

Competition Policy for the Twenty-First Century

The Case for Antitrust Reform.

Testimony before the:

Senate Committee on the Judiciary
Subcommittee on
Antitrust, Competition, and Consumer Rights

Barry C. Lynn
Executive Director
Open Markets Institute

March 11, 2021

INTRODUCTION:

Americans today are fast reawakening to one of the essential truths of human society – that political economics is the art of governing how people compete with, and exercise power upon, one another. Competition itself is inevitable. What people can control is whether corporations and markets are structured to promote the liberty and well being of the individual, the ability of citizens to make wise decisions within democratic institutions, and the security and prosperity of the nation.

For two centuries, Americans were masters of engineering competition policy to achieve these ends. Citizens used antimonopoly laws and policies to make themselves the most equal and free people in the world, and the most prosperous, innovative, and powerful. They did this even as new technologies and industrial systems repeatedly revolutionized social and economic structures.

But four decades ago the United States radically altered how we think about and enforce competition policy. Rather than aim to promote liberty, democracy, community, and technological advance, policymakers in the early 1980s said we should focus on efficiency alone. The ultimate result? Today Americans face the gravest set of domestic threats to our liberty and democracy since the age of the plutocrats, perhaps since the Civil War.

The speed at which Americans are awakening to the crisis of concentrated power is encouraging. It was only a little more than three years ago that this Subcommittee held a hearing on the wisdom of focusing foremost on efficiency in enforcing antitrust law. Most who testified that day denied that America faces any monopoly

problem at all. Today, by contrast, the great majority of Americans want some sort of action against bigness.

And enforcers and legislators are rising to the challenge. The Justice Department and the Federal Trade Commission have brought lawsuits against Google and Facebook. And in the most democratic antimonopoly action in American history, the attorneys general from 49 states, Puerto Rico, the District of Columbia, and Guam have launched investigations of Google and Facebook, and many of those states have joined to file three additional far-reaching lawsuits. On top of that are the smart and timely efforts to update, strengthen, and refine America's antitrust laws, here in the Senate – notably with Senator Klobuchar's important new bill – in the House, and in states across the nation. The people of the United States see the threat, and they are relearning how to use the sword of antimonopoly. The people of the United States aim to keep our democracy.

Our task today is to begin to map out Stage Two of this once-a-century battle to restore peoples control over the U.S. political economy. I congratulate the subcommittee for recognizing the need to look beyond the immediate threats toward the ultimate goal, which is to establish a rule of law that can effectively protect American liberty, democracy, and prosperity for the long haul of the 21st century. I congratulate the subcommittee also for placing antitrust law within the larger framework of competition policy. The members are clearly breaking free of the intellectual and technical constraints placed on antimonopoly a generation ago by Robert Bork, Richard Posner, and other pro-monopolist thinkers. They are relearning that the purpose of American state is not only to protect the people from

all dangerous concentrations of power abroad, but to break or neutralize all dangerous concentrations of power right here at home.

To help us map our path on this next stage of the fight, I will focus today on what I believe are the five main challenges we must meet if we are to succeed. These are:

- Understand the ways in which monopoly threatens democracy.
- Remember the original purposes of competition policy.
- Relearn how to use nondiscrimination rules and bright line rules – the two main tools of antimonopoly.
- Create a coherent U.S. competition policy, by reintegrating antitrust with trade policy, patent policy, and national security industrial policy.
- Understand the political, economic, and intellectual opportunity before us.

I) UNDERSTAND HOW MONOPOLY THREATENS DEMOCRACY

Our first task if we are to establish a smart and effective *Competition Policy for the Twenty-First Century* is to understand exactly how monopoly threatens American liberty and democracy.

American democracy is founded on the assumption of a rough equality of personal independence, well-being, and opportunity. Such rough equality is what emboldens citizens to speak freely and to work together to address common problems, both of which are essential to any true democracy. Monopolization therefore threatens democracy in two ways. First and most obvious is that it results in concentration of

power and control in the hands of the few. Second, and more insidiously, concentration of power and control suppresses exactly the sort of debate and actions necessary to fight monopoly.

