

**STATEMENT TO THE SENATE CONSUMER PROTECTION COMMITTEE ON THE “21ST CENTURY
ANTITRUST ACT”**

Chairman Thomas, Deputy Leader Gianaris, and members of the committee:

Thank you for the opportunity to provide testimony on this critical issue. I am the executive director of the Lawsuit Reform Alliance of New York (LRANY), a nonpartisan organization that advocates for balance in the civil litigation system. I also serve on the advisory board of the Progressive Policy Institute’s Center for Civil Justice.

The landscape of our economy has changed, and we applaud your efforts to acclimate to this new reality. However, despite over a century of change, one thing has not changed: the importance of innovation for economic growth and the public well-being.

As currently constructed, this proposal would jeopardize New York’s position as a global leader in innovation and potentially make our state a place where it would be dangerous to be an innovator. The bill opens up businesses with a “dominant position” in any market to massive new liability. The problem with this proposal is that any innovative new product by definition has a dominant position, therefore, any innovation would be subject to antitrust liability under this proposal.

Consider the company that eventually creates a vaccine for COVID-19. That company will undoubtedly have a dominant position in the market, at least at first, and under this proposal that company would be exposed to massive new liabilities. Of course, creator of the COVID-19 vaccine should be carefully regulated and subject to punishments if they are negligent or abuse their market position, however, that regulation needs to be in the hands of elected officials. Private rights of action, like the one included in this bill accomplish the exact opposite. As written, the bill opens innovators to class action lawsuits from private, profit-seeking attorneys. Enforcement belongs in the hands of duly elected officials who operate in best interest of the public.

Consumers, not our courts, should decide which products succeed. And consumer interests should be protected by elected officials, like the esteemed members of this committee, not by lawyers who are more interested in profits than consumer protection.

Every year thousands of dubious class action lawsuits are filed, and every year lawyers take home millions while the public is left with pennies, or coupons. This proposal would only expand that useless process, enriching the plaintiffs’ bar at the expense of those who serve consumers’ needs. If this legislation is passed and signed into law, the only innovators left operating in New York will be the enterprising trial lawyers who devise novel ways to file new class action lawsuits.

Make no mistake, antitrust rules must be enforced. Public officials should thoroughly investigate and prosecute price-fixing cartels and any abuses that lead to higher prices or inferior products. However, those efforts must not stifle innovation and must be led by those with the public interest at heart.

Sincerely,
Tom Stebbins
Executive Director
Lawsuit Reform Alliance of New York