COST DRIVER

July 10, 2025

TO: Members, Senate Appropriations Committee

SUBJECT: AB 325 (AGUIAR-CURRY) CARTWRIGHT ACT: VIOLATIONS
OPPOSE/COST DRIVER – AS AMENDED JUNE 19, 2025

The California Chamber of Commerce and the undersigned are **OPPOSED** to **AB 325 (Aguiar-Curry)** as amended on June 19, 2025, as a **COST DRIVER** because it is unnecessary, it could create a chilling effect on the use of important technology, and it would impose significant cost on all businesses using technological tools that fall under the bill's use of a "common pricing algorithm".

We note the similarity between this bill and SB 1154 (Hurtado, 2024) from last year, which was designated as a Job Killer. The most notable difference between the two bills is that this bill does not include SB 1154's additional liability provisions. Nonetheless, **AB 325** remains as serious a concern, in part because there are other related bills that would address the liability components of these issues, and existing law imposes significant liability on the misuse of pricing algorithms as well. When combined with the bill's broad and vague standards, **AB 325's** would invariably have a chilling effect on the use of such technologies among businesses, particularly smaller ones who rely more heavily on these technologies to be more competitive with larger businesses that have access to far more data.

We are particularly concerned by the bill's use of the word "coerces'. Coercion is not an antitrust concept and we are unaware of any case, investigation or allegation of an algorithm developer forcing or coercing others to accept pricing recommendations based on an algorithm. In addition, the language of Section (b) is vague because it does not connect coercion with a common pricing algorithm.

We continue to believe that the definition of a "common pricing algorithm" is too broad. The way the definition is currently written, it would apply to completely distinct algorithms - and other types of pricing software - if they are trained on the same or similar data. Any algorithm designed to recommend prices will be trained on the same or similar data as any other pricing algorithm, such as historic pricing and supply and demand information, meaning virtually any algorithm will be covered by the definition, even if designed independently and even if it makes pricing recommendations that are different from other algorithms.

This bill, like SB 1154 before it, and SB 295 (Hurtado, 2025), appears based on a presumption that pricing algorithms are inherently problematic, if not unlawful. To the contrary, pricing algorithms are, in fact, extremely common tools that enable businesses to save money, improving efficiency by avoiding manual pricing, reducing costs for consumers, and making prices far more responsive to changes in supply and demand - and they can do so without involving any anti-competitive conduct.

In contrast, price collusion (or price fixing) *is* problematic and is clearly illegal under current federal and state laws. Indeed, existing antitrust laws prohibit competitors from colluding on price in any manner, whether through using a pricing algorithm or otherwise. **In other words, whether a price-fixing conspiracy is hatched by salespeople conspiring or computers running algorithms, collusion is collusion and is already effectively covered by existing law. To be clear, however, the use of a pricing algorithm does not inherently constitute price *fixing*.**

Retailers use pricing algorithms to ensure they are offering the most competitive prices to consumers. Realtors use them to help clients set home prices. Banks use them to set terms (e.g. rates and fees) for services. Hospitality, airlines, transportation network companies, utilities, ticket venues, and many others use them for dynamic pricing. The list goes on.

All this bill does is remove a valuable tool for setting dynamic pricing and imposes significant costs on all businesses that use price algorithms, thereby reducing competition, rather than promoting it. In the end, this bill hurts not only businesses, taking them back to pre-technological times, but it hurts consumers, effectively doing away with price-comparison shopping and competitive/dynamic pricing by businesses seeking to earn their business.

If enacted, **AB 325's** reliance on incredibly broad, ill-defined terms and ambiguous standards will invariably muddy the distinction between permissible pricing algorithms and price fixing, creating significant confusion for businesses.

Therefore, because we believe this bill will actually hurt price competition among businesses across all industries, due to overbroad, vague, and onerous requirements that create significant liability exposure and invariably chill the use of wide-used tools that currently enable businesses to make their prices more responsive to changes, including price decreases that benefit consumers, we **OPPOSE AB 325 (Aguiar-Curry) as a COST DRIVER.**.

Sincerely,

Ben Golombek
Executive Vice President and Chief of Staff for Policy
on behalf of

American Property Casualty Insurance Association, Laura Curtis
CalBroadband, Amanda Gualderama
California Business Properties Association, Skylar Wonnacott
California Chamber of Commerce, Ben Golombek
California Fuels + Convenience Alliance, Alessandra Mangnasco
California Hospital Association, Kalyn Dean
California Hotel & Lodging Association, Alexander Rossitto
California Restaurant Association, Matt Sutton
California Retailers Association, Ryan Allain
California Self Storage Association, Naomi Padron
Civil Justice Association of California, Kyla Powell
Insights Association, Howard Fienberg
National Association of Mutual Insurance Companies, Christian Rata
Personal Insurance Federation of California, Allison Adey
Self-Storage Association (SSA), Naomi Padron
Software Information Industry Association, Abigail Wilson
TechNet, Robert Boykin

cc: Legislative Affairs, Office of the Governor

Loyal Terry, Office of Assemblymember Aguiar-Curry
Consultant, Senate Appropriations Committee
Morgan Branch, Consultant, Senate Republican Caucus

BG:am