Antitrust:
A Missing Key to Prosperity, Opportunity, and Democracy

Barry C. Lynn

ABOUT THE AUTHOR:

Barry Lynn is a senior fellow and director of the Markets, Enterprise, and Resiliency Initiative at the New America Foundation. He is author of *Cornered: The New Monopoly Capitalism and the Economics of Destruction* (Wiley, 2010) and *End of the Line: The Rise and Coming Fall of the Global Corporation* (Doubleday, 2005). He has presented his writings on interdependence among nations and the growing fragility of complex industrial systems to governments in Asia and Europe, as well as the White House and the U.S. Treasury Department.

When a people set out to structure an economy, the most important decisions revolve around how they make markets and regulate competition. Such decisions determine not merely whether their economy will thrive, and how political power will be distributed. They also shape the character of individuals, communities, and society as a whole.

For two centuries, the foremost subject of economic debate in America was how to maximize liberty and opportunity in our economy, by blocking or closely managing concentrations of power over our markets. But a generation ago two radical changes entirely altered this conversation and hence how we addressed concentration. First, economic elites largely concluded such consolidation was generally a good thing. Second, the Reagan Administration flipped the goals of antimonopoly law on their head; rather than distribute power the aim now was to promote its consolidation in the hands of a few.

In the years since, the corporate actors thus freed have reordered almost every corner of our domestic and international political economies. Many other factors have played a role in the changes we have witnessed, including digitization and the radical expansion of trade (itself a subset of competition policy). Yet there has been almost no examination of the effects of these radical changes in the distribution of economic control, whether among academics, policymakers, or the general public. The resulting lack of understanding of what took place—the collapse of antitrust—is a serious liability for economic reformers and for the future of our economy and our democracy.

THE REAGAN "REVOLUTION"

As is true for so many of today's biggest economic and political problems, the beginning of this story traces to the election of Ronald Reagan in 1980. In January 1981, William Baxter, president-elect Ronald Reagan's choice to head the Antitrust Division of the Justice Department, said the new administration planned to alter how the government enforces America's antimonopoly laws. Rather than seek to promote competition, his regulators would instead promote "efficiency." Rather than focus on market power his regulators would instead focus on whether a combined company could promise to lower prices.

Senate moderates, led by Ohio Democrat Howard Metzenbaum and Pennsylvania Republican Arlen Specter, objected vehemently. Why abandon a policy of promoting open markets that had worked so well for so long? A policy that, further, traces to the founding of the country? To these legislators, the radical nature of the new policy seemed perfectly clear: the Reagan Administration planned to give free reign to corporate executives to concentrate power over America's markets. Specter, in an interview, called Baxter's plan "a most unusual and extreme situation."

But the battle lines soon blurred. Baxter was a member of the "Chicago School" group of economists and legal scholars, which many moderate Democrats believed promoted the interests of corporate executives and the wealthy. But Baxter's arguments in favor of efficiency soon found strong support from a vocal group of economists on the "left" of the Democratic Party, especially those clustered around John Kenneth Galbraith. They agreed with the Chicago Schoolers that greater concentration of power and control would result in more efficient use of resources, thereby enabling corporate managers to better serve the interests of America's "consumers." (Thanks largely to the writings of legal scholar Robert Bork, Baxter's antitrust "efficiency test" was soon recast as the "consumer welfare" test.)

Three decades on it's clear this abandonment of America's traditional antimonopoly laws did in fact unleash a revolutionary consolidation of economic power. In sector after sector, control is now more tightly concentrated than at any time in a century. This means higher prices, less choice, and lower quality for many products. It appears to affect the number and quality of our jobs and overall rates of growth and technological advance. Worse, this ongoing concentration of power is fast eroding many of our individual liberties, the sovereignty of our communities and our nation, and our democracy.

It would be wrong, however, to conclude that we face merely a rerun of the plutocratic era of a century ago, when economic power was similarly concentrated. Three factors make today's situation more perilous than the last time a small oligarchy used interlocking private corporate governments to rule over economic activity in America:

Technology. Big data greatly amplifies the ability of the people who control large corporations to gather information about individual citizens, and to use that information to manipulate the actions and even thoughts of those citizens.

Connectivity. The radical blending together of national industrial, financial, and communications networks into complex, highly interdependent "global" systems—in combination with concentration of industrial capacity—exposes citizens to a much wider variety of potential shocks, and greatly speeds transmission of shocks.

Ideology. For most of our history, most citizens believed economic activity was entirely political in nature; all commerce must take place, after all, in human-made markets. In recent years, however, many Americans have been taught to believe that one or a few *metaphysical* forces (technological or biological or mechanical in nature) determine economic outcomes.

