



**Testimony Before the NYS Senate
Standing Committee on Consumer Protection
September 14, 2020**

Tech:NYC is a nonprofit coalition of more than 800 technology companies in New York. Our membership includes the largest tech companies in the world as well as hundreds of small and growing startups. We are committed to the state's enduring economic resilience and to ensuring that all New Yorkers can benefit from innovation. Tech:NYC and our members work with government and community partners to foster a dynamic ecosystem so that New York remains the best place in the country to start and grow a technology company.

As a whole, the tech sector represents more than 330,000 jobs in New York and more than 161,000 of these are high-tech jobs. During this pandemic that continues to cause historic fiscal problems for both the state and individual New Yorkers, major employers in the tech industry are, to the best of our knowledge, the only ones announcing long-term post-COVID commitments to New York State. Specifically, companies like Facebook and Amazon have signed big leases and are committing to hiring more New Yorkers during the pandemic. That's on top of Google's sustained commitment to build out its Hudson Square Campus and add with new New York-based employees. These actions are in addition to the large number of medium and growing tech companies who continue to hire here. Simply put, without tech, there would be little to no new economic growth in New York right now when this exact type of economic activity is desperately needed to avert massive state service upheaval.

These significant commitments and the creation of a tech ecosystem like we are developing in New York is what will pull New York out of its deep fiscal hole and get New Yorkers back to work. We agree that antitrust practices are a serious threat to economic viability. However, we cannot support S.8700 for a variety of reasons. We feel most strongly that right now is not the appropriate time to have the robust discussion needed about whether expanded antitrust enforcement powers should be adopted in New York. This is a philosophical conversation at a time when we need to focus on concrete solutions that grow New York's economy. Tech:NYC believes that S.8700 would best be discussed after the COVID pandemic has abated and the state's economy and general fund are not facing their worst circumstances in 100 years.

As S.8700's bill memo states, Big Tech is the target of this bill. But the chance to work and partner with Big Tech is partly what drives smaller tech companies and startups to New York. To make any businesses think twice about locating or expanding in New York right now is not something we as a New York-focused organization can support. To target the only industry



currently providing actual growth, which S.8700 has stated it does, is misguided public policy that we oppose.

Large tech employers are not just hiring new New York-based workers right now, they have also contributed greatly to New York's tech ecosystem. Startups and entrepreneurs are attracted to cities like New York for the opportunity to work with, sell to, and benefit from the investment opportunities and job candidates developed by these companies. It would be an exaggeration to say that large employers would leave the state as a result of this bill, but we do believe it would result in careful reconsiderations of expansions and investments made in the state, and that small startups would be encouraged to consider locating elsewhere.

In order to foster growth, entrepreneurs need a diverse mixture of talent, capital, and companies of all sizes with whom to collaborate and partner. Currently our state is a welcoming place for entrepreneurs to start new businesses and see them invested in or sold. Unfortunately, this bill would harm New York's growing role in the country and world as a tech hub, because it would consider companies investing in or buying other companies as antitrust activity.

New York's tech industry includes more than 9,000 startups and our startup ecosystem is valued at \$147 billion dollars. As of this year, it is the second most valuable startup ecosystem in the world. Amongst all tech hubs in the nation, Brooklyn's start-up growth since 2008 was the second highest at 356%.

In terms of funding for tech companies, New York has had the second highest absolute number of early-stage investments in the world after Silicon Valley. Funding allows startups to hire more people and sell more products and services. In 2019, New York area-businesses attracted more than \$17.2 billion in funding through approximately 880 venture capital deals.

Clearly, New York is on its way to becoming a tech hub for startups that rivals Silicon Valley, London, and other regions for tech investment. We are thus concerned with the unintended consequences that S.8700 will have on smaller companies and those just starting out. Despite the expansion of the largest tech employers in New York in recent months, startups that aspire to grow into becoming employers the size of Google, Etsy, Warby Parker, or Zillow would be hesitant to locate here if S.8700 becomes law. Specifically, the creation of new antitrust "actions or practices" liability is most problematic for the startups ecosystem.

As written, we interpret the proposed "actions or practices" violation to cover increases to market share or the creation of a market where one does not already exist. The latter interpretation would result in costly penalties and litigation to tech companies in their infancies. Especially problematic would be the liability for the advancement of startups currently without



competitors - i.e. the early years of Netflix or the new home rental security deposit products offered by Rhino, a New York-based tech company.

New York's evolution into a tech hub did not happen overnight and it is the envy of other cities like Boston, Washington, DC, Seattle, Los Angeles, and others which vie for the same companies, jobs, talent, and investment. As New York continues to grow this hub for tech employers big and small, it is crucial that we continue this progress and not discourage it, especially during a massive economic downturn and public health crisis that has created "work from anywhere" options for so many companies.

Thank you for your consideration and please do not hesitate to reach out with any questions.