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2024

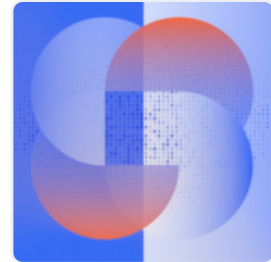
State Landscape Competition



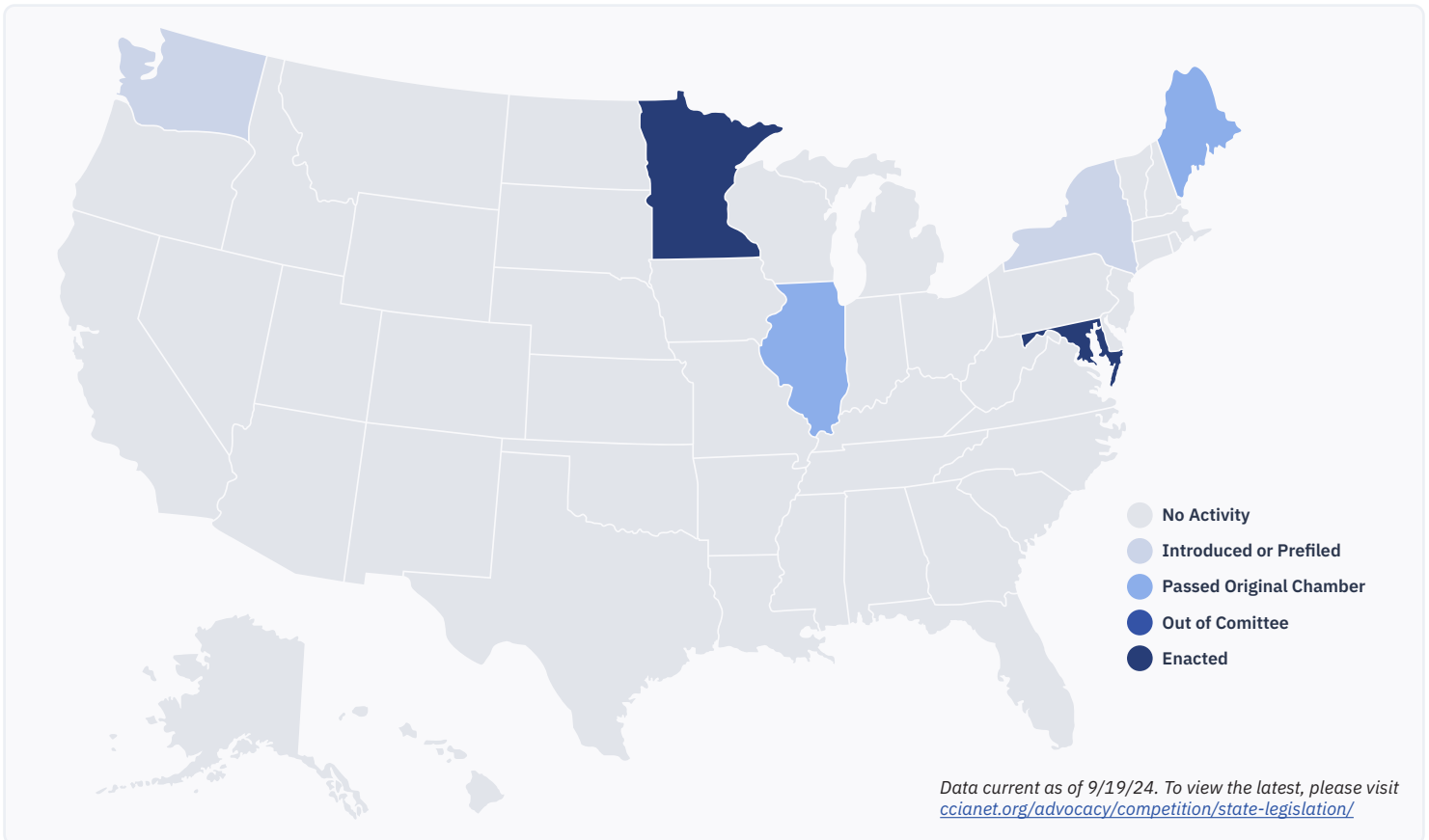
2024 State
Landscapes

State Landscapes 2024

Each year, CCIA's State Policy Center releases a series of policy overviews outlining the major trends across the 50 state legislatures, while also highlighting key states expected to be active in the upcoming session. In recent years, many state legislatures have considered various proposed laws that would have significant impacts to the technology industry. As legislators often borrow or mimic ideas and legislation from other states throughout the country, it is important to reflect on the trends found in this year's legislative efforts to assist in preparing for future policy engagements. By monitoring trends in individual state capitals across the country, it can be instructive of policy developments more broadly. Particularly for policies that could threaten innovation and the tech ecosystem, it is important to consider and be prepared to engage in such consequential policy conversations.



State Competition Landscape 2024



The digital economy thrives on dynamic competition—an important mix of product, process, and service innovations that drive prices down and deliver unparalleled benefits to consumers. But this dynamism risks being threatened by well-meaning, but misguided regulation that could stifle innovation and economic growth. Overly rigid rules could create uncertainty and obstacles for companies, stalling their ability to develop and deliver groundbreaking products.

In 2024, six state legislatures introduced [competition-related legislation](#), continuing the trend of states attempting to tackle a policy area that has been predominantly addressed

at the federal level. State legislatures primarily focused their efforts around revisions to state antitrust laws, focusing on monopolization practices and monopsonies. Additionally, states considered legislation that would implement merger notification requirements and raise penalties for violations of antitrust laws.

Throughout the 2024 legislative session, CCIA actively monitored and raised concerns about these bills, emphasizing how the development of a patchwork of laws across different states would force businesses to navigate conflicting and disparate requirements, potentially hindering innovation and investment.

