

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition, to deter anticompetitive exclusionary conduct that harms competition and consumers, to enhance the ability of the Department of Justice and the Federal Trade Commission to enforce the antitrust laws, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Ms. KLOBUCHAR (for herself, Mr. WHITEHOUSE, Mr. BLUMENTHAL, Mr. BOOKER, Ms. HIRONO, Mr. WELCH, Mr. HEINRICH, Mr. MARKEY, Mr. MURPHY, Ms. SMITH, Mr. SCHATZ, Mr. WARNER, Mr. WYDEN, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition, to deter anticompetitive exclusionary conduct that harms competition and consumers, to enhance the ability of the Department of Justice and the Federal Trade Commission to enforce the antitrust laws, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Competition and Anti-  
3 trust Law Enforcement Reform Act of 2025”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) competitive markets, in which multiple  
7 firms compete to buy and sell products and services,  
8 are critical to ensuring economic opportunity for all  
9 people in the United States and providing resilience  
10 to the economy during unpredictable times;

11 (2) when companies compete, businesses offer  
12 the highest quality and choice of goods and services  
13 for the lowest possible prices to consumers and other  
14 businesses;

15 (3) competition fosters small business growth,  
16 reduces economic inequality, and spurs innovation  
17 and job creation;

18 (4) competitive markets are crucial for the  
19 United States global economic competitiveness and  
20 national security;

21 (5) in the United States economy today, the  
22 presence and exercise of market power is substantial  
23 and growing;

24 (6) the presence and exercise of market power  
25 makes it more difficult for people in the United  
26 States to start their own businesses, depresses

1 wages, and increases economic inequality, with par-  
2 ticularly damaging effects on historically disadvan-  
3 taged communities;

4 (7) market power and undue market concentra-  
5 tion contribute to the consolidation of political  
6 power, undermining the health of democracy in the  
7 United States;

8 (8) the anticompetitive effects of monopoly  
9 power or buyer market power include higher prices,  
10 lower quality, lessened choice, reduced innovation,  
11 foreclosure of competitors, and increased entry bar-  
12 riers;

13 (9) monopsony power or seller market power al-  
14 lows a firm to force suppliers of goods or services to  
15 accept below market prices or to force workers to ac-  
16 cept below market wages, resulting in lower quality  
17 products and services, reduced opportunities for sup-  
18 pliers and workers, reduced availability of products  
19 and services for consumers, reduced innovation, fore-  
20 closure of competitors, and increased entry barriers;

21 (10) horizontal consolidation, vertical consolida-  
22 tion, and conglomerate mergers all have potential to  
23 increase market power and cause anticompetitive  
24 harm;

1           (11) extensive consolidation is reducing com-  
2           petition and threatens to place the American dream  
3           further out of reach for many consumers in the  
4           United States;

5           (12) since 2008, firms in the United States  
6           have engaged in over \$10,000,000,000,000 in merg-  
7           ers and acquisitions;

8           (13) the acquisition of nascent or potential ri-  
9           vals by dominant firms can present significant long-  
10          term threats to competition and innovation and  
11          harm the global economic competitiveness of the  
12          United States;

13          (14) the acquisition, by one of its competitors,  
14          of a maverick firm that plays a disruptive role in the  
15          market, by using an innovative business model or  
16          technology, offering lower prices or new, different  
17          products or services, or by other means that benefit  
18          consumers, often presents a threat to competition;

19          (15) section 7 of the Clayton Act (15 U.S.C.  
20          18) is the primary line of defense against anti-  
21          competitive mergers;

22          (16) in recent years, some court decisions and  
23          enforcement policies have limited the vitality of the  
24          Clayton Act to prevent harmful consolidation by—

1 (A) discounting previously accepted pre-  
2 sumptions that certain acquisitions are anti-  
3 competitive;

4 (B) focusing inordinately on the effect of  
5 an acquisition on price in the short term, to the  
6 exclusion of other potential anticompetitive ef-  
7 fects;

8 (C) underestimating the dangers that hori-  
9 zontal, vertical, and conglomerate mergers will  
10 lower quality, reduce choice, impede innovation,  
11 exclude competitors, increase entry barriers, or  
12 create buyer power, including monopsony  
13 power;

14 (D) failing to properly account for direct  
15 evidence of competitive harm, including intent  
16 evidence; and

17 (E) requiring the government to prove  
18 harmful effects of a proposed merger to a near  
19 certainty;

20 (17) anticompetitive exclusionary conduct con-  
21 stitutes a particularly harmful exercise of market  
22 power and a substantial threat to the United States  
23 economy;

24 (18) when dominant sellers exercise market  
25 power, they harm buyers by overcharging them, re-

1        ducing product or service quality, limiting their  
2        choices, and impairing innovation;

3            (19) when dominant buyers exercise market  
4        power, they harm suppliers by underpaying them,  
5        limiting their business opportunities, and impairing  
6        innovation;

7            (20) when dominant employers exercise market  
8        power, they harm workers by paying them low  
9        wages, reducing their benefits, and limiting their fu-  
10       ture employment opportunities;

11           (21) nascent or potential rivals, even those that  
12        are unprofitable or inefficient, are an important  
13        source of competitive discipline for dominant firms;

14           (22) antitrust enforcement against anticompeti-  
15        tive exclusionary conduct has been impeded when  
16        courts have declined to rigorously examine the facts  
17        in favor of relying on inaccurate economic assump-  
18        tions that are inconsistent with contemporary eco-  
19        nomic learning, such as presuming that market  
20        power is not durable and can be expected to self-cor-  
21        rect, that monopolies can drive as much or more in-  
22        novation than a competitive market, that above-cost  
23        pricing cannot harm competition, and other flawed  
24        assumptions;

1           (23) the courts of the United States have im-  
2 properly implied immunity from the antitrust laws  
3 based on Federal regulatory statutes, even limiting  
4 the application of statutory antitrust savings clauses  
5 passed by Congress;

6           (24) the civil remedies currently available to  
7 cure violations of the Sherman Antitrust Act, includ-  
8 ing injunctions, equitable monetary relief, and pri-  
9 vate damages, have not proven sufficient, on their  
10 own, to deter anticompetitive conduct;

11           (25) in some cases, effective deterrence requires  
12 the imposition of civil penalties, alone or in combina-  
13 tion with existing remedies, including structural re-  
14 lief, behavioral relief, private damages, and equitable  
15 monetary relief, including disgorgement and restituti-  
16 on; and

17           (26) Federal antitrust enforcement budgets  
18 have failed to keep pace with the growth of the econ-  
19 omy and increasing demands on agency resources,  
20 significantly undermining the ability of the Federal  
21 antitrust agencies to fulfill their law enforcement  
22 missions and contributing to the rise of market  
23 power in the American economy.

24           (b) PURPOSES.—The purposes of this Act are to—

1           (1) enhance competition throughout the Amer-  
2           ican economy by strengthening antitrust enforce-  
3           ment by the Department of Justice, the Federal  
4           Trade Commission, the State enforcement agencies,  
5           and private parties;

6           (2) revise the legal standard under section 7 of  
7           the Clayton Act to better enable enforcers to arrest  
8           the likely anticompetitive effects of harmful mergers  
9           in their incipiency, as Congress intended, by clari-  
10          fying that the potential effects that may justify pro-  
11          hibiting a merger under the Clayton Act include  
12          lower quality, reduced choice, reduced innovation,  
13          the exclusion of competitors, or increased entry bar-  
14          riers, in addition to increased price to buyers or re-  
15          duced price to sellers;

16          (3) amend the Clayton Act to clarify that an  
17          acquisition that tends to create a monopsony violates  
18          the Clayton Act;

19          (4) establish simple, cost-effective decision rules  
20          that require the parties to certain acquisitions that  
21          either significantly increase concentration or are ex-  
22          tremely large bear the burden of establishing that  
23          the acquisition will not materially harm competition;

24          (5) prohibit and deter exclusionary conduct that  
25          harms competition, particularly by dominant firms;



1           (6) enable the Department of Justice and the  
2           Federal Trade Commission to seek civil monetary  
3           penalties, in addition to existing remedies, for viola-  
4           tions of the Sherman Act;

5           (7) give the Department of Justice and the  
6           Federal Trade Commission additional financial re-  
7           sources and enforcement tools to craft remedies for  
8           individual violations that are effective to deter future  
9           unlawful conduct and proportionate to the gravity of  
10          the violation;

11          (8) provide further protections for those who  
12          provide evidence of anticompetitive conduct to gov-  
13          ernment enforcers and potential financial rewards  
14          for whistleblowers who provide information to the  
15          government that leads to a criminal fine; and

16          (9) grant successful antitrust plaintiffs the  
17          right to obtain prejudgment interest on damages  
18          awards to further deter anticompetitive conduct and  
19          increase compensation to injured parties.