Thanks largely to the Tea Party and Occupy, concentration of economic power is once again a topic of political discussion in America. But despite the radical nature of the monopolization that has taken place, the issue remains all but unaddressed by economists, executives, and policymakers. The one exception is banking. Yet—despite the near collapse of the entire system in 2008—the main result here has been even greater concentration of power, combined with a tighter interweaving of the public and private sectors.

In sum, we face a highly complex cluster of problems that pose profound dangers to our political, economic and social wellbeing. Yet we entirely lack any common and coherent intellectual frame that would empower us as a society to make sense of the problem, let alone address the problem in a politically constructive manner.

CONCENTRATION TRENDS

There are many ways to measure economic concentration. As we'll see in more depth later, this includes looking closely at how such power affects our liberties and our politics. To get a sense of the magnitude of the revolution in America's political economy over the last 30 years, a brief look at changes in market share in key industries will suffice.

A good place to start is banking. This is the one sector of the economy where concentration has raised the greatest concerns so far among policymakers. And indeed, the numbers here are stark. The total number of banks in America has fallen by some 60 percent since 1981, even as the population has grown substantially. Just between 2001 and 2011, the share of total assets controlled by the five largest commercial banks soared from 30 percent to nearly half.

In retail, the concentration of power is even more dramatic. In the late 1970s, no one retailer controlled more than 10 percent of any market, and most retailers were highly local in nature. Today by contrast one company—Walmart—controls as much as half of the entire national market for the sale of numerous items, including detergent and pet food. Much the same is true in department stores and in outlets for music, electronics, office supplies, and hardware.

The story is even worse in book sales. In the 1970s, business was divided among thousands of independent stores, and no chain controlled more than a fraction of total sales. Today, a single dominant retailer, Amazon, sells upwards of half of most books, and as much as 75 percent of ebooks. One effect? Extreme consolidation among publishers. Where a generation ago scores of small publishers competed, today five giants control the bulk of trade book sales.

Much the same is true in heavy industry. Here, the prevailing model was sketched out by General Electric CEO Jack Welch within months of Baxter's announcement. The new goal? To be "number one or number two" in every line of business. Or, put another way, to forge duopolies wherever possible. Sectors where Welch's advice has been followed include: airliners, where the number of major competitors went from six to two; high-tech glass, where most activities are dominated by one company, Corning; electronics assembly, where Foxconn now controls more than half the business worldwide; bottling, where Owens Illinois rules over more than half of all activity in the world.

Among defense contractors, the process of consolidation was driven largely by the government, in the early and mid-1990s. Almost immediately after Bill Clinton entered the White House, Deputy Secretary of Defense William J. Perry set in motion a process of consolidation that reduced the number of large defense firms from 107 to five.

Telecommunications has followed a similar pattern. Congress promised that the Telecommunications Act of 1996 would "promote competition." Instead, it cleared the way for massive consolidation at almost every level of business, including, more recently, advertising and public relations. Thanks to the most recent set of mergers, one company, Omnicom, will control upwards of 40 percent of all television advertising dollars in America. The top two will control upwards of 70 percent.

In energy, the Clinton Administration's approval of such mergers as Exxon with Mobil, BP with Amoco, and Chevron with Texaco went a long way toward restoring the Standard Oil of old. Less notice was paid to the merger of two uranium miners in February 2007, even when the companies doubled the price of a pound of uranium over the next four months. Nor was there much notice when the two biggest offshore oil exploration and drilling companies—U.S. Transocean and GlobalSantaFe—merged in 2007.

In search, Google controls upwards of 70 percent of the business in the United States and nearly 90 percent in Europe (Microsoft, thanks to its experience with Bing, has repeatedly declared that search is a "natural" monopoly that should be regulated). In enterprise software, a long wave of mergers and acquisitions has reduced the industry to two major players, Oracle and SAP.

Seed breeding has been an open source activity for thousands of years. Over the last two decades, a small cluster of chemical companies, including Monsanto, DuPont, and Syngenta, have captured control over almost the entire industry. Much the same is true in grain handling; although this business is divided among four giant firms most regions are dominated by only one or two. In livestock, meanwhile, the biggest four firms control some 90 percent of the U.S. market, up from 25 percent in the late 1970s, and here too local dominance tends to be far higher.

The market for single family homes in America is still largely open, although we do see national developers like Toll Brothers and big investors like Warren Buffett playing a much bigger role than in the past. When it comes to buying washing machines for those homes, however, citizens will likely find themselves subject to a single company, Whirlpool, which since its purchase of Maytag has controlled some 75 percent of the market. The mattress industry has followed suit. A few years ago, no company controlled more than 20 percent of the market. Now the top two control more than 60 percent.

