but in addition to operating these platforms, they engage in commerce themselves. Their size allows them to dominate other retailers in the marketplace who are unable to compete. This form of bad behavior is known as the "abuse of dominance."

New York's antitrust statute, the Donnelly Act voids every contract or agreement that establishes a monopoly or restrains any competition or the free exercise of activity in the conduct of any business. It does not, however, cover abuse of dominance or unilateral actions committed by single actors, not party to a contract or agreement. This bill would update and expand New York's antitrust law to address modern day issues and provide conformity with certain aspects of federal law.

This hearing will explore emerging antitrust issues in the growing global technology market, including allegations of antitrust misconduct committed by Big Tech, and the need to expand and update the Donnelly Act to tackle such issues. The hearing will also explore the theory of abuse of dominance, including what conduct it applies to, how the theory has been utilized in European courts, and the theory's application within the United States court system. Finally, the hearing will examine unilateral conduct that may be deemed anticompetitive and harmful to consumers, and the need to have such conduct captured and addressed in the Donnelly Act.

Persons wishing to present pertinent testimony to the Committee at the above hearing should complete and return the enclosed reply form as soon as possible. It is important that the reply form be fully completed and returned so that persons may be notified of means by which to testify and/or in the event of emergency postponement or cancellation.

**Oral testimony will be limited to 5 minutes' duration.** The Committee will also accept written testimony. In preparing the order of witnesses, the Committee will attempt to accommodate individual requests to speak and to speak at particular times in view of special circumstances. These requests should be made on the attached reply form or communicated to Committee staff as early as possible. Those wishing to submit testimony/correspondence/information may do so through email to [jpersaud@nysenate.gov](mailto:jpersaud@nysenate.gov).

Attendees and participants at any legislative public hearing should be aware that these proceedings are video recorded. Their likenesses may be included in any video coverage shown on television or the internet. In order to further publicize these hearings, please inform interested parties and organizations of the Committee's interest in hearing testimony from all sources.

In order to meet the needs of those who may have a disability, the Legislature, in accordance with its policy of non-discrimination on the basis of disability, as well as the 1990 Americans with Disabilities Act (ADA), has made its facilities and services available to all individuals with disabilities. For individuals with disabilities, accommodations will be provided, upon reasonable request, to afford such individuals access and admission to the Senate's facilities and activities.

**Senator Kevin Thomas  
Chairperson  
Committee on Consumer Protection**

**PUBLIC HEARING REPLY FORM**

Persons wishing to present testimony at the public hearing on The Twenty-First Century Antitrust Act are requested to complete this reply form as soon as possible and send it to:

Jessica Persaud  
Floor Counsel  
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Senate Standing Committee on Consumer Protection  
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- I request to make a public statement at the hearing on The Twenty-First Century Antitrust Act conducted by the New York State Senate Committee on Consumer Protection on **Monday, September 14, 2020**. My statement will be limited to 5 minutes, and I will answer any questions which may arise.

My remarks will focus on the following:

\_\_\_\_\_

- I do not plan to attend the above hearing.
- I will require assistance and/or handicapped accessibility information. **Please specify the type of assistance required:**

\_\_\_\_\_

**All information below must be completed:**

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Title: : \_\_\_\_\_

Address: : \_\_\_\_\_

E-Mail: : \_\_\_\_\_

Telephone: \_\_\_\_\_