20 **SEC. 3. DEFINITION.**

21          In this Act the term “antitrust laws”—

22               (1) has the meaning given the term in the first  
23               section of the Clayton Act (15 U.S.C. 12); and

24               (2) includes—

1 (A) section 5 of the Federal Trade Com-  
2 mission Act (15 U.S.C. 45) to the extent that  
3 such section applies to unfair methods of com-  
4 petition; and

5 (B) this Act and the amendments made by  
6 this Act.

7 **SEC. 4. UNLAWFUL ACQUISITIONS.**

8 (a) MARKET POWER.—Subsection (a) of the first sec-  
9 tion of the Clayton Act (15 U.S.C. 12) is amended by add-  
10 ing at the end the following:

11 “The term ‘market power’ in this Act means the abil-  
12 ity of a person, or a group of persons acting in concert,  
13 to profitably impose terms or conditions on counterparties,  
14 including terms regarding price, quantity, product or serv-  
15 ice quality, or other terms affecting the value of consider-  
16 ation exchanged in the transaction, that are more favor-  
17 able to the person or group of persons imposing them than  
18 what the person or group of persons could obtain in a com-  
19 petitive market.”.

20 (b) UNLAWFUL ACQUISITIONS.—Section 7 of the  
21 Clayton Act (15 U.S.C. 18) is amended—

22 (1) in the first and second undesignated para-  
23 graphs, by striking “substantially to lessen” each  
24 place that term appears and inserting “to create an  
25 appreciable risk of materially lessening”;

1           (2) by inserting “or a monopsony” after “mo-  
2           nopoly” each place that term appears; and

3           (3) by adding at the end the following:

4           “In a case brought by the United States, the Federal  
5 Trade Commission, or a State attorney general, a court  
6 shall determine that the effect of an acquisition described  
7 in this section may be to create an appreciable risk of ma-  
8 terially lessening competition or to tend to create a monop-  
9 oly or a monopsony, in or affecting commerce, if—

10           “(1) the acquisition would lead to a significant  
11 increase in market concentration in any relevant  
12 market;

13           “(2) the acquisition would increase the ability  
14 and incentive to engage in exclusionary conduct, as  
15 defined in section 26A of the Clayton Act.

16           “(3)(A) the acquiring person has a market  
17 share of greater than 50 percent or otherwise has  
18 significant market power, as a seller or a buyer, in  
19 any relevant market, and as a result of the acquisi-  
20 tion, the acquiring person would obtain control over  
21 entities or assets that compete or have a reasonable  
22 probability of competing with the acquiring person  
23 in the same relevant market; or

24           “(B) as a result of the acquisition, the acquir-  
25 ing person would obtain control over entities or as-

1 sets that have a market share of greater than 50  
2 percent or otherwise have significant market power,  
3 as a seller or a buyer, in any relevant market, and  
4 the acquiring person competes or has a reasonable  
5 probability of competing with the entities or assets  
6 over which it would obtain control, as result of the  
7 acquisition, in the same relevant market;

8 “(4) the acquisition would lead to the combina-  
9 tion of entities or assets that compete or have a rea-  
10 sonable probability of competing in a relevant mar-  
11 ket, and either the acquiring person or the entities  
12 or assets over which it would obtain control pre-  
13 vents, limits, or disrupts coordinated interaction  
14 among competitors in a relevant market or has a  
15 reasonable probability of doing so;

16 “(5) the acquisition—

17 “(A) would likely enable the acquiring per-  
18 son to unilaterally and profitably exercise mar-  
19 ket power or materially increase its ability to do  
20 so; or

21 “(B) would materially increase the prob-  
22 ability of coordinated interaction among com-  
23 petitors in any relevant market; or

24 “(6)(A) the acquisition is not a transaction that  
25 is described in section 7A(c); and

1           “(B)(i) as a result of such acquisition, the ac-  
2           quiring person would hold an aggregate total  
3           amount of the voting securities and assets of the ac-  
4           quired person in excess of \$5,000,000,000 (as ad-  
5           justed and published for each fiscal year beginning  
6           after September 30, 2025, in the same manner as  
7           provided in section 8(a)(5) to reflect the percentage  
8           change in the gross national product for such fiscal  
9           year compared to the gross national product for the  
10          year ending September 30, 2024; or

11          “(ii)(I) the person acquiring or the person being  
12          acquired has assets, net annual sales, or a market  
13          capitalization greater than \$100,000,000,000 (as so  
14          adjusted and published); and

15          “(II) as a result of such acquisition, the acquir-  
16          ing person would hold an aggregate total amount of  
17          the voting securities and assets of the acquired per-  
18          son in excess of \$50,000,000 (as so adjusted and  
19          published),  
20          unless the acquiring or acquired person establishes,  
21          by a preponderance of the evidence, that the effect  
22          of the acquisition will not be to create an appreciable  
23          risk of materially lessening competition or will not  
24          tend to create a monopoly or a monopsony. In this

1 paragraph, the term ‘materially’ means more than a  
2 de minimis amount”.

3 **SEC. 5. POST-PROCEEDING DATA.**

4 Section 7A of the Clayton Act (15 U.S.C. 18a) is  
5 amended by adding at the end the following:

6 “(l)(1) Each person who resolves a proceeding  
7 brought under the antitrust laws by the Federal Trade  
8 Commission or United States by entering into an agree-  
9 ment or by the final judgment in a Federal or administra-  
10 tive court regarding an acquisition with respect to which  
11 notification is required under this section shall, on an an-  
12 nual basis during the 5-year period beginning on the date  
13 on which the agreement is entered into, file with the Fed-  
14 eral Trade Commission or the Assistant Attorney General,  
15 as applicable, and the Competition Advocate, information  
16 sufficient for the Federal Trade Commission or the United  
17 States, as applicable, to assess the competitive impact of  
18 the acquisition, including—

19 “(A) the pricing, availability, and quality of any  
20 product or service, or inputs thereto, in any market,  
21 that was covered by the agreement;

22 “(B) the source, and the resulting magnitude  
23 and extent, of any cost-saving efficiencies or any  
24 benefits to consumers or trading partners that were  
25 claimed as a benefit of the acquisition and the extent

1 to which any cost savings were passed on to con-  
2 sumers or trading partners; and

3 “(C) the effectiveness of any divestitures or any  
4 conditions placed on the acquisition in fully restoring  
5 competition.

6 “(2) The requirement to provide the information de-  
7 scribed in paragraph (1) shall be included in an agreement  
8 described in that paragraph.

9 “(3) The Federal Trade Commission, with the con-  
10 currence of the Assistant Attorney General, by rule in ac-  
11 cordance with section 553 of title 5, United States Code,  
12 and consistent with the purposes of this section—

13 “(A) shall require that the information de-  
14 scribed in paragraph (1) be in such form and con-  
15 tain such documentary material and information rel-  
16 evant to an acquisition as is necessary and appro-  
17 priate to enable the Federal Trade Commission and  
18 the Assistant Attorney General to assess the com-  
19 petitive impact of the acquisition under paragraph  
20 (1); and

21 “(B) may—

22 “(i) define the terms used in this sub-  
23 section;

24 “(ii) exempt, from the requirements of this  
25 section, information not relevant in assessing

1 the competitive impact of the acquisition under  
2 paragraph (1); and

3 “(iii) prescribe such other rules as may be  
4 necessary and appropriate to carry out the pur-  
5 poses of this section.”.

6 “(4) The chief executive officer, chief financial offi-  
7 cer, general counsel, or a corporate officer of similar au-  
8 thority shall certify, under penalty of perjury, the accuracy  
9 of a report under this subsection.”.

10 **SEC. 6. FEDERAL TRADE COMMISSION STUDY.**

11 (a) IN GENERAL.—Not later than 2 years after the  
12 date of enactment of this Act, the Federal Trade Commis-  
13 sion, in consultation with the Securities and Exchange  
14 Commission, shall conduct and publish a study, pursuant  
15 to section 6(b) of the Federal Trade Commission Act, rely-  
16 ing on public data and information if available and suffi-  
17 cient, and incorporating public comment on—

18 (1) the extent to which an institutional investor  
19 or related institutional investors have ownership or  
20 control interests in competitors in moderately con-  
21 centrated or concentrated markets;

22 (2) the impacts of such overlapping ownership  
23 or control on competition; and

24 (3) the mechanisms by which an institutional  
25 investor could affect competition among the compa-



1       nies in which it invests and whether such mecha-  
2       nisms are prevalent.