In airline travel, the story is much the same. Even if the Department of Justice succeeds in blocking the proposed merger between American and US Airways, recent deals between United and Continental, Delta and Northwest, and Southwest and Airtran have already resulted in far higher prices for many Americans, and large cuts in service. When you get off the plane, moreover, you will find the car rental counters dominated almost completely by three corporations, hiding behind a variety of brands. These are: Enterprise (Enterprise, Alamo, National); Hertz (Hertz, Dollar, Thrifty); and Avis (Avis, Budget).

In healthcare, meanwhile, hospital corporations have captured control over more than half of physician practices, up from less than a quarter in 2002. In pharmaceuticals, five giants now dominate the entire industry. In prescription eyeglasses, a single Italian company, Luxottica, has captured control over most retailing, and wields increasing power in services and insurance. In medical devices, like syringes and stents, purchasing is controlled by two middleman corporations. According to a recent paper by former antitrust regulator Robert Litan, lack of competition in this market costs Americans a phenomenal $36.5 billion each year.

In food processing, two or three companies now dominate almost every sector. In recent years Kraft alone has purchased Nabisco, Groupe Danone's biscuit division, and Cadbury. Grocery store dairy cases are often monopolized by a single regionally dominant supplier, like Dairy Farmers of America, although the milk is sold under a variety of labels. Procter & Gamble's takeover of Gillette greatly increased that company's already dominant hold on toothpaste, detergents, and razor blades. In such an environment, independent firms find it ever harder to keep it that way; just ask the founders of Tom's of Maine, Ben and Jerry's, Niman Ranch, Honest Tea, or Stonyfield Farm, all of which have been forced to sell out to bigger companies.

There are exceptions. In some industries, buyers enjoy more choice today than they did 30 years ago. At the same time, in almost every case, this variety is accompanied by consolidation at some other point along the chain of production.

Take automobiles. Americans seeking to buy a van or sedan can turn to any one of eight established popular manufacturers, as well as a handful of luxury brands and marginal players. This is roughly double what was available a generation ago. Yet this increase in competition has been accompanied by a dramatic consolidation at the level of supply; one or two companies, for instance, increasingly dominate the production of most components.

Then there's beer. More than 3,000 companies now brew ales and lagers in the United States, up from about 50 in 1978. Yet the biggest brewer back then controlled no more than 25 percent of the market. Today, the top two brewers control 90 percent of sales.

In semiconductors, a generation ago there were about 20 major manufacturers, all vertically integrated. Today, there are scores if not hundreds of companies that design semiconductors. But actual manufacture of wafers is increasingly dominated by a few giants, such as Intel and TSMC.

Other than a few cases in the United States, about the only real antitrust enforcement in recent years has been by foreign states. Regulators in the European Union have been very active, and China has begun to use antimonopoly law. But in most cases, these actions are not designed to enforce genuine antitrust standards such as competitiveness or fair business practices. More often, such actions are designed to protect the commercial interests of particular native companies. To complicate matters, many of the most predatory firms—U.S. examples include meat packer JBS and beer maker Anheuser-Busch Inbev—enjoy strategic support from their home governments.

OUR ANTI-MONOPOLY TRADITION

America's antimonopoly tradition predates the founding of the Republic and, indeed, was a catalyst for the War of Independence. The Boston Tea Party is often cast as a simple rebellion against taxation. The event was also—perhaps mainly—a rebellion against monopoly over trade by the British East India Company. Notably, the objections to that monopoly were mainly political in nature. In a 1773 letter, Samuel Adams and John Hancock called the Tea Act dangerous because it was "introductive of Monopolies which, besides the trains of evil that attend them in a commercial view, are forever dangerous to public liberty."

In the early years of the Republic, Americans embraced antimonopoly law as a way to extend the concept of checks and balances into the political economy. Over the course of two centuries, Americans used these laws to promote two central political goals. One was to ensure the liberty of individual citizens to engage freely in whatever line of business they wished. The second was to preserve democracy through the careful distribution of economic power. As pioneering railroad regulator Charles Francis Adams, Jr., writing in the era of Cornelius Vanderbilt and Jay Gould, put it, the aim was to avoid the rise of any sort of "Caesarism" in which "a class of men… wield within the state a power created by the state, but too great for its control."

For most of the nineteenth century, citizens used local and state governments to enforce these laws. But with the rise of the railroad, the telegraph, and corporate- friendly states like New Jersey, Americans concluded they had to use the federal government as well.

The main goal continued to be preservation of individual liberty and the protection of democracy. In 1890, Senator John Sherman, eponymous author of the first of the modern American "antitrust" acts, put it this way: "It is the right of every man to work, labor, and produce in any lawful vocation. . . This is industrial liberty and lies at the foundation of the equality of all rights and privileges." Sherman described his legislation as a "bill of rights" and a "charter of liberty."

