COMMENT TO THE CALIFORNIA LAW REVISION COMMISSION ON AI AND COMPETITION

Thank you for taking up the important issue of AI. I'm Megan Abell, Senior Director of Advocacy at TechEquity Action.

TechEquity is a research and policy advocacy organization focused on economic equity issues that result from the tech industry's products and practices. We work to ensure tech is held accountable for the harms it creates in our communities, and advocate for policy change through our Guiding Policy Principles for Responsible AI, to ensure that tech's evolution supports human flourishing, rather than undermining it.

We are heartened that the Commission has taken up a report to address AI directly, as this technology increasingly impacts workers, renters, and the public. While the prevalence of AI in our lives may be somewhat new, the issue of concentration and consolidation is nothing new in the tech industry.

We are particularly glad to see the report addresses the issue of algorithmic price fixing and collusion, and the use of technology to control the housing market, an issue that TechEquity has researched through our Tech, Bias, and Housing Initiative. Increasing corporate dominance of the housing sector and private equity's entry into housing amidst the 2008 foreclosure crisis is well documented, but the role of corporate interests in deciding everything from what your rent is to who lives where (and their use of technology to do so), is an under-analyzed yet critical aspect of why the crisis persists.

Technology-backed products have entered the housing system with the power to scale discrimination at a rapid pace. Importantly, this all happens out of view of the affected renters. Recent TechEquity research revealed that just 3% of more than

1,000 California renters we surveyed received information on which companies were involved in their rental experiences. The same research found that two-thirds of landlords use some form of technology in the rental process.

Intervention is needed to counterbalance corporate control of the housing system, and the use of their tech to achieve control. The industry behind this, often called property tech or "Proptech," received nearly $12 billion in investments in 2023. Proptech is everywhere, and any effective plan for the housing crisis must address industry influence and control of housing. We agree with the report's recommendation to address algorithmic collusion.

We depart from the working group in one significant respect: Collusive price-fixing schemes should be prohibited whether the data is public or non-public. First, price-fixing schemes can exist irrespective of whether the data they are trained on is "public" or "non-public." Second, nothing in existing laws prohibiting price fixing distinguishes between public or non-public data. Third, predicating the existence of an illegal price-fixing scheme on the sharing of "non-public" data opens up complicated drafting issues and unnecessary legal disputes over whether the data was accessible to the public, particularly given shifting policy and legal attitudes over the proper custodianship of data.

Thank you for considering this important topic, and the opportunity to provide comment today.

Sincerely,

Megan Abell
Senior Director of Advocacy