Types of State Competition Measures

Market Power

Includes legislation that aims to implement provisions reflecting a European-style approach to single-firm conduct and the definition of market power, attempts to tackle price discrimination practices, sets steep requirements for the notification of mergers and acquisitions, seeks to prevent monopolies, and creates commissions to study and debate further alterations to the law.

Examples:

- [Minnesota S.F. 1744 / H.F. 1563](#)
- [New York S. 6748/A. 10323](#)

Impact:

CCIA has serious concerns about redefining market power to be similar to a European standard. In addition, the proposed high penalties create significant compliance challenges that could deter procompetitive business activity and could have a negative impact on the innovation ecosystem.

Price Discrimination

This type of legislation would prohibit sellers from discriminating in price between different purchasers of commodities of like grade and quality. This type of bill seeks to prevent the diminution of competition and prevent the creation of monopolies and monopsonies in any line of commerce.

Example:

- [Minnesota S.F. 1070 / H.F. 399](#)

Impact:

Without clear definitions of what constitutes “discrimination” and what would be an illegal monopoly, this type of bill risks harming legitimate business practices and market operators that comply with the law. Also, consumers might be prejudiced, due to businesses then not being able to provide discounts to parties in need.

Merger and Acquisition Notification Requirements

Requires entities conducting business in the state that embark upon mergers and acquisitions to provide a written notification of such a transaction to the Office of the Attorney General at the same time that notification is filed with the Federal Government.

Examples:

- [Maine L.D. 1815](#)
- [Illinois S.B. 1766](#)

Impact:

This type of legislation increases compliance costs for businesses. It is also redundant as it would require businesses to submit the same information to the Federal Government and states. If popularized amongst the states, bills of this type could require businesses to submit the same merger and acquisition filings up to 52 times.