The fight against concentration of economic power shaped many of the most important debates of American history over our first 200 years. The fight between Hamilton's Federalist Party and Jefferson's Democratic Republican Party, Jackson's "war" on the Second Bank of the United States, the Civil War, the Populist rebellion, the fight between Teddy Roosevelt's New Nationalism and Woodrow Wilson and Louis Brandeis's New Freedom, the conflict between the centralizing "First" New Deal and decentralizing "Second" New Deal, the consumer safety and environmental movements of the 1960s—all hinged on the ability of citizens to limit or control private concentrations of economic power. In practice, this meant constructing markets and establishing clear rules to govern corporations, both through external regulation and competition, and through the careful construction of internal charters.

In the first years after passage of the Sherman Antitrust Act, U.S. antitrust law was primarily used against farmers' cooperatives and labor unions in aggressively targeted ways. But over the course of two generations up through the 1930s, America's citizens devised a clear set of principles to guide enforcement, evolving into three distinct but coordinated approaches to competition policy.

Network industries like electricity, telephones, and airline service were generally regarded as "natural monopolies" that must be regulated by the public. In some instances, as with airline service, central regulation was combined with private, competitive enterprise.

In the case of industrial corporations engaged in the art of applying science to mass production, citizens accepted much vertical integration and concentration of capital. But beginning in the 1930s citizens also began to insist that all such corporations compete to some degree. This resulted in a policy of aiming to have at least three or four firms engaged in every industrial activity. Beginning in the late 1930s, this also resulted in a policy of forcing many large industrial firms to share their patents.

In sectors of the economy that did not require high degrees of scientific knowledge—such as retail, farming, and banking—the aim was to promote as wide a distribution of power and opportunity as possible. Policies promoted local control over retail, the localization of control over livestock and grain markets, and community-based banking. In these lines of business, vertical integration and price predation were largely prohibited.

During this "classic" period of antitrust, citizens recognized the importance of promoting the efficient use of human and natural resources. But they also believed that other goals should take precedence over efficiency—such as distribution of power, competition, and open and transparent markets. (Many also believed that competition within open markets was a better way than monopoly to promote efficiency.)

The Justice Department's Antitrust Division and the Federal Trade Commission usually take the lead on establishing competition principles. But many other federal agencies play some role in making and maintaining markets. Through direct regulation, this includes the Patent Office, the Federal Communications Commission, the Federal Reserve, the Treasury Department, the Alcohol and Tobacco Tax and Trade Bureau, the Grain Inspection, Packers, and Stockyards Administration, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Energy Regulatory Commission, the Surface Transportation Board, the Federal Aviation Agency, the National Aeronautics and Space Administration, and the Transportation Department.

Competition policy is shaped in several other key ways: through the procurement policies of the Defense Department; through grants and loans from the Energy Department and the Small Business Administration; and through Congressional earmarks for specific businesses. The U.S. Trade Representative and international trade policy also play a significant role. Enforcement by states, all of which have some sort of formal antimonopoly function, and municipal governments, adds another layer to competition policy.

By almost any economic measure, the antimonopoly policies put into place over the first half of the twentieth century proved hugely successful. They ensured the rapid and fair build-out of network industries in transportation, communications, and electrical power. They resulted in a period of remarkably swift technological advance; as the industrial historian Alfred Chandler put it, antitrust regulators were the "gods" who "set the stage" for the information revolution. They resulted in the restoration of the family farm in America; the top five meat packers' share of the market was reduced from about 90 percent in 1920 to about 25 percent in 1975. They resulted in the localization of control over food sales and retail goods markets, as well as banking.

More than any other dimension of modern economic policy, antitrust regulation was motivated by political and ethical principles reaching back to the American Revolution. Restoration of community and individual sovereignty was the central goal of the antitrust tradition. As Supreme Court Justice William O. Douglas wrote in a 1949 case that focused on efforts by big oil companies to control independent gas stations, "When independents are swallowed up by the trusts and entrepreneurs become employees of absentee owners," the result "is a serious loss in citizenship. Local leadership is diluted. He who was a leader in the village becomes dependent on outsiders for his action and policy."

From the 1930s into the 1980s, policies that specifically aimed to eliminate absentee corporate control ensured that America's communities were once again largely self-governing in most corporate sectors (the one major exception was manufacturing, which remained national in structure). These policies also ensured that the individual citizen could largely choose his or her own path within the political economy. Although many observers have focused on the decline of unionization in America over the last three decades, the great middle class of twentieth-century America stood atop two foundations. One was freedom to organize the industrial workplace, to erect a "countervailing power" within a necessarily hierarchical governance structure. The other was freedom *from* organization, the freedom to be one's own boss, the freedom to build up a business that—thanks to anti-monopoly law—was largely safe from predation.

