



**TECHNET**  
THE VOICE OF THE  
INNOVATION ECONOMY

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**Re: S8700**

MEMO IN OPPOSITION

TechNet respectfully submits comments in opposition to S8700 (Gianaris), which would criminalize business practices that attempt to establish or maintain a monopoly. The proposal as written is vague and would establish severe penalties for a range of violations that are not defined in statute.

*TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. Our diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.*

TechNet believes that an innovative economy is one that fosters competition in order to protect both competitive prices and quality products for consumers, and to ensure that new innovative businesses entering the market have the chance to thrive. However, S8700 as currently written could curtail entrepreneurial activity and open up companies of all sizes to legal liability for even the most benign business activities.

S8700 expands New York's anti-trust statute to encompass actions taken by a single entity that create or attempt to create a monopoly in the state. The bill further establishes penalties for abuse of a dominant market position. Many of the relevant terms are not defined in the bill or elsewhere in state law, and could be interpreted to apply severe penalties to a wide breadth of normal, everyday business practices.

New York's vibrant startup economy depends on the entrepreneurial spirit of first-movers, and on the availability of capital to carry out their vision. Without a clear threshold of what might constitute market dominance, innovators creating an entirely new class of product or pioneering a new type of market could find themselves criminally liable. Meanwhile, the traditional sources of capital that fuel these operations may be less inclined to invest in ventures out of fear that taking a stake in or merging with a company in an emerging market might be construed as anticompetitive under this bill. This would have a chilling effect on innovation and new company creation when we need to be fostering both.

Companies of all sizes make efforts to differentiate themselves from competitors and gain market share that provide direct benefits to consumers and the state. Horizontal integration allows companies to leverage economies of scale, delivering improved services and lower costs to consumers, while bolstering the integrity of supply chains through improved quality assurance, supplier diversity, sustainability standards and other social goods. S8700 does not clearly define a threshold at which business activity aimed at increasing market share would cross into attempted monopoly. The fear of legal exposure for standard business practices could lead to company reluctance to offer new products or promotions in the state.

Finally, the language at present would apply criminal penalties to violations that are currently treated civilly, while at the same time vastly expanding the range of conduct that would be considered illegal. This is a major departure from established law and, given the vagueness of defined terms in the legislation, is very troubling.

For the above reasons TechNet is strongly opposed to S8700 as written. Thank you for your consideration of our comments and please do not hesitate to contact me with any questions.

Sincerely,



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TechNet  
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