The Prohibiting Anticompetitive Mergers Act of 2022

**Senate Sponsor:** Senator Elizabeth Warren  
**Senate Originals:** Senators Tammy Baldwin, Richard Blumenthal, Cory Booker, Sheldon Whitehouse, Bernie Sanders, Brian Schatz  
**House Sponsor:** Representative Mondaire Jones  
**House Co-Leads:** Reps. Cori Bush and Mark Pocan  
**House Originals:** Reps. Adriano Espaillat, Jesús G. “Chuy” García, Andy Levin, Alexandria Ocasio-Cortez, Katie Porter, Ayanna Pressley, Mark Takano, Rashida Tlaib

**Endorsing Organizations:** The Prohibiting Anticompetitive Mergers Act is supported by Public Citizen, Open Markets Institute, American Economic Liberties Project, Strategic Organizing Center, International Brotherhood of Teamsters, Institute for Local Self-Reliance, Athena Coalition, Main Street Alliance, Color of Change, Writers Guild of America West, Farm Action Fund, Food & Water Watch, National Family Farm Coalition, Rural Coalition, and more.

**The Prohibiting Anticompetitive Mergers Act, led by Congressman Mondaire Jones and Senator Elizabeth Warren, is transformative antitrust legislation that would help build a more democratic, vibrant economy.** The bill would empower workers, raise wages, reduce prices, combat inequality, and enable small businesses to thrive by confronting corporate power.

In 2021, our antitrust agencies received more merger filings than in any other year during the last decade—around a **70% increase** above the average number of filings in recent years. At the same time, our broken merger-review process requires the Federal Trade Commission (FTC) and the Department of Justice (DOJ) to obtain injunctions in court to block mergers, costing millions in litigation fees and facing long odds due to the judge-made “**consumer welfare standard**.” Thus, many harmful mergers proceed, allowing dominant firms to crush **consumers** and **workers**.

Notable recent examples include **Sprint/T-Mobile**, **Bayer/Monsanto**, **Facebook/Instagram**, and **American/US Airways**. This excessive market power costs **American families $5,000 per year** on average and has **depressed median wages by $10,000**. It has also allowed corporations to jack up prices even further during this period of inflation.

**The Warren-Jones Prohibiting Anticompetitive Mergers Act will address the problem of rampant corporate consolidation by (1) banning the biggest, most anticompetitive mergers, (2) overhauling the merger-review process to allow the FTC and the DOJ to reject deals without a court order, and (3) strengthening the agencies’ tools to break up harmful mergers.** By empowering our antitrust agencies to tackle consolidation head on, this bill will promote competition and protect workers, consumers, customer choice, quality, sellers,
entrepreneurship, small businesses, minority-owned businesses, local, rural, or low-income communities, communities of color, privacy, and innovation.

Moreover, for the first time, the FTC and the DOJ would be required to consider how a merger would impact workers — and to reject mergers that would harm them. The bill would empower the FTC and the DOJ Antitrust Division to reject transactions that would exacerbate corporate domination of labor markets and block transactions that would weaken collective bargaining agreements, reduce employee benefits and compensation, or cause layoffs.

- **Banning Anticompetitive Mergers.** The legislation makes anticompetitive mergers illegal, including:
  - Deals resulting in market shares over 33% for sellers or 25% for employers
  - Deals valued over $5 billion
  - “Roll up” strategies that allow private-equity firms to consolidate industries

- **Overhauling the Merger-Review Process.** The legislation gives the antitrust agencies stronger tools to stop the most harmful mergers, including:
  - Allowing the agencies to reject mergers in the first instance without court orders
  - Requiring the agencies to reject the most anticompetitive mergers
  - Prohibiting firms with a history of corporate crime or antitrust violations in the last ten years from acquiring other companies
  - Directing the agencies to scrutinize the labor impacts of each deal and reject mergers harmful to workers
  - Ending structural and behavioral remedies as conditions for merger clearance
  - Involving relevant state attorneys general and agencies (such as the Department of Defense for large defense deals), promoting a “whole of government” approach
  - Allowing state attorneys generals to sue to block harmful mergers
  - Transforming merger litigation into simple evaluations of agency process instead of complex, expensive court battles over a deal’s potential competitive effects
  - Stripping merger litigation from the appellate jurisdiction of the Supreme Court

- **Breaking Up Prohibited Mergers.** The legislation establishes procedures for the government to conduct retrospective reviews and break up harmful deals, including:
  - Requiring the agencies to review every prohibited merger from the past 20 years
  - Allowing the agencies to review any consummated merger
  - Requiring a break-up if the merger resulted in a market share above 50% or has materially harmed workers, consumers, customer choice, quality, sellers, entrepreneurship, small businesses, minority-owned businesses, local, rural, or low-income communities, communities of color, privacy, or innovation
  - Allowing state attorneys general to sue to break up harmful mergers