Over the last decade, Americans have begun to recognize the role that monopolization has played in concentrating dangerous amounts of power and control in the hands of the few. Thanks to the work of the economist John Kwoka, and others, we now know that prices for many basic services and goods have gone up dramatically in recent decades, despite the fact that the main focus of antitrust enforcement has long been to drive prices lower. Thanks to the work of the economist Jose Azar, and others, we also know that over this same period, monopolists have driven down American wages by 20% or more in most industries and regions, and often by more than 30%.

Americans also have developed a better understanding of how concentration of power in retail, services, and farming contributes to this concentration of wealth. A good example here is the immense amount of power now held by two families – the Waltons and the Bezos. Until 1981, U.S. policy aimed to distribute the ownership of America’s retail stores among tens of thousands of families. Today, as a direct result of changes in competition policy under Reagan, the Waltons and the Bezos dominate vast swaths of America’s retail business. Both families have also concentrated enormous wealth in their own hands – to an extent that makes a mockery of the promises of democracy. The Walton family, for instance, is richer than 150 million Americans put together.

The equation here is simple. Rising prices plus falling wages plus less opportunity to build independent business equals ever greater inequality, of wealth and hence of power.

But recognizing the link between monopolization and inequality is only the first step towards addressing the political threats posed by concentration of power and control. And it is not even the most important step. Indeed, monopolization poses two other threats to American liberty and democracy that are far more immediate, yet far less well studied and understood.

Autocracy within the corporate system. The basic problem here derives from the combination of monopoly control over some particular economic activity, and a license for the monopolist to discriminate in how it treats those under its sway. In some cases, the monopolist discriminates in the delivery of some essential service. In others it discriminates in the delivery of some essential product or component. In both instances, the ability to discriminate in the delivery of a product or service empowers the dominant corporation to exercise more or less direct political control over the dependent corporation or person, who do and say whatever is necessary to retain access to the market.

There is nothing new about how the combination of monopolization and the license to discriminate, nor about dominant corporations using this combination to control dependent corporations and people. At the height of the power of the Wall Street “plutocracy” of the early 20th Century, when much of the political power of the United States was concentrated in the hands of a small clique of bankers led by J.P. Morgan, President Woodrow Wilson wrote:

“Some of the biggest men in the United States, in the field of commerce and manufacture, are afraid of somebody, are afraid of something. They know there is a power somewhere so organized, so subtle, so watchful, so interlocked so complete, so pervasive, that they had better not speak above their breath when they speak in condemnation of it.”¹

We should be absolutely clear about what monopolization plus discrimination means. Whenever a person’s property is not secure, whenever that person’s property can be taken or crushed at will, it means rule of law itself has collapsed. Or rather, it means that the whim of the monopolist has become the law of the land.

The most immediate political result of such a system of arbitrary control is silence. Those who are harmed and who should criticize the monopolist do not speak up, for fear of retribution.

A good example of such arbitrary rule is the semiconductor industry. In recent months, a shortage of semiconductors has paralyzed much of the international production system, including assembly lines of General Motors, Ford, and Volkswagen. The main reason for the shortage is that a single corporation - Taiwan Semiconductor Manufacturing Corporation – was allowed to capture a monopoly over the manufacture of high-end semiconductors. TSMC then chose not to invest in sufficient new capacity to serve all potential customers. It can be far more profitable, after all, simply to pit existing customers against one another in competition for capacity on TSMC’s foundries, and to charge them more for their products.

And what do the executives at the manufacturers thus harmed do in response? Rather than decry the concentration of power by the monopolist TSMC, or the failure of TSMC to invest in sufficient capacity, even the largest of manufacturers remain silent in public, while begging for supply in private. They do so because they are afraid TSMC will respond by inflicting yet more pain on their enterprises, such as by arbitrarily shifting already scarce supplies to their rivals.