Citizens who wanted the security of a weekly wage could hire themselves out to an industrial giant or government monopoly, confident that robust labor law and open market systems protected them against economic exploitation and arbitrary power in the workplace. A citizen who wanted to be her own boss, or run his own family business, could count on robust anti-monopoly law to protect farm, factory, or store from predators wielding massed capital. The diffusion of economic power gave communities and citizens freedom in the marketplace that paralleled their civil freedom under the Constitution.

THE EFFICIENCY REVOLUTION

Ever since the Constitution took effect in 1789, strong factions have opposed—sometimes vehemently—laws designed to open markets and promote competition. Outside of the slave economy, private entrepreneurs and investors routinely advocated monopoly in manufactures, transportation, and banking. In most instances, citizens chose to closely regulate those monopolies through state charters. In some cases, as with the U.S. Postal Service and the Springfield Armory, they opted for national monopoly.

In general, however, beginning in the early nineteenth century, Americans moved steadily towards ever greater competition among private actors within open markets. One of the more widespread reforms of the era, for instance, saw citizens promote "freedom of incorporation" statutes designed to allow anyone to enter a business.

Soon after the Civil War, however, Americans across the country began to realize that some of these corporations had grown big enough to rule over entire realms of economic activity. In part, this was due to the fact that railroads and telegraphy made it possible to operate coherently over much greater distances. In part, it was due to the concentration of capital necessary to equip mass armies in the Civil War.

It was during these years that popular groups like the National Grange and Jeffersonian republicans such as Charles Francis Adams Jr., grandson of President John Quincy Adams, set out to break or tame these powers. Not surprisingly, it was also during these years that the two groups that would, a century later, combine to overthrow America's twentieth-century antimonopoly regime first took shape. From their beginnings, both promoted political-economic ideas and structures radically different than those envisioned in America's democratic-republican heritage.

The first group centered around some of the most powerful corporate and banking chieftains of the era. Men like J.P. Morgan, Andrew Carnegie, and John D. Rockefeller represented their vast new corporate empires as a form of organization far superior to the open market systems they had enclosed. Competition, they said, was wasteful. Monopoly, combined with centralized systems of command and control, was efficient, hence the best way to increase the material wealth of the nation.

This group used many arguments in addition to that of efficiency to buttress their claims to power. One of the most effective was they had a "right" to rule their "property" as they alone saw fit; in essence, they refined the corporate libertarian argument that remains so powerful today. Another argument was that their power was simply the outcome of "natural" evolutionary processes, hence there was little anyone could do about it. Andrew Carnegie, to support such ideas, not only imported Herbert Spencer to America, he also paid for the lecture tour in which Spencer introduced Americans to his concept of "survival of the fittest."

The second coherent ideological antithesis to democratic republicanism took shape after the robber barons, as they were popularly described, were firmly in control. Led by academics like the economist Simon Patten and journalists Walter Weyl and Herbert Croly, this group was strongly influenced by the German "progressive" movement of the late nineteenth century.

Like the robber barons, the Progressives held that competition was wasteful, and that systems of command and control monopoly were more efficient at boosting material production. Also like the robber barons, this group often buttressed its political arguments with metaphysical arguments about the "natural" development of large-scale firms and market monopolies. Yet, in contrast with the robber barons, the Progressive also held that the state should more or less directly control the giant industrial corporations, and that professional experts should direct the power of these enterprises towards specific material and social outcomes.

For our purposes in understanding the downfall of antitrust, it is very important to understand another political concept introduced by the Progressives—that of "consumer-ism." Whereas the democratic-republicans had focused almost solely on the rights of the citizen to produce and trade—be it labor or goods or ideas—the Progressives believed that focusing on the citizen's interests as a "consumer" of goods and services would enable them to overcome the factionalism of the producers and thereby concentrate greater political power.

The journalist Walter Lippmann, who worked closely with Croly and Weyl, distilled the essence of this thinking in his 1914 book *Drift and Mastery*. "Collectivism or 'state socialism' is… the chief instrument of the awakened consumer," he wrote. The task of the progressive elite is, therefore, "the organization and education of the consumer for control."

In the 1912 presidential election, the American people were presented with three distinct visions of political economy, each represented by a specific party. William Taft and the Republican Party represented the corporate libertarianism of Morgan and Carnegie; Theodore Roosevelt and the Bull Moose Party represented the statist "progressivism" of Croly and Weyl; and Woodrow Wilson and the Democratic Party represented the democratic republican tradition of Jefferson and Jackson, as updated by Wilson's chief adviser and future Supreme Court justice Louis Brandeis.

In the event, voters opted for Wilson's New Freedom, which promised to break up corporate monopolies and to restore the sovereignty of the community and citizen. In doing so, the voters set the basic pattern that would prevail through the middle of the twentieth century.

