July 30, 2026

The Honorable Melissa Hurtado
California State Senate
1021 O Street, Suite 6510
Sacramento, CA 95814

RE: SB 295 (Hurtado) – California Preventing Algorithmic Collusion Act of 2025, as amended, September 2, 2025 - OPPOSE

Dear Senator Hurtado:

On behalf of the members of the organizations listed below, we respectfully write to express our opposition to SB 295, your bill that would establish the California Preventing Algorithmic Collusion Act of 2025, prohibiting the distribution or use of pricing algorithms when the person knows or should know that the pricing algorithm uses or incorporates nonpublic competitor data.

We understand and share your concern regarding the potential misuse of confidential competitor data to manipulate prices. Price fixing and collusion—whether accomplished by individuals, through software, or by any other means—should be prohibited and appropriately punished. SB 295, however, is unnecessary, overly broad, and likely to expose businesses to substantial liability for conduct that does not constitute collusion.

Existing law (AB 325 (Aguiar-Curry) – Chapter 338, Stats 2025) already addresses the use of common pricing algorithms – Last year, Governor Newsom signed into law AB 325 (Aguiar-Curry). When he signed the bill, he pointed out that it "makes pricing algorithms subject to state antitrust law, thereby protecting consumers from price increases and false scarcity generated through unlawful collusion."[1] AB 325 expressly makes it unlawful to use or distribute a common pricing algorithm as part of a contract, combination, or conspiracy to restrain trade. It also prohibits the use or distribution of an algorithm to coerce another person into adopting a recommended price or commercial term. This law directly addresses the conduct that prompted concerns about algorithmic collusion, while preserving the fundamental principle that antitrust liability should be based on an agreement, conspiracy, coercion, or other anticompetitive conduct. California should allow this newly enacted law to take effect and be evaluated before adopting a second, overlapping regulatory scheme.

SB 295 would impose liability without requiring an agreement or conspiracy -Traditional antitrust law distinguishes between unlawful coordination among competitors and lawful independent business decisions. SB 295 would depart from that principle by imposing liability without requiring proof of a contract, combination, conspiracy, coercion, or agreement to restrain trade. Under the bill, a business could face liability merely for using a recommendation from a pricing tool if it knew or "should have known" that the tool incorporated certain competitor information and had also been used by another business. This standard risks treating the use of similar technology by independent businesses as unlawful, even when those businesses have never communicated, agreed to act together, or surrendered their independent decision-making authority. Businesses should not be subjected to antitrust-like penalties in the absence of evidence that they participated in an agreement or coordinated conduct.

[1] https://www.gov.ca.gov/2025/10/06/governor-newsom-signs-new-laws-to-help-reduce-costs-for-families/

SB 295 creates excessive and disproportionate penalties - SB 295 authorizes civil penalties of up to $25,000 per violation, in addition to restitution, punitive damages, injunctive relief, attorney's fees, and costs. It then defines violations in a manner that can cause penalties to accumulate rapidly: each authorized software user, each recommendation, and each calendar month of use may constitute a separate violation. As a result, a business that unknowingly uses a noncompliant software product could face enormous liability even without evidence that the business intended to collude, actually coordinated with a competitor, accepted the software's recommendation, or caused harm to consumers.

SB 295 allows enforcement by numerous local officials, which would produce inconsistent standards - SB 295 authorizes enforcement by the Attorney General, district attorneys, county counsel, and city attorneys. Allowing numerous local agencies to independently interpret technical concepts such as "competitor data," "same market," "same customer base," "reasonable expectation," and adequate "due diligence" will produce inconsistent enforcement across the state.

For these and other reasons, we respectfully oppose SB 295 and ask that you not move the bill. Thank you for hearing our concerns.

Sincerely,

Debra Carlton, *Executive Vice President*
State Government Affairs
California Apartment Association

Karim Drissi, *Senior Vice President of Legislative Affairs*
California Building Industry Association

Skyler Wonnacott
Vice President of Government Relations
California Business Properties Association
Building Owners and Managers Association

cc: Members California Assembly