But let's be clear. This is no isolated instance. We see this same fear to speak out in almost every corner of the American political economy today. This includes companies that depend on Amazon to get to market, including even the most powerful of book publishers. We see the same fear among the companies that depend on Google and Facebook to get to market, including even the most powerful of news publishers. We see the same fear among the companies that depend on Amazon and Google and Apple to distribute their films and music and television shows, including even the most powerful producers of art and entertainment.

The breakdown of information systems. Democracy also depends on the ability of citizens to communicate freely with one another, and to deliberate with one another based on a roughly similar understanding of facts. But the combination of monopolization and discrimination is swiftly breaking down the systems Americans have long used to gather, process, share, and debate news and information with one another.

Two threats especially stand out. The first is the way in which dominant intermediaries – Google and Facebook foremost – are exploiting their chokeholds to divert advertising into their own vaults, away from independent publishers. This

diversion of tens of billions of dollars has resulted in the loss of tens of thousands of journalism positions across the nation. And it has resulted in the bankrupting of thousands of important publications, and the financial degradation of thousands more.

The overall result is that less and less well-reported, well-edited, trustworthy information is generated in the United States as a whole, and within each individual region of the United States specifically.

Open Markets was among the very first organizations to warn of this threat, in public events in the summer of 2016² and 2018.³ Since then, this threat has received a lot of attention, from policymakers and law enforcers around the world, including recent public and private antitrust lawsuits in the United States. There is some good news here. Senator Klobuchar just yesterday introduced important legislation that would provide news publishers with breathing room, while Americans work out a permanent fix to the problem. But thus far, however, no legislature has developed a mature plan to rebuild a truly open and competitive market for news and information that is not – to at some degree – ultimately regulated, manipulated, and taxed by Google and Facebook.

The second threat derives from that combination of monopolization and discrimination. Here the basic problem is that Google and Facebook increasingly deliver different news, information, and advertising – including highly targeted propaganda and misinformation – to each individual citizen.

Google and Facebook say that such targeted information serves the interests of each individual citizen. Whether that is true or not, the ultimate political result is an atomization of the public, to a degree that makes it ever more difficult for citizens to engage with one another through constructive political interaction, and to identify and master the great problems of our time.

II) THE ORIGINAL PURPOSE OF COMPETITION POLICY

Our second task if we are to establish a smart and effective *Competition Policy for the Twenty-First Century* is to remember the fundamental purposes of competition policy as they were envisioned by the founding generation in the United States. Doing so is the only way to fully understand the subversive nature of the Reagan Administration's changes to antimonopoly thinking and enforcement in the 1980s, and to understand how to return America to its original course towards the North Star of true equality for all.

The founding generation in America believed that competition is inherent in human nature and ever present in human society. They understood that such competition can be extremely destructive to the individual, as well as to society as a whole. But the founding generation also believed human beings have the ability to regulate competition among themselves in ways that ensure that rivalry promotes constructive and productive forms of cooperation within society.

The great achievement of the founding generation was two fold. First was to set a radical political goal, of true political equality among citizens (which, in the early

days of the nation meant every white male). Second was to build an all-encompassing system for regulating the political economy of the United States to achieve this vision of equality. Rather than focus on economic outcomes such as efficiency or lower prices, the founders focused America's original competition policy foremost on protecting the liberty of the individual and the stability of democratic institutions from all concentrations of both private and public power. In my recent book, *Liberty from All Masters*, I call this the American System of Liberty.⁴

We see this antimonopoly/prodemocracy goal in one of the main aims of the Revolution itself, which was to break the United States free of the British trading system, as exemplified by the British East India Company. The aim was to ensure that American citizens were free to make their own markets, in which they could trade with one another outside the control of any private corporate government.

We see this antimonopoly/prodemocracy goal even more clearly in the Constitution, with its complex systems for distributing power and control. As James Madison made clear in a famous correspondence with Thomas Jefferson when the Constitution was being debated, a main goal of the Constitution was to make it all but impossible for private monopolists to capture control over the U.S. state, or to leverage its power.