Corporate libertarians did capture the presidency for eight years in the 1920s, under Harding and Coolidge, and command and control statists did enjoy a vogue during the presidency of Herbert Hoover and the first two years of the New Deal. But for three quarters of a century, Americans generally moved to build and protect markets, to restore and maintain competition, and to distribute both power and opportunity.

It was not until the 1970s that either group was able to reestablish an ideological and political position coherent enough to mount a real challenge to the regime put in place by Wilson and consolidated by Franklin Roosevelt in the later phases of the New Deal. On the right, this was achieved by a loose group organized around the University of Chicago's school of economics and led by the economists Milton Friedman and George Stigler. As was true of the corporate libertarians a century before, their political arguments centered on the promise of greater material welfare through efficiency. Once again the argument was buttressed by metaphysics, in this case the mechanistic vision of "free market" functions promoted by Friedman.

On the left the key economic thinker was John Kenneth Galbraith. As was true during the time of Patten and Weyl, Galbraith's political argument was based on the promise of creating greater material welfare through a focus on efficiency. Once again the argument was buttressed by metaphysics, in this case an updated version of the same industrial determinism employed many decades earlier. Galbraith was a close student of the economist Thorsten Veblen, and in his 1968 book *The New Industrial State* he updated Veblen's vision of a "directorate" of engineers that uses corporate monopoly to take control of the national economy and run it, in a rational and non-political fashion, for the good of society as a whole. In his 1973 book, *Economics and the Public Purpose*, Galbraith went a step further, identifying himself as a "socialist" and advocating the elimination of antitrust law.

The first large-scale political attack on twentieth-century democratic republicanism came in 1964, when Barry Goldwater embraced the corporate libertarian vision. But it was not until the 1970s that either group figured out how to effect a fundamental change in the political economic regime. The key for both was to embrace the then-increasingly powerful consumer movement. Although in its origins this movement was profoundly anti-corporate, both the Chicago Schoolers and the Galbraithians used the movement as an opportunity to resurrect their old arguments that the best way to create material wealth was to consolidate power in the name of efficiency.

But at this juncture, notably, they did so together. When Robert Bork wrote that "the only legitimate goal of antitrust is the maximization of consumer welfare" it was the left that said "amen."

Many actions contributed to this revolution. In 1975, for instance, left and right joined to support the Consumer Goods Pricing Act, which broke down the system of "fair trade" pricing established with such care in the early twentieth century. But the crowning political event was the Reagan Administration's overthrow of antitrust in 1981. For two centuries antimonopoly had been used foremost to protect the economic liberties of the citizen and our democracy. Virtually overnight, from the outset of the Reagan Administration, this body of law was replaced with a new philosophy and policy approach designed to promote the concentration of power in private corporations and also, in some cases, in the state. The new philosophy put consumer welfare at the center of competition policy, replacing republican ideals of communal and individual sovereignty with the idea that promoting consumption is the key to citizens' welfare and the only legitimate goal of market interventions. Thus, as a matter of policy, antitrust adjudication shifted completely away from ideals of distributing economic power and opportunity and came to rely exclusively on arguments about price. Subsequently, no matter how monopolistic the outcome in terms of market share and structure, efforts to consolidate corporate power had only one standard to meet in the eyes of federal regulators: will the result be lower prices for consumers?

ECONOMIC & POLITICAL EFFECTS

The economist Paul Krugman recently wrote that consolidation of power had resulted in "fundamental" changes in how the economy works. Not only can consolidation result in fewer jobs, he wrote, it also can result in less productive activity overall. "A monopolist can," Krugman wrote, "be highly profitable yet see no good reason to expand its productive capacity."

In addressing consolidation, Krugman is almost alone among economists today. In general, very few other academics have devoted much time to studying or writing about the effects of concentration, either in America or around the world. There is, however, no shortage of data to support the case that this concentration of power has harmed many of the basic interests of the average American citizen. This is true whether we view individuals as consumers, as workers and entrepreneurs, as citizens, or as members of a global community that depends on complex systems of supply.

Consider, first, the consumer. Even though the changes in antitrust enforcement a generation ago were supposed to result in more efficient systems, hence greater material wealth to distribute among consumers, there is growing evidence that the exact opposite is happening. On the contrary, we see:

Higher Prices. Some of these are all but hidden from our view, as with the recent steep spikes in the prices for basic inputs like potash and aluminum. Other prices have been raised more or less right before our eyes. We saw this with mass market beers: Anheuser-Busch Inbev and SAB Miller-Coors both raised the price of their standard lagers in August 2009, right at the low point of the great recession and within a year of the last in a long series of mergers that resulted in duopoly control of the beer market. The story is much the same with airline service. Here too prices soared during the great recession, following a long series of mergers.