3       (b) EXEMPTION FROM PAPERWORK REDUCTION  
4 ACT.—Chapter 35 of title 44, United States Code, shall  
5 not apply to the collection of information under subsection  
6 (a).

7 **SEC. 7. GAO STUDIES.**

8       (a) IN GENERAL.—Not later than 18 months after  
9 the date of enactment of this Act, the Comptroller General  
10 of the United States shall—

11           (1) conduct and publish a study to assess the  
12 success of merger remedies required by the Depart-  
13 ment of Justice or the Federal Trade Commission in  
14 consent decrees entered into during the 8-year pe-  
15 riod ending on the date on which the study is con-  
16 ducted, including the impact on maintaining com-  
17 petition, a comparison of structural and conduct  
18 remedies, and the viability of divested assets; and

19           (2) conduct a study on the impact of mergers  
20 and acquisitions on wages, employment, innovation,  
21 and new business formation.

22       (b) UPDATE.—The Comptroller General of the  
23 United States shall—

1           (1) update the study under subsection (a)(1)  
2           every 4 years after the date of enactment of this  
3           Act, as added by section 5 of this Act; and

4           (2) identify specific remedies or alleged merger  
5           benefits that require additional information or re-  
6           search.

7 **SEC. 8. OFFICE OF COMPETITION ADVOCATE.**

8           (a) DEFINITIONS.—In this section—

9           (1) the term “agency” has the meaning given  
10          the term in section 551 of title 5, United States  
11          Code;

12          (2) the term “Chair” means the Chair of the  
13          Commission;

14          (3) the term “Commission” means the Federal  
15          Trade Commission;

16          (4) the term “covered company” means any  
17          company that has, at any time, been required to  
18          make a filing under section 7A of the Clayton Act  
19          (15 U.S.C. 18a); and

20          (5) the term “Office” means the Office of the  
21          Competition Advocate established under subsection  
22          (b).

23          (b) ESTABLISHMENT.—There is established within  
24          the Federal Trade Commission the Office of the Competi-  
25          tion Advocate.

1 (c) COMPETITION ADVOCATE.—

2 (1) IN GENERAL.—The head of the Office shall  
3 be the Competition Advocate, who shall—

4 (A) report directly to, and be under the su-  
5 pervision of, the Chair, but the Chair shall not  
6 prevent or prohibit the Competition Advocate  
7 from initiating, carrying out, or completing any  
8 of its duties under this section;

9 (B) be appointed by the Chair with the ap-  
10 proval of the Commission, including at least 1  
11 Commissioner who is not a member of the same  
12 political party as the Chair, from among indi-  
13 viduals having experience in advocating for the  
14 promotion of competition; and

15 (C) serve a term of 7 years and shall not  
16 be removable except upon a unanimous vote of  
17 the Commission.

18 (2) COMPENSATION.—The annual rate of pay  
19 for the Competition Advocate shall be equal to the  
20 highest rate of annual pay for other senior execu-  
21 tives who report to the Chair of the Commission.

22 (3) LIMITATION ON SERVICE.—An individual  
23 who serves as the Competition Advocate may not be  
24 employed by the Commission—

1 (A) during the 2-year period ending on the  
2 date of appointment as Competition Advocate;  
3 and

4 (B) during the 5-year period beginning on  
5 the date on which the person ceases to serve as  
6 the Competition Advocate.

7 (d) STAFF OF OFFICE.—The Commission shall allo-  
8 cate funds from the Commission budget to the Office of  
9 the Competition Advocate sufficient for the Competition  
10 Advocate to retain or employ such counsel, research staff,  
11 and service staff necessary to carry out the functions, pow-  
12 ers, and duties of the Office.

13 (e) DUTIES AND POWERS.—The Competition Advo-  
14 cate shall—

15 (1) recommend processes or procedures that  
16 will allow the Federal Trade Commission and the  
17 Antitrust Division of the Department of Justice to  
18 improve the ability of each agency to solicit reports  
19 from consumers, small businesses, and workers  
20 about possible anticompetitive practices or adverse  
21 effects of concentration;

22 (2) provide recommendations to other agencies  
23 about agency actions that may have anticompetitive  
24 effects and the potential harm to competition;

1           (3) provide recommendations to other agencies  
2           about agency actions that may have procompetitive  
3           effects and the potential benefit to competition;

4           (4) publish periodic reports on—

5                   (A) the effects of remedies required by the  
6           Department of Justice or the Federal Trade  
7           Commission in consent decrees;

8                   (B) the effects of law enforcement actions,  
9           whether successful or not, including settle-  
10          ments, preliminary injunctions, court-mandated  
11          remedies, or any other remedy imposed by a  
12          court or agreed to by the Department of Justice  
13          or Federal Trade Commission;

14                  (C) the effects of a decision by the Depart-  
15          ment of Justice or the Federal Trade Commis-  
16          sion to allow any merger or transaction to move  
17          forward without a consent decree or bringing a  
18          law enforcement action;

19                  (D) the effects of decisions and opinions  
20          issues by State and Federal courts related to  
21          the antitrust laws on competition and the fu-  
22          ture enforcement of the antitrust laws; and

23                  (E) the effects of other agency actions, in-  
24          cluding rulemakings, on competition;

1           (5) provide recommendations to the Federal  
2 Trade Commission and Department of Justice about  
3 the effectiveness of policy statements, guidelines, or  
4 practices to improve the enforcement of the antitrust  
5 laws;

6           (6) report any evidence the Competition Advo-  
7 cate obtains that any person, partnership, or cor-  
8 poration has engaged in transactions or conduct that  
9 may constitute of a violation of the antitrust laws,  
10 or any settlement, agreement, or consent decree re-  
11 lated to a potential violation of the antitrust laws, to  
12 the Commission, which may institute further inves-  
13 tigation, initiate enforcement proceedings, or refer  
14 such evidence to the Attorney General;

15           (7) request such information or assistance as  
16 may be necessary for carrying out the duties and  
17 powers described in this subsection from any agency  
18 or unit thereof, including the Commission. The head  
19 of any agency shall, insofar as is practicable and not  
20 in contravention of any existing statutory restriction  
21 or regulation of the agency from which the informa-  
22 tion is requested, furnish to the Competition Advo-  
23 cate such information or assistance;

1           (8) have discretion to decide whether to release  
2           the recommendations of the Competition Advocate  
3           publicly;

4           (9) have access to all information and data col-  
5           lected and retained by the Office of Market Analysis  
6           and Data; and

7           (10) submit all recommendations or reports to  
8           the Committee on the Judiciary of the Senate and  
9           the Committee on the Judiciary of the House of  
10          Representatives.

11          (f) SUBPOENA AUTHORITY.—

12           (1) IN GENERAL.—The Competition Advocate  
13           may either accept voluntary submissions of periodic  
14           and other reports from any covered company, or  
15           compel the production of such a report by subpoena  
16           for the purpose of carrying out its duties and powers  
17           in subsection (e).

18           (2) INDEPENDENT SUBPOENA AUTHORITY.—

19           Upon a finding that a covered company will not sub-  
20           mit, or has not submitted, a sufficient report volun-  
21           tarily, the Competition Advocate may, under its own  
22           independent authority, and notwithstanding any ju-  
23           risdictional limitations in the Federal Trade Com-  
24           mission Act applicable to the Commission's inves-  
25           tigative authority, compel the submission of a peri-

1        odic or other reports from any covered company by  
2        issuing a subpoena.

3            (3) ENFORCEMENT.—The Competition Advo-  
4        cate shall have independent authority to bring an ac-  
5        tion in any appropriate Federal court to enforce any  
6        subpoena issued under this subsection.

7            (4) WRITTEN FINDING.—Before issuing a sub-  
8        poena to collect the information described in para-  
9        graph (1), the Competition Advocate shall make a  
10       written finding that—

11            (A) the data is required to carry out the  
12        functions of the Competition Advocate; and

13            (B) the information is not available from a  
14        public source, from the covered company on a  
15        voluntary basis, or another agency.