We see this antimonopoly/prodemocracy goal also in the Northwest Ordinance of 1789. This law – passed by America's first Congress and signed by America's first president, George Washington – was designed to govern the settlement of the territory that comprises the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. It also provides perhaps the most clear guide to the society the founders

aimed to build. Central to their vision? Prohibitions on slavery and on private corporations, a careful distribution of property to all citizens, and the requirement that citizens settle in market towns organized around public schools.

Importantly, the System of Liberty established by the founding generation proved to be remarkably flexible and adaptable. Over the next two centuries a long series of technologies and business models – including the railroad, telegraph, assembly line, and modern finance - each unleashed monopolists who for a period threatened American democracy. But time and again American citizens were able to use the original principles and institutions of the System of Liberty to master the new powers and to ensure that the technologies served the public interest always.

In doing so, they also proved that the very best regulators of America’s political economy were the people themselves – acting through their Congress, their state legislatures, and their town halls.

III) NONDISCRIMINATION AND BRIGHT LINE MARKET STRUCTURES

Our third task if we are to establish a smart and effective *Competition Policy for the Twenty-First Century* is to relearn the foundational importance of nondiscrimination rules and bright line market structures and how to use them.

In the case of nondiscrimination rules, we can trace such regulation back to Roman times. For most of history such rules were used to protect the rights of individuals to receive a particular service or good in exchange for paying a publicly

posted price. But the systemic importance of such rules was made clear in the early years of the 17th century, with the English Parliament's passage of the Statute of Monopolies of 1624.

In that act, Parliament simultaneously targeted two forms of arbitrary power. One was the power of the monopolist over a particular industrial activity or service – say the importation of wine or the manufacture of tin. Parliament's primary aim was to protect the properties of all individuals engaged in those and all other businesses from seizure by the monopolist. Parliament's other target was the king, who had assumed the power to grant or cancel such monopolies at will, and who therefore could exercise arbitrary power against any business – and every businessperson - in the nation.

The rule of law thus established provided a foundation for investors, who were now free to venture their capital in the support of new ideas, without fear that their business would be suddenly seized. Even more important, by protecting the property of all individuals from seizure by either the private monopolist or the state, the act made it far safer for individuals – including every businessperson and entrepreneur – to speak their minds and to share their ideas.

In the United States, Americans used non-discrimination rules to govern the behavior of almost every powerful provider of essential services or goods from the earliest days of the railroads in the 1830s until the 1980s.

The basic goal was always the same – to ensure that the monopolist provide the same services at the same price to all comers, in the order in which they arrived.

Americans applied the rules to a variety of businesses; not only most modes of transportation but also most communications technologies and ultimately most forms of middleman operation. Americans also devised a variety of means to achieve this basic end. This included direct prohibitions on any discriminatory behavior, through state and federal statutes, most importantly and famously the Interstate Commerce Act of 1887.

This also included a variety of pricing laws and structural practices designed to limit the power of the intermediaries – including retailers and trading companies – to interfere in the direct interaction between the producer and the buyer. This included Resale Price Maintenance regimes, Fair Trade laws, and one of the most far-reaching of antitrust laws, the Robinson-Patman Act of 1936. It also included prohibition on vertical integration by powerful intermediaries and banks, to eliminate any potential conflicts of interest within the corporations that were charged with providing essential services. The basic rule here was that any firm that provides services to other firms should not compete with its customers.

In recent years, non-discrimination rules have been applied to the computing industry and to the Internet itself. They played a role in the original decision in the Microsoft Case of the late 1990s to break that corporation into two separate businesses, one to manage the disc operating system, and the other to manage products that operated on that system, such as Internet browsers. And in 2015 the Federal Communications Commission applied them to the regulation of the Internet Service Providers, through the Open Internet Order.