Less Choice. The average American supermarket appears to provide shoppers with a cornucopia of options. Yet, not only are the great bulk of products on the shelves controlled by only a few firms, these firms actively cooperate with one another. As a largely ignored study by the Federal Trade Commission in early 2001 revealed, large retailers often require large suppliers to engage in a process called "category management," by which suppliers cooperate in apportioning shelf space and determining prices.

Second, there is growing evidence that consolidation is bad for the average worker and entrepreneur. Here we see:

Fewer and Lesser Jobs. Almost every merger results, sooner or later, in the firing of workers. Some firings can be quite large; when Pfizer took over Wyeth in 2009 managers immediately let go 19,000 people. In other instances, big companies simply use their dominance over a particular labor market to hold down wages and restrict mobility. Several years ago, Apple, Google, Intel and three other companies formed a formal hiring cartel to control the labor market for high tech workers.

Fewer New Businesses. In 1977, Americans created more than 35 new employer businesses for every 10,000 citizens age 16 and over. In 2009, Americans created fewer than 18 such businesses, a phenomenal 50 percent drop. As a recent Wall Street Journal article concluded, this decline is due at least part to the "new dominance of large corporations in many industries." The results of this fall-off are wide and deep. Not only does it mean fewer new businesses and fewer new jobs, as the Journal detailed, it may help to explain the "increasingly sluggish economic recoveries after the past three recessions," the Journal added.

Slower Technological Advance. Consolidation means that every year fewer firms control a larger proportion of our ideas. In 2004, Oracle, already a dominant player in enterprise software, launched a buying spree that resulted in the takeover of more than 80 firms, along with their scientists, engineers, technologies, and customers. Over the last decade, Google has purchased more than 100 firms, along with their talent and their proprietary knowledge. Such consolidation can make it far harder for even the most innovative scientists and engineers to assemble the patents, people, and capital—and other permissions—they need to bring new and better products to market.

Consider, third, the growing evidence that consolidation has had grave effects on our political wellbeing. Here we see:

Power Concentrated Among Citizens. One of the main goals of twentieth-century reformers was to promote a more equal distribution not merely of opportunity but of wealth itself. They succeeded. Between 1930 and 1980 we saw a dramatic decrease in the differential between the earnings of the average worker and those of corporate executives. In the three decades since, with the imposition of the "consumer welfare" test in antimonopoly enforcement, this process has been reversed. We see this reflected in corporate profits, which are at record levels, and in skyrocketing CEO pay. Perhaps the single most telling fact, however, is that one family—the heirs of Walmart founder Sam Walton—control as much wealth as the bottom 41.5 percent of all American families.

Power Concentrated Among Regions. Another main goal of the New Freedom and New Deal was to promote a more equal distribution of opportunity and wealth among regions. Here too they succeeded. Between 1930 and 1980 the differential between per capita wealth in financial centers like New York, Connecticut, and Boston and the rest of the nation fell dramatically. Over the last 30 years, however, these differentials have shot right back up. In 1980, citizens of West Coast states earned about 98 percent of what the average citizen of Connecticut earned; today the figure is about 75 percent. In 1980, citizens of the Great Lakes region earned about 88 percent of what citizens of Connecticut earned; today the figure is about 68 percent.

Power Over Media. Another central goal of the reformers was to ensure local control over newspapers, radio, and television. Hence, the Federal Communication Commission's rules that strictly limited who could own media companies, and how many such outlets any one person or corporation could control. Over the last 30 years, most of these rules have been greatly relaxed, clearing the way for an extreme concentration of ownership, and a shift of control from local citizens to distant owners. In recent years, we have seen a growing number of people who have made their wealth through concentration of power in other sectors take direct stakes in some of our most important media companies. The most well-known of these deals took place this summer, when Amazon founder Jeff Bezos bought the Washington Post for $250 million. But there are others. The world's richest man, Mexico's Carlos Slim, owns a major stake in the New York Times. And the Koch Brothers have shown a strong interest in buying the Tribune Company, which owns the *Chicago Tribune* and the *Los Angeles Times*.

Last, consider the growing evidence that consolidation is destabilizing many of our most important financial and industrial systems. Here we see:

More Fragile Systems. After the financial crash of 1929, one of the main goals of bank reformers was to protect the banking system against similar collapses in the future. They did so by requiring banks to hold more capital, by separating banking and investment activities, and by limiting the size of banks so as to limit the risk concentrated in any one institution. Over the last 30 years, almost every one of these restrictions has been eliminated. The result is far bigger banks, more highly leveraged, more tightly chained together. This was a main factor behind the cascading—nearly catastrophic—financial collapse of September 2008. The story is much the same in large swaths of our industrial system. Over the last two generations we have seen two processes—outsourcing and globalization—result in an entirely new physical structure of production. The main difference: where once the capacity to build any one particular component was highly dispersed, that capacity is now often highly concentrated, sometimes in a single place in the world. The result is a system in which a natural disaster like an earthquake or a political disaster like a war can trigger a cascading collapse of multiple vital systems. The wide and long-lasting production and economic disruptions after the March 2011 earthquake off Japan's northern coast were a minor sampling of what other events might create.