16            (5) MITIGATION OF REPORT BURDEN.—Before  
17        requiring the submission of a report from any cov-  
18        ered company, the Competition Advocate shall—

19            (A) coordinate with other agencies or au-  
20        thority; and

21            (B) whenever possible, rely on information  
22        available from such agencies or authority.

23            (6) CONFIDENTIALITY.—Information reported  
24        to or otherwise obtained by the Competition Advo-  
25        cate shall be subject to the same confidentiality re-





1 (C) any other database that the Commis-  
2 sion determines is necessary to carry out the  
3 duties of the Office;

4 (3) collecting and publishing data regarding  
5 concentration levels across industries and the impact  
6 and degree of antitrust enforcement;

7 (4) standardizing the types and formats of data  
8 reported and collected, including standards for re-  
9 porting financial transaction and position data;

10 (5) publishing reports regarding competitive  
11 conditions and dynamics affecting markets or indus-  
12 try sectors, in the United States, local geographic  
13 markets, different demographic and socioeconomic  
14 groups (including the effects that market concentra-  
15 tion, mergers and acquisitions, certain types of  
16 agreements, and other forms of business conduct  
17 have on competition), consumers, workers, innova-  
18 tion, the economic competitiveness of the United  
19 States, economic resilience, and national security;  
20 and

21 (6) publishing reports concerning the competi-  
22 tive effects of acquisitions, which shall include rec-  
23 ommendations concerning appropriate enforcement  
24 action to remedy any anticompetitive effects discov-  
25 ered, and may include assessments of—

1 (A) the conditions of the relevant markets  
2 affected by the acquisition, over the period since  
3 the acquisition was consummated, including,  
4 but not limited to, the potential impact that the  
5 acquisition has had on—

6 (i) the prices of goods or services, in-  
7 cluding wages in any affected labor mar-  
8 kets;

9 (ii) the output and quality of goods  
10 and services;

11 (iii) the entry or exit of competitors;

12 (iv) innovation;

13 (v) consumer choice and product vari-  
14 ety;

15 (vi) the opportunity of suppliers and  
16 vendors to sell their products or services;

17 (vii) coordinated interaction between  
18 competitors; and

19 (viii) subsequent mergers and acquisi-  
20 tions activity;

21 (B) whether the acquiring person or its  
22 successors in interest—

23 (i) complied with all obligations under  
24 any agreement with the Federal Trade  
25 Commission, the United States, or State

1 law enforcement authorities to resolve a  
2 proceeding brought under the antitrust  
3 laws; and

4 (ii) achieved measurable, transaction-  
5 specific efficiencies, which did not arise  
6 from anticompetitive reductions of output,  
7 as a result of the acquisition; and

8 (C) whether any agreements with the Fed-  
9 eral Trade Commission or the United States or  
10 remedies imposed by a Federal court to resolve  
11 a proceeding brought under the antitrust laws  
12 regarding the acquisition was effective in miti-  
13 gating the anticompetitive effects from the ac-  
14 quisition.

15 (e) INFORMATION SECURITY.—The Commission shall  
16 ensure that data collected and maintained by the Office  
17 of Market Analysis and Data is kept secure and protected  
18 against unauthorized disclosure.

19 (d) REGULATIONS.—The Commission may, under  
20 section 553 of title 5, United States Code, promulgate reg-  
21 ulations relating to the collection and standardizing of  
22 data under subsection (b).

1 **SEC. 10. EXCLUSIONARY CONDUCT.**

2 (a) IN GENERAL.—The Clayton Act (15 U.S.C. 12  
3 et seq.) is amended by inserting after section 26 (15  
4 U.S.C. 26a) the following:

5 **“SEC. 26A. EXCLUSIONARY CONDUCT.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) EXCLUSIONARY CONDUCT.—

8 “(A) IN GENERAL.—The term ‘exclu-  
9 sionary conduct’ means conduct that—

10 “(i) materially disadvantages 1 or  
11 more actual or potential competitors; or

12 “(ii) tends to foreclose or limit the  
13 ability or incentive of 1 or more actual or  
14 potential competitors to compete.

15 “(B) LIMITATIONS.—

16 “(i) IN GENERAL.—Applying for or  
17 enforcing a patent, trademark, or copy-  
18 right, unless such applications or enforce-  
19 ment actions are baseless or made in bad  
20 faith or in violation of a legal obligation,  
21 shall not alone constitute exclusionary con-  
22 duct, but such actions may be considered  
23 as part of a course of conduct that con-  
24 stitutes exclusionary conduct.

25 “(ii) CONDUCT.—Conduct that is nec-  
26 essary to comply with Federal or State law

1           shall not alone constitute exclusionary con-  
2           duct, but such actions may be considered  
3           as part of a course of conduct that con-  
4           stitutes exclusionary conduct.

5           “(2) MARKET POWER.—The term ‘market  
6           power’ means the ability of a person, or a group of  
7           persons acting in concert, to profitably impose terms  
8           or conditions on counterparties, including terms re-  
9           garding price, quantity, product or service quality,  
10          or other terms affecting the value of consideration  
11          exchanged in the transaction, that are more favor-  
12          able to the person or group of persons imposing  
13          them than what the person or group of persons  
14          could obtain in a competitive market.

15          “(b) VIOLATION.—

16               “(1) IN GENERAL.—It shall be unlawful for a  
17               person, acting alone or in concert with other per-  
18               sons, to engage in exclusionary conduct that pre-  
19               sents an appreciable risk of harming competition.

20               “(2) UNFAIR METHOD OF COMPETITION.—A  
21               violation of paragraph (1) shall also constitute an  
22               unfair method of competition under section 5 of the  
23               Federal Trade Commission Act (15 U.S.C. 45).

24          “(c) PRESUMPTION.—

1           “(1) IN GENERAL.—Except as provided in para-  
2 graph (2), exclusionary conduct shall be presumed to  
3 present an appreciable risk of harming competition  
4 and shall be a violation of subsection (b)(1) if the  
5 exclusionary conduct is undertaken, with respect to  
6 a relevant market, by a person or by a group of  
7 more than 1 person acting in concert that—

8           “(A) has a market share of greater than  
9 50 percent as a seller or a buyer in the relevant  
10 market; or

11           “(B) otherwise has significant market  
12 power in the relevant market.

13           “(2) EXCEPTION.—Paragraph (1) shall not  
14 apply if the defendant establishes, by a preponder-  
15 ance of the evidence, that—

16           “(A) distinct procompetitive benefits of the  
17 exclusionary conduct in the relevant market  
18 eliminate the risk of harming competition pre-  
19 sented by the exclusionary conduct;

20           “(B) 1 or more persons, not including any  
21 person participating in or facilitating the exclu-  
22 sionary conduct, have entered or expanded their  
23 presence in the market with the effect of elimi-  
24 nating the risk of harming competition posed by  
25 the exclusionary conduct; or

1                   “(C) the exclusionary conduct does not  
2                   present an appreciable risk of harming competi-  
3                   tion.

4                   “(d) CONSIDERATIONS.—If the presumption in sub-  
5 section (c) does not apply, the determination of whether  
6 exclusionary conduct presents an appreciable risk of harm-  
7 ing competition shall be based on the totality of the cir-  
8 cumstances, which may include consideration of—

9                   “(1) the extent to which any distinct procom-  
10                  petitive benefits of the exclusionary conduct substan-  
11                  tially eliminate the risk of harming competition pre-  
12                  sented by the exclusionary conduct; and

13                  “(2) whether 1 or more persons, not including  
14                  any person participating in or facilitating the exclu-  
15                  sionary conduct, have entered or expanded their  
16                  presence in the market, substantially eliminating the  
17                  risk of harming competition presented by the exclu-  
18                  sionary conduct.

19                  “(e) LIMITATIONS.—Although the following cir-  
20 cumstances may constitute evidence of a violation of sub-  
21 section (b)(1), such violation does not require finding—

22                  “(1) that the unilateral conduct of the defend-  
23                  ant altered or terminated a prior course of dealing  
24                  between the defendant and a person subject to the  
25                  exclusionary conduct;



1           “(2) that the defendant treated persons subject  
2           to the exclusionary conduct differently than the de-  
3           fendant treated other persons;

4           “(3) that any price of the defendant for a prod-  
5           uct or service was below any measure of the costs  
6           to the defendant of providing the product or service;

7           “(4) that a defendant with significant market  
8           power in a relevant market has recouped or is likely  
9           to recoup the losses it incurred or incurs from below-  
10          cost pricing for products or services in the relevant  
11          market;

12          “(5) that the conduct of the defendant makes  
13          no economic sense apart from its tendency to harm  
14          competition;

15          “(6) that the risk of harming competition pre-  
16          sented by the conduct of the defendant or any re-  
17          sulting actual harm to competition have been quan-  
18          tified or proven with quantitative evidence; or

19          “(7) that when a defendant operates a multi-  
20          sided platform business, the conduct of the defend-  
21          ant presents an appreciable risk of harming competi-  
22          tion on more than 1 side of the multi-sided platform.