Monopoly and Monopsony

This type of legislation pertains to any actions or practices that attempt to establish a monopoly or monopsony are illegal and void. Such proposals would make it unlawful for entities in a dominant position in the conduct of any business, trade, or commerce, in any labor market, to abuse that dominant position. Establishes premerger notification requirements; and allows recoverable damages to be recovered in any action that a court may authorize as a class action.

Examples:

- [Minnesota S.F. 1069 / H.F. 398](#)
- [New York S. 6748/A. 10323](#),
- [Maryland H.B. 0053 \(Study Bill\)](#)

Impact:

Without clear definitions of what constitutes a “monopoly” or “monopsony” and what would be authorized business practices, bills of this type risk harming legitimate business practices and merchants that became leaders of their sector based on competition on the merits. Thus, this would harm competition and innovation by punishing efficient actors in the marketplace.

Competition-Related Studies

These bills mandate the establishment of an entity to conduct a study that aims to examine the potential need for additional or modified antitrust laws.

Examples:

- [Maryland H.B. 0053 \(Study Bill\)](#)
- [California Law Revision Commission - Antitrust Study \(Study B-750\)](#)

Impact:

Such studies often establish artificial parameters to their examination, such as looking solely at certain industries (like technology companies or e-commerce). These studies may diverge from common consumer-focused examinations and arbitrarily pit competitors who conduct the same business via different methods against one another and encourage the government to choose winners and losers.

Key States



California

Pursuant to [Study B-750](#), established in 2022, the California Law Revision Commission (CLRC) has continued its efforts to study potential revisions to existing antitrust laws. In 2024, the CLRC [recruited experts](#) to assist in its study as part of working groups focusing on single firm conduct, mergers and acquisitions, concerted action, the consumer welfare standard, technology platforms, enforcement and exemptions, and concentration in California. It is anticipated that the CLRC will conclude its study in mid to late 2025, after which we might expect additional legislative activity informed by the CLRC's findings.



Maine

[LD 1815](#) was considered by the Legislature during the 2024 session, though it was significantly amended to remove all abuse of dominance language. The bill passed both chambers, but the final version only included updated fiscal penalties for violations of current Maine law.



Maryland

Lawmakers considered [HB 53](#), a proposal that would establish the E-Commerce Antimonopoly Study of 2024. While the bill failed to advance through the legislative process in 2024, the legislation represents a worrisome trend. Similar to other studies, HB 53 would create an artificially narrow study scope by only focusing on e-commerce, when, in fact, e-commerce and brick and mortar retail compete fiercely. Given the Maryland General Assembly's recent increased focus on technology policy, it is likely that similar and related conversations will continue in future legislative sessions.



Minnesota

Competition-related legislation in Minnesota did not advance during the 2024 legislative session, and given that this was the second year of the legislative session, the bills will have to be re-introduced for the 2025 legislative session. Based on the fact that the Legislature has repeatedly introduced the same competition-related bills in recent years, it is likely that lawmakers will continue to do so next year.

Key States

New York

New York continued its efforts to pass competition legislation during the 2024 legislative session via [S. 6748A](#), which focused on prohibiting actions or practices that establish or maintain a monopoly, monopsony or restraint of trade, and authorizes a class action lawsuit under the state antitrust law. This bill once again passed the State Senate but failed to move forward in the Assembly, and, if reintroduced, it will completely restart in the legislative process in 2025. CCIA was actively engaged in opposing this year's efforts in the legislature and will continue to do so in the lead-up to and throughout the 2025 session.

Collected Analysis



State Antitrust Expansionism: A Potential Roadblock for American Innovation

Information Technology & Innovation Foundation

This report is available at: <https://itif.org/publications/2024/06/06/stateantitrust-expansionism-potentialroadblock-foramerican-innovation/>



Assessment of Economic Costs of Imposing Abuse of Dominance Standards at the State Level

CCIA Research Center

This report is available at: <https://ccianet.org/research/reports/assessment-economic-costs-imposing-abuse-dominance-standards-at-state-level/>