But increasingly, such actions were the exception in U.S. policymaking. In his 1978 book *The Antitrust Paradox*, Robert Bork strongly attacked nondiscrimination rules as being inefficient. In the years since, Congress and the Executive often chose not to impose these traditional rules. Most importantly, they did not impose such rules on applications that run on the Internet, no matter how large or dominant they become. One result was to leave Google, Amazon, Facebook, Uber and other corporations largely free to develop business models that are based precisely on discriminating between one user and the next in the pricing and terms of service they offer.

Another result was to transform data from a public good into a fantastically potent weapon of the private monopolist, to wield against every citizen and every business in America, every moment of every day.

The next step is clear. As Senator Al Franken put it in a speech on November 8, 2017, the government must now apply these most fundamental of rules to Google, Amazon, and Facebook. “No one company should have the power to pick and choose which content reaches consumers and which doesn’t,” he said. “Facebook, Google, and Amazon, like ISPs, should be neutral in their treatment of the flow of lawful information and commerce on their platform.”⁵

In the case of bright line market structures, history once again provides an excellent guide as we seek to establish a smart and effective Competition Policy for the Twenty-First Century.

As I noted earlier, for most of our history, Americans carefully restricted the size of most businesses, for a variety of political and economic reasons. For America’s first

100 years, for instance, we outlawed and restricted the use of corporations in farming, and we carefully restricted the reach of any corporation to the borders of the state in which it had been chartered. Americans largely lost control of this system of regulation beginning in 1877, and over the next 30 years we witnessed an explosion of nation-scale corporations. But beginning with Woodrow Wilson’s New Freedom in 1913 and continuing with Franklin Roosevelt’s New Deal in 1933, we saw a radical return to regulations that sought to limit both the scope and size of any American business that was not a network or that did not depend on capital intensive industrial equipment.

The Department of Justice’s 1968 Merger Guidelines provide a rough model for how to use such rules to protect decentralized market structures.⁶ Most to our point here, the 1968 Guidelines set out a series of extremely easy-to-understand “bright line” market share tests to guide law enforcers and the courts on when to challenge a particular vertical, horizontal, and conglomerate merger.⁷

Such simple market structure rules can be further strengthened by clearly defined limits on the behaviors, practices, and licenses of corporations that control particular percentages of any national, regional, or local market. To ensure that any firm that has captured a dominant position in any market cannot use their power to block or disadvantage rivals, regulators should restore the traditional American antimonopoly approach of holding certain practices to be presumptively illegal, including refusing to deal with customers and rivals as a means of suppressing competition; prohibiting distributors, suppliers, or customers from doing business with rival firms; penalizing purchasers who do not place a large share of their business with the firm; tying the purchase of one good or service with the purchase

of a separate good or service, whether done through contractual or technological means.

IV) A COHERENT, INTEGRATED COMPETITION POLICY FOR AMERICA

Our fourth task if we are to establish a smart and effective *Competition Policy for the Twenty-First Century* is to create a coherent U.S. competition policy by reintegrating antitrust policy with trade policy, patent policy, corporate governance policy, and national security industrial policy.

Since the 1980s, Americans have largely thought of competition policy as being synonymous with the Antitrust Division of the Justice Department and the Federal Trade Commission. This is largely due to the efforts of Robert Bork, Richard Posner and other neoliberals to radically reduce both the authority of antitrust policy, and its reach. In truth, however, almost every agency in the federal government has some form of major antimonopoly powers. This includes the departments of Treasury, Defense, Commerce, Transportation, and Agriculture. It includes the Federal Reserve, Federal Communications Commission, Securities and Exchange Commission, Consumer Financial Protection Bureau, and Commodity Futures Trading Commission, among other agencies. It includes large portions of America's state and local governments.

These powers can range from setting limits on the size of businesses to setting limits on behavior to subsidizing the creation or expansion of rivals.

For most of U.S. history, policymakers naturally sought to integrate the different actions of the various arms of the federal government to ensure that they reinforced one another, and helped the nation achieve a broad set of fundamental political and economic goals, foremost being the protection of individual liberty, democracy, and national security.