23          “(f) CIVIL PENALTIES.—Any person who violates  
24          subsection (b)(1) shall be liable to the United States for  
25          a civil penalty, which may be recovered in a civil action

1 brought by the Attorney General of the United States, of  
2 not more than the greater of—

3 “(1) 15 percent of the total United States reve-  
4 nues of the person for the previous calendar year; or

5 “(2) 30 percent of the United States revenues  
6 of the person in any line of commerce affected or  
7 targeted by the unlawful conduct during the period  
8 of the unlawful conduct.”.

9 (b) FEDERAL TRADE COMMISSION AUTHORITY.—

10 (1) IN GENERAL.—The Clayton Act (15 U.S.C.  
11 12 et seq.) is amended by inserting after section  
12 26A, as added by subsection (a), the following:

13 **“SEC. 26B. CIVIL PENALTIES.**

14 “(a) CIVIL PENALTY FOR VIOLATION OF SECTION  
15 26A OF THE CLAYTON ACT.—The Commission may com-  
16 mence a civil action in a district court of the United States  
17 against any person, partnership, or corporation who vio-  
18 lates section 26A(b)(1) to recover a civil penalty, which  
19 shall accrue to the United States, in an amount not more  
20 than the greater of—

21 “(1) 15 percent of the total United States reve-  
22 nues of the person, partnership, or corporation for  
23 the previous calendar year; or

24 “(2) 30 percent of the United States revenues  
25 of the person, partnership, or corporation in any line

1 of commerce affected or targeted by the unlawful  
2 conduct during the period of the unlawful conduct.

3 “(b) COMMISSION LITIGATION AUTHORITY.—Except  
4 as otherwise provided in section 16(a)(3) of the Federal  
5 Trade Commission Act (15 U.S.C. 56(a)(3)), the Commis-  
6 sion shall have exclusive authority to commence or defend,  
7 and supervise the litigation of, any civil action authorized  
8 under section 26A and any appeal of such action in its  
9 own name by any of its attorneys designated by it for such  
10 purpose, unless the Commission authorizes the Attorney  
11 General to do so. The Commission shall inform the Attor-  
12 ney General of the exercise of such authority, and such  
13 exercise shall not preclude the Attorney General from in-  
14 tervening on behalf of the United States in such action  
15 and any appeal of such action as may be otherwise pro-  
16 vided by law.”.

17 (c) ENFORCEMENT GUIDELINES.—

18 (1) IN GENERAL.—Not later than 1 year after  
19 the date of enactment of this Act, the Attorney Gen-  
20 eral and the Federal Trade Commission shall issue  
21 joint guidelines outlining policies, practices, and ana-  
22 lytical techniques relating to agency enforcement  
23 under section 26A of the Clayton Act, as added by  
24 subsection (a) of this section, with the goal of pro-

1 moting transparency and deterring violations of such  
2 section 26A.

3 (2) UPDATES.—The Attorney General and the  
4 Federal Trade Commission shall update the joint  
5 guidelines issued under subsection (a), as needed to  
6 reflect current agency policies and practices, but not  
7 less frequently than once every 5 years beginning on  
8 the date of enactment of this Act.

9 (3) PUBLIC NOTICE AND COMMENT.—

10 (A) GUIDELINES.—Before issuing guide-  
11 lines under paragraph (1) or (2), the Attorney  
12 General and the Federal Trade Commission  
13 shall publish proposed guidelines in draft form  
14 and provide public notice and opportunity for  
15 comment for not less than 60 days after the  
16 date on which the guidelines are published.

17 (B) INAPPLICABILITY OF RULEMAKING  
18 PROVISIONS.—The provisions of section 553 of  
19 title 5, United States Code, shall not apply to  
20 the guidelines issued under this section.

21 **SEC. 11. PENALTIES FOR SHERMAN ACT VIOLATIONS.**

22 (a) CIVIL PENALTY AMENDMENTS.—

23 (1) SECTION 1 OF THE SHERMAN ACT.—Section  
24 1 of the Sherman Antitrust Act (15 U.S.C. 1) is  
25 amended—

1 (A) by striking “Every” and inserting “(a)  
2 Every”; and

3 (B) by adding at the end the following:

4 “(b)(1) Every person who violates this section shall  
5 be liable to the United States for a civil or criminal penalty  
6 of not more than the greater of—

7 “(A) 15 percent of the total United States reve-  
8 nues of the person for the previous calendar year; or

9 “(B) 30 percent of the United States revenues  
10 of the person in any part of the trade or commerce  
11 related to or targeted by the unlawful conduct under  
12 this section during the period of the unlawful con-  
13 duct.

14 “(2) A penalty under this section may be recovered  
15 in a civil or criminal action brought by the United  
16 States.”.

17 (2) SECTION 2 OF THE SHERMAN ACT.—Section  
18 2 of the Sherman Antitrust Act (15 U.S.C. 2) is  
19 amended—

20 (A) by striking “Every” and inserting “(a)  
21 Every”; and

22 (B) by adding at the end the following

23 “(b)(1) Every person who violates this section shall  
24 be liable to the United States for a civil penalty of not  
25 more than the greater of—

1           “(A) 15 percent of the total United States reve-  
2           nues of the person for the previous calendar year; or

3           “(B) 30 percent of the United States revenues  
4           of the person in any part of the trade or commerce  
5           related to or targeted by the unlawful conduct under  
6           this section during the period of the unlawful con-  
7           duct.

8           “(2) A civil penalty under this section may be recov-  
9           ered in a civil action brought by the United States.”.

10           (3) SECTION 5 OF THE FEDERAL TRADE COM-  
11           MISSION ACT.—Section 5 of the Federal Trade Com-  
12           mission Act (15 U.S.C. 45) is amended by adding at  
13           the end the following:

14           “(o)(1) The Commission may commence a civil action  
15           in a district court of the United States against any person,  
16           partnership, or corporation for a violation of subsection  
17           (a)(1) respecting an unfair method of competition that  
18           constitutes a violation of sections 1 or 2 of the Sherman  
19           Act (15 U.S.C. 1, 2) and to recover a civil penalty for  
20           such violation.

21           “(2) In an action under paragraph (1), any person,  
22           partnership, or corporation found to have violated sub-  
23           section (a)(1) respecting an unfair method of competition  
24           that constitutes a violation of section 1 or 2 of the Sher-

1 man Act (15 U.S.C. 1, 2) shall be liable for a civil penalty  
2 of not more than the greater of—

3 “(A) 15 percent of the total United States reve-  
4 nues of the person, partnership, or corporation for  
5 the previous calendar year; or

6 “(B) 30 percent of the United States revenues  
7 of the person, partnership, or corporation in any line  
8 of commerce related to or targeted by the unlawful  
9 conduct described in paragraph (1) during the pe-  
10 riod of the unlawful conduct.”.

11 (4) SECTION 16 OF THE FEDERAL TRADE COM-  
12 MISSION ACT.—Section 16(a)(2) of the Federal  
13 Trade Commission Act (15 U.S.C. 56(a)(2)) is  
14 amended—

15 (A) in subparagraph (D), by striking “or”  
16 at the end;

17 (B) in subparagraph (E)—

18 (i) by moving the margins 2 ems to  
19 the left; and

20 (ii) by striking the semicolon and in-  
21 serting “; or”; and

22 (C) by inserting after subparagraph (E)  
23 the following:

24 “(F) to recover civil penalties under section  
25 5(o);”.

1 (b) RULE OF CONSTRUCTION.—The civil penalties  
2 provided in subsection (b) of section 1 of the Sherman  
3 Act (15 U.S.C. 1), subsection (b) of section 2 of the Sher-  
4 man Act (15 U.S.C. 2), and subsection (o) of section 5  
5 of the Federal Trade Commission Act (15 U.S.C. 45), as  
6 added by subsection (a) of this section, are in addition  
7 to, and not in lieu of, any other remedy provided by Fed-  
8 eral law, including under—

9 (1) section 4 or 16 of the Clayton Act (15  
10 U.S.C. 15, 26); or

11 (2) section 13(b) of the Federal Trade Commis-  
12 sion Act (15 U.S.C. 53(b)).