A WAY FORWARD

Americans can restore growth, distribute opportunity and responsibility more fairly, retake control of our communities, and shock-proof our most vital systems. Along the way we can reestablish the foundations for a twenty-first century political and economic renaissance that equips us to help lead our world in a time of accelerating change in our natural world.

But we can do so *only* once we understand the intellectual nature of the revolution that has taken place, and exactly how this revolution has affected our economics, our politics, and the complex networked systems on which we rely for our food, energy, and basic goods. In conclusion, therefore, I outline two sets of recommendations, one that focuses on the intellectual challenge and one that focuses on specific policies.

Facts and Ideas:

1) ***Understand the problem.*** Our most pressing challenge is to understand what is, and how this differs from what was. This is especially true of the effects of technologies like the internet on market structures, and the effects of high degrees of physical concentration on the stability of industrial and financial systems. We should immediately launch a deep, wide, and strategic program of research and reporting on the effects—and causes—of consolidation.

2) ***Reestablish principles.*** Three decades ago, the American public allowed a small group of people to change the principles we use to guide how we—through our governments—shape our political economy. Citizens should begin an open discussion to reconsider our economic goals as a people, and hence the principles we use to achieve those goals. In short, do we continue to aim foremost at one specific form of "efficiency," or do we aim at the traditional goals of liberty, democracy, community, sovereignty, and stability.

Policies:

1) ***Restore antitrust traditions.*** We should cease to use the "Consumer Welfare" frame to guide enforcement of our antimonopoly policies. We should update and restore the "competition within open markets" frame put into place beginning a century ago, to protect our liberties, our democracy, our communities, our sovereignty, and our stability.

2) ***Outlaw most price discrimination.*** Price discrimination takes place when one firm sells the same good to different people at different prices. Price discrimination by large firms is one of the main factors that has promoted concentration. Such price discrimination—especially by market dominant firms—tends to blur into various forms of political discrimination. We should restore the laws we long used to control price discrimination, such as our "Fair Trade" laws and "Common Carriage" rules.

3) ***Confront foreign mercantilism.*** America's citizens must guard against foreign-based efforts to dominate U.S. markets just as they guard against domestic-based efforts. Practically, this requires restoring traditional trade policies. We may also wish to study how the European Union, China, and other states use antitrust law in the international arena.

4) ***Revise procurement policies.*** Many of the most egregious examples of private monopsony—such as for the Group Purchasing Organizations that dominate U.S. medical device markets—are the product of government policies put into place since the 1980s. We should reverse those policies. We should also immediately ensure that all government purchasing promotes open, competitive markets, over the long term.

5) ***Prohibit vertical integration in commodities and big retail.*** Traditional federal and state government policy in the twentieth century prevented packing houses, food processors, and big retailers from going into direct competition with their suppliers. We should restore most such policies.

6) ***Report commodity flows.*** A generation ago, open and competitive markets gave the public, producers, and traders a very clear idea of available supplies of grains, livestock, energy, and other inputs. Today most such information is kept private and proprietary by a few giant corporations, like Cargill and BP, which use the information to raise prices and to profit off trading. We should require full, real-time disclosure of all commodity flows.

7) ***Localize where possible.*** In 1933, Congress granted states the power to regulate most aspects of the liquor business. One result was 50 different regimes. Another was the only system of distribution that has promoted real diversification in any American market over the last 30 years—the beer market. The American people should transfer more regulatory powers from the federal government to states.

8) ***Rethink corporate governance.*** In the 1980s and 1990s, the rights of investors to shape corporate actions and determine the distribution of profits were greatly expanded. The result was a radical alteration of the fundamental character of many if not most of America's larger corporations, which became far more focused on generating profits. We should restore the traditional limits on big investors and reassert a multi-stakeholder view of corporate governance.

In almost every one of these areas, it is vital to start the process of reform now. Every day we wait, consolidation of economic and hence political power restricts the willingness of citizens to speak out and of politicians to act. Every day the risk of large-scale industrial and financial disruption grows, even as so many of our communities are weakened or broken for lack of a just distribution of economic power and opportunity.

The good news is we don't have to invent anything new. The basic principles we need to apply were distilled over the long course of the nineteenth and twentieth centuries. The political economic model we require already exists, and needs only to be updated to account for today's technologies and international political structures.