No where is this more clear than in the efforts of Louis Brandeis and Woodrow Wilson to structure the institutional reforms of the New Freedom era, in 1913 and 1914. This included the passage of the Federal Trade Act, the Clayton Antitrust Act, the Federal Reserve Act, tariff reform, and the first break up of AT&T, more or less as an integrated package of antimonopoly/prodemocracy actions.

Also clear from the New Freedom era is that even as they strengthened the ability of the federal government to address concentrations of power at home and abroad, Brandeis and Wilson also sought to ensure that this new liberal administrative state could be used only to distribute and neutralize power, not to concentrate power.

As Senator Hawley has noted in his biography of Theodore Roosevelt, Wilson and Brandeis understood clearly what they did not want, which was to use antimonopoly policy in the way it had been used by Roosevelt while he was in the White House, let alone as he proposed to use it during his Bull Moose period. To the degree Roosevelt had a main aim, it was to centralize control over the political economy in the hands of the sitting president.

As Sen. Hawley writes, Wilson and Brandeis “believed that Roosevelt’s policies would simply substitute one despotism for another – unbridled presidential and administrative power for unmanaged corporate influence.”⁸ Their response was to build a regulatory regime that could never be used in this way.

Beginning in the 1930s, Congress and President Franklin Roosevelt took a number of actions to refine the structure and performance of the liberal administrative state established by Wilson and Brandeis. This included strengthening antimonopoly and banking laws, and creating a variety of additional independent agencies. It also included bringing patent law more clearly under the reach of the DOJ and FTC.

Beginning four decades ago, Robert Bork, Richard Posner and their allies launched a effort that proved to be remarkably effective at limiting the reach of competition policy and at obscuring the powers built into the agencies of the administrative state. Our intellectual and policy task today, therefore, is much the same as that faced by Brandeis and Wilson in 1913 and Roosevelt in the mid 1930s. It is to understand that antitrust policy, trade policy, patent policy, and industrial policies designed to promote national security are all subsets of competition policy, and must be treated as a unified system of regulation.

V) THE OPPORTUNITY BEFORE US

Our final and perhaps most important task if we are to establish a smart and effective *Competition Policy for the Twenty-First Century* is to understand the magnitude of the political, economic, and intellectual opportunity before us.

In this room in December 2017, we discussed how Robert Bork, Richard Posner, and a small group of other legal and economic scholars set out a generation ago to subvert the American System of Liberty. It would be wrong for me to speculate about the actual motives of any of these men. Whatever their conscious intent, however, the result of their efforts was to make it vastly easier for the few to concentrate corporate control over entire sectors of our political economy. This in turn made it vastly easier for the few to concentrate not merely wealth but increasingly direct political control over Americans as individuals and over the United States as a whole.

But it was not only fundamental political and economic balances that Bork, Posner, and the other neoliberals disrupted. They also created a false economic science that served mainly to hide concentrations of power and control. And their fixation on efficiency largely destroyed our understanding of the how to use competition policy to ensure the security of our nation, and the stability of the complex systems on which we depend. The result is we today face a fantastically daunting set of threats to our democracy and to our security.

None of this is new. It was all perfectly foreseeable more than a decade ago.

In 2002, in an article that focused on the structural, political, and economic dangers posed by hyper concentration of computer manufacturing capacity in Taiwan and China, I wrote:

For years Sovietologists have debated whether Lenin once said, “A capitalist would sell rope to his own hangman.” Change “rope” to “supply chain,” and, whether Lenin made the statement or not, it is still clearly true.⁹

Today? We find ourselves dependent on China not only for essential electronics and drugs, we also find large segments of our industrial economy being choked off by that same Taiwanese semiconductor monopoly, which has grown only more powerful and brazen in the years since.

In 2005 in the *Financial Times*, reviewing the hyper concentration of manufacturing capacity for other industrial goods, including vital medical supplies, I wrote:

One cross-border system that would collapse in the event of a pandemic is the one the US relies on for medical respiratory masks.¹⁰

Today, a full year into the Covid-19 pandemic, Americans still lack a sufficient supply of N-95 facemasks. They do so because monopolists constricted production in the United States, shifted capacity abroad, and have continued to exercise their power over buyers throughout the recent crisis.