13 **SEC. 12. JOINT CIVIL PENALTY GUIDELINES.**

14 (a) IN GENERAL.—Not later than 1 year after the  
15 date of enactment of this Act, the Attorney General and  
16 the Federal Trade Commission shall issue joint guidelines  
17 reflecting agency policies for determining the appropriate  
18 amount of a civil penalty to be sought under sections 1(b)  
19 and 2(b) of the Sherman Act (15 U.S.C. 1, 2), section  
20 26A(f) of the Clayton Act, as added by section 10(a) of  
21 this Act, and section 5(o) of the Federal Trade Commis-  
22 sion Act (15 U.S.C. 45), as added by section 11(a) of this  
23 Act, with the goal of promoting transparency and seeking  
24 remedies for individual violations that are effective in de-



1 terring future unlawful conduct and proportionate to the  
2 gravity of the violation.

3 (b) CONSIDERATIONS.—In determining civil penalty  
4 amounts under sections 1(b) and 2(b) of the Sherman Act  
5 (15 U.S.C. 1, 2), section 26A(f) of the Clayton Act, as  
6 added by section 10(a) of this Act, and section 5(o) of  
7 the Federal Trade Commission Act (15 U.S.C. 45), as  
8 added by section 11(a) of this Act, a district court of the  
9 United States shall consider—

10 (1) the volume of commerce affected;

11 (2) the duration and severity of the unlawful  
12 conduct;

13 (3) the intent of the person undertaking the un-  
14 lawful conduct;

15 (4) the extent to which the unlawful conduct  
16 was egregious or a clear violation of the law;

17 (5) whether the civil penalty is to be applied in  
18 combination with other remedies, including—

19 (A) structural remedies, behavioral condi-  
20 tions, or equitable disgorgement; or

21 (B) other remedies available under section  
22 4, 4A, 15, or 16 of the Clayton Act (15 U.S.C.  
23 15, 15a, 25, 26) or section 13(b) of the Federal  
24 Trade Commission Act (15 U.S.C. 53(b));

1           (6) whether the person has previously engaged  
2           in the same or similar anticompetitive conduct;

3           (7) the extent to which the penalty will act to  
4           deter future violations of the antitrust laws; and

5           (8) whether the person undertook the conduct  
6           in violation of a preexisting consent decree or court  
7           order.

8           (c) UPDATES.—The Attorney General and the Fed-  
9           eral Trade Commission shall update the joint guidelines  
10          issued under subsection (a), as needed to reflect current  
11          agency policies and practices, but not less frequently than  
12          once every 5 years beginning on the date of enactment  
13          of this Act.

14          (d) PUBLIC NOTICE AND COMMENT.—

15                (1) GUIDELINES.—Before issuing guidelines  
16                under subsection (a) or subsection (c), the Attorney  
17                General and the Federal Trade Commission shall  
18                publish proposed guidelines in draft form and pro-  
19                vide public notice and opportunity for comment for  
20                not less than 60 days after the date on which the  
21                guidelines are published.

22                (2) INAPPLICABILITY OF RULEMAKING PROVI-  
23                SIONS.—The provisions of section 553 of title 5,  
24                United States Code, shall not apply to the guidelines  
25                issued under this section.

1 **SEC. 13. MARKET DEFINITION.**

2 (a) **IN GENERAL.**—Establishing liability under the  
3 antitrust laws does not require the definition of a relevant  
4 market, except when the definition of a relevant market  
5 is required, to establish a presumption or to resolve a  
6 claim, under a statutory provision that explicitly ref-  
7 erences the terms “relevant market”, “market concentra-  
8 tion”, or “market share”. Statutory references to the term  
9 “line of commerce” shall not constitute an exception to  
10 the foregoing rule that establishing liability under the  
11 antitrust laws does not require the definition of a relevant  
12 market.

13 (b) **DIRECT EVIDENCE.**—If direct evidence in the  
14 record is sufficient to prove actual or likely harm to com-  
15 petition, an appreciable risk to competition sufficient to  
16 satisfy the applicable statutory standard, or that the effect  
17 of an acquisition subject to section 7 of the Clayton Act  
18 (15 U.S.C. 18) may be to create an appreciable risk of  
19 materially lessening competition or to tend to create a mo-  
20 nopoly or a monopsony, neither a court nor the Federal  
21 Trade Commission shall require definition of a relevant  
22 market in order to evaluate the evidence, to find liability,  
23 or to find that a claim has been stated under the antitrust  
24 laws.

25 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
26 tion may be construed to prevent a court or the Federal

1 Trade Commission from considering evidence relating to  
2 the definition of proposed relevant markets to evaluate the  
3 merits of a claim under the antitrust laws.

4 **SEC. 14. LIMITATIONS ON IMPLIED IMMUNITY FROM THE**  
5 **ANTITRUST LAWS.**

6 (a) IN GENERAL.—In any action or proceeding to en-  
7 force the antitrust laws with respect to conduct that is  
8 regulated under Federal statute, no court or adjudicatory  
9 body may find that the Federal statute, or any rule or  
10 regulation promulgated in accordance with the Federal  
11 statute, implicitly precludes application of the antitrust  
12 laws to the conduct unless—

13 (1) a Federal agency or department actively  
14 regulates the conduct under the Federal statute;

15 (2) the Federal statute does not include any  
16 provision preserving the rights, claims, or remedies  
17 under the applicable antitrust laws or under any  
18 area of law that includes the antitrust laws; and

19 (3) Federal agency or department rules or regu-  
20 lations, adopted by rulemaking or adjudication, ex-  
21 plicitly require or authorize the defendant to under-  
22 take the conduct.

23 (b) EXISTING FEDERAL REGULATION.—In any ac-  
24 tion or proceeding described in subsection (a), the anti-  
25 trust laws shall be applied fully and without qualification

1 or limitation, and the scope of the antitrust laws shall not  
2 be defined more narrowly on account of the existence of  
3 Federal rules, regulations, or regulatory agencies or de-  
4 partments, unless application of the antitrust laws is pre-  
5 cluded or limited by—

6 (1) an explicit exemption from the antitrust  
7 laws under a Federal statute; or

8 (2) an implied immunity that satisfies the re-  
9 quirements under subsection (a).

10 **SEC. 15. WHISTLEBLOWER PROTECTIONS.**

11 (a) PROTECTIONS FOR CIVIL WHISTLEBLOWERS.—  
12 The Clayton Act (15 U.S.C. 12 et seq.) is amended by  
13 inserting after section 27 (15 U.S.C. 26b) the following:

14 **“SEC. 27A. ANTI-RETALIATION PROTECTION FOR CIVIL**  
15 **WHISTLEBLOWERS.**

16 **“(a) WHISTLEBLOWER PROTECTIONS FOR EMPLOY-**  
17 **EES, CONTRACTORS, SUBCONTRACTORS, AND AGENTS.—**

18 **“(1) IN GENERAL.—**No employer may dis-  
19 charge, demote, suspend, threaten, harass, or in any  
20 other manner discriminate against a covered indi-  
21 vidual in the terms and conditions of employment of  
22 the covered individual because of any lawful act done  
23 by the covered individual—

24 **“(A) to provide or cause to be provided to**  
25 **the Federal Government or a person with su-**

1           pervisory authority over the covered individual  
2           (or such other person working for the employer  
3           who has the authority to investigate, discover,  
4           or terminate misconduct) information relating  
5           to any violation of, or any act or omission the  
6           covered individual reasonably believes to be a  
7           violation of, the applicable antitrust laws; or

8           “(B) to cause to be filed, testify in, partici-  
9           pate in, or otherwise assist a Federal Govern-  
10          ment investigation or a Federal Government  
11          proceeding filed or about to be filed (with any  
12          knowledge of the employer) relating to any vio-  
13          lation of, or any act or omission the covered in-  
14          dividual reasonably believes to be a violation of,  
15          the applicable antitrust laws.

16          “(2) LIMITATION ON PROTECTIONS.—Para-  
17          graph (1) shall not apply to any covered individual  
18          if—

19                 “(A) the covered individual planned and  
20                 initiated a violation or attempted violation of  
21                 the applicable antitrust laws;

22                 “(B) the covered individual planned and  
23                 initiated a violation or attempted violation of a  
24                 criminal law in conjunction with a violation or

1 attempted violation of the applicable antitrust  
2 laws; or

3 “(C) the covered individual planned and  
4 initiated an obstruction or attempted obstruc-  
5 tion of an investigation by the Federal Govern-  
6 ment of a violation of the applicable antitrust  
7 laws.

