

“The New Gilded Age” by Tim Wu

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“The New Gilded Age” Overview

Today we will discuss various chapters of the new gilded age, and then focus on the chapter on tech trusts.

1. Historical Foundations of Antitrust.
2. Peak Antitrust.
3. Chicago School of Antitrust.
4. Big Case Tradition
5. Tech Trusts.
6. Neo-Brandeis Agenda.

Historical Foundations of Antitrust.

- ▶ Trust Movement in the 1880-1890: formation of large firms that attempted to buy up competitors to monopolize an industry.
- ▶ Justice Brandeis: open economy with many competitors is necessary for freedom (freedom from the power of large monopolies).
- ▶ Trustbuster: Theodore Roosevelt activate the Sherman Act. Act of political democracy to reduce the power of large trust, much as taxes on high income or estate taxes limit the power of money.
- ▶ Precedent setting case against Standard Oil. Defense: large firm has economies of scale. Counterfactual: the value of the broken up pieces of standard oil (Chevron, Texaco, Exxon, etc...) doubled in the next year.

Peak Antitrust

- ▶ Nazi and Communists during the second world war had created large companies or collectivized them. Antitrust was a reaction to this organization of the economy.
- ▶ Post-war germany: breakup of firms by american occupation government such as I.G. Farben.
- ▶ 1940's breakup of vertical integration of movie studios and movie theatres.
- ▶ Merger of two Los Angeles grocery chains with combined market share of 3 percent blocked.

Chicago School of Antitrust

- ▶ Distinct from the Chicago School of Economics (Friedman, Stigler, Coase, Becker, Fama, Fogel, Lucas).
- ▶ Aaron Director, Richard Posner, Robert Bork, focused on doing antitrust legal work using the tools of economics in the 1970's.
- ▶ Remember, game theory not developed extensively until early 1980's.
- ▶ Trying to fit antitrust into an economic framework:
 - ▶ Using economic tools in antitrust.
 - ▶ Provide better limiting arguments to use of antitrust.
 - ▶ A higher standard for antitrust evidence also makes cases harder to prosecute.
- ▶ Key Reference is Bork's "Antitrust Paradox".

Big Case Tradition

- ▶ Standard Oil.
- ▶ ATT Breakup (long distance service).
- ▶ IBM litigation on the mainframe and minicomputer market.
- ▶ Microsoft-Netscape Case.

Tech Trusts

- ▶ Since 2000, four major firms have come to dominate tech: Amazon, Facebook, Apple, Google, Microsoft.
- ▶ There are a surprising number of acquisitions that are uncontested: hundreds of google and facebook acquisitions: Amazon buying Diapers.com, Google buying Youtube, Facebook buying WhatsApp and Instagram.
- ▶ A large amount of time on “the internet” is spent on Facebook and Google, even more true with mobile devices.
- ▶ No other firm can rival Amazon's logistics in ecommerce.
- ▶ The European Union recently fined Google 2.7 billion for monopolization. Asking Android to be sold to mobile phone makers rather than subsidized through application revenue.

Neo-Brandeis Agenda

Also goes by the name of “hipster antitrust”.

- ▶ Lina Khan article “Amazon’s Antitrust Paradox” in the Yale Law Journal.
- ▶ Goal of antitrust should not only be to maximize consumer surplus, or consumer and producer surplus, but to preserve competition per se.
- ▶ Question: is competition instrumental — we use it to bring new firms and innovation thus raising consumer welfare, or is competition a good by itself.
- ▶ If the goal is competition, this leads to a very political process of how concentrated a market should be...
- ▶ Separate question is whether American Antitrust is ready to bring up any large scale antitrust case.