In 2010, writing about the future of online commerce, in a world in which monopolists were left free to serve who they will how they will, I wrote:

The rise of private corporate governments that combine the ability to discriminate among the producers and the consumers in our society is just such a union of “centralized government ” and “centralized administration. ” The

main thing that can no longer be concentrated is our will as a people.¹¹

Today, the American public has been atomized, and stare at one another from ever more isolated bubbles of experience and thought, each carefully curated and farmed by the most powerful corporations in human history.

In 2012, in an article about how concentration of power affects our freedom to think and speak, I wrote:

Today... a single private company has captured the ability to dictate terms to the people who publish our books, and hence to the people who write and read our books. It does so by employing the most blatant forms of predatory pricing to destroy its retail competitors. It does so by gathering up massive amounts of information about the most private thoughts, interests, and habits of the American citizen.¹²

Today, we see that the executives of even the biggest of corporations fear to speak their minds, terrified of Google or Amazon, and sometimes of Beijing.

My prediction today? If you fail to address the crisis of concentrated power in America, you will ensure not only the end of democracy, but sometime soon a catastrophic collapse of the very industrial systems on which we depend.

On the other hand, if you admit the breadth and magnitude of the threats posed by monopolists, and readopt the political economic philosophy and tools that served

America so well for our first 200 years, you will find that you have the ability to entirely fix almost every one of the problems that most threaten America today.

More than that, you would find that you have the power to reestablish American democracy and prosperity for the next century. And to do so in ways that help us rebuild democracy and prosperity around the world.

Dare to overthrow the ideas that have blinded you, and the men who have controlled you, dare to dream again about a truly better future, to imagine the next American Utopia, and you in this room can take your place alongside the founders of the United States, and such heroes as Lincoln, Brandeis, FDR, and Eisenhower, who have not only protected our nation but expanded and refined the American System of Liberty.

No matter what you do in this room, we the people will ultimately win. But you can certainly help us to speed us to victory. And you can certainly help to greatly reduce the damage and the dangers meanwhile.

Senator Klobuchar has taken a lead, and in doing so has thrown you all a challenge.¹³ For the sake of the American people, take it up.

-
- ¹ Woodrow Wilson, *The New Freedom*, New York: Doubleday, 1913, p. 14
- ² <https://www.newamerica.org/open-markets/events/americas-monopoly-problem/>
- ³ <https://www.openmarketsinstitute.org/publications/event-6-12-2018>
- ⁴ Barry C. Lynn, *Liberty From All Masters: The New American Autocracy vs. The Will of the People*, New York: St. Martins, 2020, p. 8.
- ⁵ Nitasha Tiku, “Al Franken Just Gave the Speech Big Tech Has Been Dreading,” *Wired*, November 9, 2017.
- ⁶ <https://www.justice.gov/archives/atr/1968-merger-guidelines>
- ⁷ Open Markets Institute, “Restoring Antimonopoly Through Bright Line Rules,” *ProMarket*, April 26, 2019.
- ⁸ Josh Hawley, *Theodore Roosevelt: Preacher of Righteousness*, New Haven: Yale, 2008, p. 203.
- ⁹ “Unmade in America: The True Cost of a Global Assembly Line,” *Harper’s*, June 2002.
- ¹⁰ “The Fragility that Threatens,” *Financial Times*, October 18, 2005.
- ¹¹ Lynn, *Cornered: The New Monopoly Capitalism and the Economics of Destruction*, Hoboken: Wiley, 2010, p. 56
- ¹² “Killing the Competition,” *Harper’s*, February 2012.
- ¹³ Amy Klobuchar, *Antitrust: Taking on Monopoly Power From the Gilded Age to the Digital Age*, New York: Knopf, (forthcoming April 2021).