8 “(3) DEFINITIONS.—In this section:

9 “(A) APPLICABLE ANTITRUST LAWS.—The  
10 term ‘applicable antitrust laws’ means section  
11 1, 2, or 3 of the Sherman Act (15 U.S.C. 1, 2,  
12 and 3) or section 5 of the Federal Trade Com-  
13 mission Act (15 U.S.C. 45) to the extent that  
14 such section applies to unfair methods of com-  
15 petition.

16 “(B) COVERED INDIVIDUAL.—The term  
17 ‘covered individual’ means an employee, con-  
18 tractor, subcontractor, or agent of an employer.

19 “(C) EMPLOYER.—The term ‘employer’  
20 means a person, or any officer, employee, con-  
21 tractor, subcontractor, or agent of such person.

22 “(D) FEDERAL GOVERNMENT.—The term  
23 ‘Federal Government’ means—

24 “(i) a Federal regulatory or law en-  
25 forcement agency; or

1                   “(ii) any Member of Congress or com-  
2                   mittee of Congress.

3                   “(E) PERSON.—The term ‘person’ has the  
4                   same meaning as in subsection (a) of the first  
5                   section of the Clayton Act (15 U.S.C. 12(a)).

6                   “(b) ENFORCEMENT ACTION.—

7                   “(1) IN GENERAL.—A covered individual who  
8                   alleges discharge or other discrimination by any em-  
9                   ployer in violation of subsection (a) may seek relief  
10                  under subsection (c) by—

11                  “(A) filing a complaint with the Secretary  
12                  of Labor; or

13                  “(B) if the Secretary of Labor has not  
14                  issued a final decision within 180 days of the  
15                  filing of the complaint and there is no showing  
16                  that such delay is due to the bad faith of the  
17                  claimant, bringing an action at law or equity  
18                  for de novo review in the appropriate district  
19                  court of the United States, which shall have ju-  
20                  risdiction over such an action without regard to  
21                  the amount in controversy.

22                  “(2) PROCEDURE.—

23                  “(A) IN GENERAL.—A complaint filed with  
24                  the Secretary of Labor under paragraph (1)(A)  
25                  shall be governed under the rules and proce-



1           dures set forth in section 42121(b) of title 49,  
2           United States Code.

3           “(B) EXCEPTION.—Notification made  
4           under section 42121(b)(1) of title 49, United  
5           States Code, shall be made to any individual  
6           named in the complaint and to the employer.

7           “(C) BURDENS OF PROOF.—An action  
8           brought under paragraph (1)(B) shall be gov-  
9           erned by the legal burdens of proof set forth in  
10          section 42121(b) of title 49, United States  
11          Code.

12          “(D) STATUTE OF LIMITATIONS.—A com-  
13          plaint under paragraph (1)(A) shall be filed  
14          with the Secretary of Labor not later than 180  
15          days after the date on which the violation of  
16          this section occurs.

17          “(E) CIVIL ACTIONS TO ENFORCE.—If a  
18          person fails to comply with an order or prelimi-  
19          nary order issued by the Secretary of Labor  
20          pursuant to the procedures set forth in section  
21          42121(b) of title 49, United States Code, the  
22          Secretary of Labor or the person on whose be-  
23          half the order was issued may bring a civil ac-  
24          tion to enforce the order in the district court of

1           the United States for the judicial district in  
2           which the violation occurred.

3           “(c) REMEDIES.—

4           “(1) IN GENERAL.—A covered individual pre-  
5           vailing in any action under subsection (b)(1) shall be  
6           entitled to all relief necessary to make the covered  
7           individual whole.

8           “(2) COMPENSATORY DAMAGES.—Relief for any  
9           action under paragraph (1) shall include—

10           “(A) reinstatement with the same seniority  
11           status that the covered individual would have  
12           had, but for the discrimination;

13           “(B) the amount of back pay, with inter-  
14           est; and

15           “(C) compensation for any special damages  
16           sustained as a result of the discrimination in-  
17           cluding litigation costs, expert witness fees, and  
18           reasonable attorney’s fees.

19           “(d) RIGHTS RETAINED BY WHISTLEBLOWERS.—  
20           Nothing in this section shall be deemed to diminish the  
21           rights, privileges, or remedies of any covered individual  
22           under any Federal or State law, or under any collective  
23           bargaining agreement.”.

24           (b) WHISTLEBLOWER REWARD.—The Antitrust  
25           Criminal Penalty Enhancement and Reform Act of 2004

1 (15 U.S.C. 1 note) is amended by inserting after section  
2 216 (15 U.S.C. 7a–3) the following:

3 **“SEC. 217. CRIMINAL ANTITRUST WHISTLEBLOWER INCEN-**  
4 **TIVES.**

5 “(a) DEFINITIONS.—In this section the following  
6 definitions shall apply:

7 “(1) ANTITRUST LAWS.—The term ‘antitrust  
8 laws’ means section 1 or 3 of the Sherman Act (15  
9 U.S.C. 1 and 3).

10 “(2) COLLECTED PROCEEDS.—The term ‘col-  
11 lected proceeds’ means any sanctions, fines, pen-  
12 alties, or awards obtained in any covered enforce-  
13 ment action, whether by judgment, settlement, or a  
14 deferred prosecution agreement.

15 “(3) COVERED ENFORCEMENT ACTION.—The  
16 term ‘covered enforcement action’ means any crimi-  
17 nal action brought by the Attorney General under  
18 the antitrust laws that results in collected proceeds  
19 exceeding \$1,000,000.

20 “(4) ORIGINAL INFORMATION.—The term  
21 ‘original information’ means information that—

22 “(A) is derived from the personal knowl-  
23 edge of a whistleblower;

24 “(B) is not known to the Attorney General  
25 or the Department of Justice from any other

1 source, unless the whistleblower is the original  
2 source of the information;

3 “(C) is not exclusively derived from an al-  
4 legation made in a judicial or administrative  
5 hearing, in a governmental report, hearing,  
6 audit, or investigation, or from the news media,  
7 unless the whistleblower is a source of the infor-  
8 mation; and

9 “(D) is not already required to be disclosed  
10 to the Department of Justice or another Fed-  
11 eral agency.

12 “(5) RELATED ACTION.—The term ‘related ac-  
13 tion’, when used with respect to any covered enforce-  
14 ment action brought by the Attorney General, means  
15 any criminal action brought by another United  
16 States entity that is based upon the original infor-  
17 mation provided by a whistleblower that led to the  
18 successful enforcement action by the Attorney Gen-  
19 eral.

20 “(6) WHISTLEBLOWER.—The term ‘whistle-  
21 blower’ means any individual who provides, informa-  
22 tion relating to a violation of the antitrust laws to  
23 the Department of Justice, in a manner established  
24 by the Department of Justice.

25 “(b) AWARDS.—

1           “(1) IN GENERAL.—In a covered enforcement  
2           action, or related action, the Attorney General, sub-  
3           ject to subsection (c), may pay an award or awards  
4           to a whistleblower who voluntarily provided original  
5           information to the Department of Justice that led to  
6           the successful enforcement of the covered enforce-  
7           ment action, or related action, in an amount not less  
8           than 10 percent and not more than 30 percent, in  
9           total, of what has been collected of the criminal fine  
10          imposed in the covered enforcement action or related  
11          action under the antitrust laws;

12           “(2) PAYMENT.—Any amount paid under para-  
13          graph (1) shall be paid from the criminal fine col-  
14          lected in the covered enforcement action.

15          “(c) DETERMINATION OF AMOUNT OF AWARD; DE-  
16          NIAL OF AWARD.—

17           “(1) DETERMINATION OF AMOUNT OF  
18          AWARD.—

19           “(A) DISCRETION.—The determination of  
20          the amount of an award made under subsection  
21          (b) shall be in the discretion of the Attorney  
22          General.

23           “(B) CRITERIA.—In determining the  
24          amount of an award made under subsection (b),

1 the Attorney General shall take into consider-  
2 ation—

3 “(i) the significance of the informa-  
4 tion provided by the whistleblower to the  
5 success of the covered enforcement action;

6 “(ii) the degree of assistance and co-  
7 operation provided by the whistleblower in  
8 a covered enforcement action;

9 “(iii) the interest of the Department  
10 of Justice in deterring criminal violations  
11 of the antitrust laws by making awards to  
12 whistleblowers who provide information  
13 that lead to the successful covered enforce-  
14 ment actions; and

15 “(iv) such additional relevant factors  
16 as the Attorney General may establish.

17 “(2) DENIAL OF AWARD.—No award under  
18 subsection (b) shall be made—

19 “(A) to any whistleblower who is, or was at  
20 the time the whistleblower acquired the original  
21 information submitted to the Commission, a  
22 member, officer, or employee of—

23 “(i) any branch, agency, or instru-  
24 mentality of the Federal Government; or

1                   “(ii) any law enforcement organiza-  
2                   tion;

3                   “(B) to any whistleblower who is convicted  
4 of a criminal violation related to the covered en-  
5 forcement action for which the whistleblower  
6 otherwise could receive an award under this sec-  
7 tion;

8                   “(C) to any whistleblower who was an  
9 originator or leader of or who coerced any other  
10 party to participate in the activity giving rise to  
11 liability under the antitrust laws in the covered  
12 enforcement action for which the whistleblower  
13 otherwise could receive an award under this sec-  
14 tion;

15                   “(D) to any whistleblower who fails to re-  
16 spond provide timely, truthful, continuing, and  
17 complete cooperation to the Department of Jus-  
18 tice relating to the original information or in-  
19 tentiously withholds information relating to the  
20 original information;

21                   “(E) to any whistleblower who commits,  
22 participates in, or attempts to commit or par-  
23 ticipate in any crimes after disclosing the origi-  
24 nal information to the Department of Justice;

1           “(F) to any whistleblower who fails to sub-  
2           mit information to the Department of Justice in  
3           such form as the Department may require, or  
4           failed to report relevant information to the De-  
5           partment known to the whistleblower when the  
6           whistleblower first reported the information to  
7           the Department;

8           “(G) to any whistleblower who fails to sub-  
9           mit information to the Department of Justice in  
10          such form as the Department may require as  
11          prescribed by regulation;

12          “(H) to any whistleblower who planned  
13          and initiated an obstruction or attempted ob-  
14          struction of an investigation by the Department  
15          of Justice of a violation of the antitrust laws;  
16          or

17          “(I) to any whistleblower who engages in  
18          conduct that would disqualify the whistleblower  
19          if the whistleblower were a leniency applicant  
20          under the Leniency Program of the Antitrust  
21          Division.

22          “(d) REPRESENTATION.—Any whistleblower who  
23          makes a claim for an award under subsection (b) may be  
24          represented by counsel.



1           “(e) APPEALS.—Any determination made under this  
2 section, including whether, to whom, or in what amount  
3 to make awards, shall be in the discretion of the Attorney  
4 General. Any such determination, except the determina-  
5 tion of the amount of an award if the award was made  
6 in accordance with subsection (b), may be appealed to the  
7 appropriate court of appeals of the United States not more  
8 than 30 days after the determination is issued by the At-  
9 torney General. The court shall review the determination  
10 made by the Attorney General in accordance with section  
11 706 of title 5, United States Code.”.

12 **SEC. 16. PREJUDGMENT INTEREST.**

13           Section 4 of the Clayton Act (15 U.S.C. 15) is  
14 amended by striking subsection (a) and inserting the fol-  
15 lowing:

16           “(a) Except as provided in subsection (b), any person  
17 who shall be injured in his business or property by reason  
18 of anything forbidden in the antitrust laws may sue there-  
19 for in any district court of the United States in the district  
20 in which the defendant resides or is found or has an agent,  
21 without respect to the amount in controversy, and shall  
22 recover threefold the damages by him sustained, the cost  
23 of suit, including a reasonable attorney’s fee, and simple  
24 interest on threefold the damages by him sustained for  
25 the period beginning on the date of service of such per-

1 son’s pleading setting forth a claim under the antitrust  
2 laws and ending on the date of judgment.”.

3 **SEC. 17. NO FORCED ARBITRATION FOR ANTITRUST DIS-**  
4 **PUTES.**

5 (a) IN GENERAL.—Title 9, United States Code, is  
6 amended by adding at the end the following:

7 **“CHAPTER 5—ARBITRATION ANTITRUST**  
8 **DISPUTES**

9 **“§ 501. Definitions**

10 “In this chapter—

11 “(1) the term ‘antitrust dispute’ means a dis-  
12 pute—

13 “(A) arising from an alleged violation of  
14 the antitrust laws (as defined in subsection (a)  
15 of the first section of the Clayton Act (15  
16 U.S.C. 12(a)) or State antitrust laws; and

17 “(B) in which the plaintiffs seek certifi-  
18 cation as a class under rule 23 of the Federal  
19 Rules of Civil Procedure or a comparable rule  
20 or provision of State law;

21 “(2) the term ‘predispute arbitration agree-  
22 ment’ means an agreement to arbitrate a dispute  
23 that has not yet arisen at the time of the making  
24 of the agreement; and

1           “(3) the term ‘predispute joint-action waiver’  
2           means an agreement, whether or not part of a  
3           predispute arbitration agreement, that would pro-  
4           hibit, or waive the right of, one of the parties to the  
5           agreement to participate in a joint, class, or collec-  
6           tive action in a judicial, arbitral, administrative, or  
7           other forum, concerning a dispute that has not yet  
8           arisen at the time of the making of the agreement.

9   **“§ 502. No validity or enforceability**

10          “(a) IN GENERAL.—Notwithstanding any other pro-  
11          vision of this title, no predispute arbitration agreement or  
12          predispute joint-action waiver shall be valid or enforceable  
13          with respect to an antitrust dispute.

14          “(b) APPLICABILITY.—An issue as to whether this  
15          chapter applies with respect to a dispute shall be deter-  
16          mined under Federal law. The applicability of this chapter  
17          to an agreement to arbitrate and the validity and enforce-  
18          ability of an agreement to which this chapter applies shall  
19          be determined by a court, rather than an arbitrator, irre-  
20          spective of whether the party resisting arbitration chal-  
21          lenges the arbitration agreement specifically or in conjunc-  
22          tion with other terms of the contract containing such  
23          agreement, and irrespective of whether the agreement pur-  
24          ports to delegate such determinations to an arbitrator.”.

25          (b) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) IN GENERAL.—Title 9 of the United States  
2 Code is amended—

3 (A) in section 2, by inserting “or 5” before  
4 the period at the end;

5 (B) in section 208, by inserting “or 5” be-  
6 fore the period at the end; and

7 (C) in section 307, by inserting “or 5” be-  
8 fore the period at the end.

9 (2) TABLE OF CHAPTERS.—The table of chap-  
10 ters for title 9, United States Code, is amended by  
11 adding at the end the following:

**“5. Arbitration of antitrust disputes ..... 501”.**

12 **SEC. 18. ADDITIONAL REMEDIES; RULES OF CONSTRUC-**  
13 **TION.**

14 (a) ADDITIONAL REMEDIES.—The rights and rem-  
15 edies provided under this Act are in addition to, not in  
16 lieu of, any other rights and remedies provided by Federal  
17 law, including under section 4, 4A, 15, or 16 of the Clay-  
18 ton Act (15 U.S.C. 15, 15a, 25, 26) or section 13(b) of  
19 the Federal Trade Commission Act (15 U.S.C. 53(b)).

20 (b) RULES OF CONSTRUCTION.—Nothing in this Act  
21 may be construed to—

22 (1) impair or limit the applicability of any of  
23 the antitrust laws; and

24 (2) prohibit any other remedy provided by Fed-  
25 eral law.

1 **SEC. 19. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) FISCAL YEAR 2025.—There is authorized to be  
3 appropriated for fiscal year 2025—

4 (1) \$535,000,000 for the Antitrust Division of  
5 the Department of Justice; and

6 (2) \$725,000,000 for the Federal Trade Com-  
7 mission.

8 (b) SUBSEQUENT YEARS.—Beginning in fiscal year  
9 2026, and each fiscal year thereafter, all premerger notifi-  
10 cation filing fees collected pursuant to section 7A of the  
11 Clayton Act (15 U.S.C. 18a) shall—

12 (1) be retained and used for expenses necessary  
13 for the enforcement of the antitrust and kindred  
14 laws by the Antitrust Division of the Department of  
15 Justice and the Federal Trade Commission, to re-  
16 main available until expended; and

17 (2) shall be treated as direct spending described  
18 in section 250(c)(8)(A) of the Balanced Budget and  
19 Emergency Deficit Control Act of 1985 (2 U.S.C.  
20 900(c)(8)(A)).