AMERICAN ECONOMIC LIBERTIES PROJECT

Confronting America's Concentration Crisis: A Ledger of Harms and Framework for Advancing Economic Liberty for All

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REPORT

INTRODUCTION

The way policymakers structure markets shapes how wealth and power move through society. Today, the concentration of private economic power has reached extreme proportions. This power is evident in major sectors of our economy, such as technology platforms, telecommunications, banks, health care, and retail. It also exists systemically in niche markets, with powerful corporations governing commerce in sectors from contact lenses to cat food to mattresses to meat.

This concentration means that the underlying structure of most markets produces unequal and abusive outcomes. Dominant corporations, often organized by extractive financiers, direct more and more wealth to themselves, while undermining the economic liberties of consumers, working people, independent businesses, ordinary investors, and communities.

Powerful corporations are also political institutions that capture and wield power over government and politics, spending billions to influence public discourse and policy. In doing so, they entrench and exacerbate economic and political marginalization among historically excluded communities. They also contribute to deep injustices in the application of the law; for the most powerful corporations, laws are often mere suggestions, in stark contrast to the abusive ways our legal system treats the poor and communities of color.

The COVID-19 crisis and recession clarified and exacerbated the harms caused by corporate concentration. Hospital monopolies and concentrated supply chains left America without the medicine, testing supplies, and safety equipment necessary to respond to the pandemic, while behemoths like Amazon, Google, and Facebook expanded their dominance. Yet when Congress organized a financial rescue package, it provided the bulk of aid to Wall Street and large corporations. This massive, enduring transfer of wealth and power will create a society that is even more severely unequal and undemocratic.

Our vision is for policymakers to structure markets to achieve three broad outcomes:

- Working people, consumers, and communities are not subject to unjust transfers of wealth and power resulting from discrimination, extortion, and abuse from monopolies and predatory finance.

- Entrepreneurs and businesses can succeed on the merits of their ideas and hard work, not through leveraging market power or engaging in race-to-the-bottom, unfair conduct towards workers, consumers, suppliers, or competitors.
- Wealth and political power are broadly and equitably distributed in support of a strong, inclusive democratic society.

Below, we offer a framework organized around these three principles for beginning to reorient democratic institutions to attack concentrated corporate power, an effort that has already begun in the context of technology monopolies like Amazon, Facebook, and Google, but must be extended far beyond them.

First, we catalogue some of the ways that concentrated economic power causes, contributes, or sits adjacent to a broad range of social problems and injustices, drawing on findings from a growing body of research and analysis.

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CONCENTRATED CORPORATE POWER: A LEDGER OF HARMS

RAISES PRICES FOR CONSUMERS

In many markets, corporate concentration is correlated with higher prices because powerful corporations can charge consumers more for goods and services.

- Combined with lower wages, corporate consolidation costs the average American household *$5,000 a year* in lost purchasing power (Philippon, 2019).
- Mergers between companies in concentrated markets result in an average price increase of *7 percent* (Northeastern University, 2017).
- Since 1980, markups—how much companies charge for products beyond their production costs—have *tripled* from 21 percent to 61 percent due to growing consolidation (Quarterly Journal of Economics, 2019).

LOWERS WAGES FOR WORKING PEOPLE

Without decades of corporate concentration, wages would likely be substantially higher today than they are now.

- Median annual compensation—now only *$33,000*—would be more than *$10,000 higher* if employers were less concentrated (Harvard Law Review, 2018).
- Workers are getting an even smaller percentage of profits today than they were 30 years ago, even though corporations are making about *$14,000 more in profit per worker*. This is almost entirely due to increased corporate concentration (University of Chicago, 2016).
- The more concentrated the industry, the *smaller share* of the *profits workers receive* (Journal of Finance, 2020; Quarterly Journal of Economics, 2019). The same is true of labor markets: highly concentrated markets are associated with *significantly lower* wages (Journal of Human Resources, 2020).

Powerful Corporations Use Coercive Contracts to Control Working People

Corporate concentration enables big corporations to exert enormous power over working people. One pernicious manifestation is the explosion of noncompete agreements that limit worker mobility, preventing them from seeking a safer or better-paying job, starting their own businesses, or otherwise competing in the labor market.

- A *quarter* of American workers are bound by a noncompete restriction on their current job or from a previous job, including roughly one in five minimum-wage workers (Princeton, 2018).
- Noncompetes *restrict wages* and *dampen entrepreneurship*, reducing new-firm entry by as much as *18 percent* (Economic Innovation Group, 2019; Journal of Human Resources, 2017; Management Science, 2017).
- Workers in states and industries with *more noncompetes* suffer from lower wages, less job mobility, and lower levels of job satisfaction, even when they themselves aren't bound by such agreements (Organization Science, 2017).

INHIBITS GOOD JOB CREATION

Employer concentration limits job growth and lowers job quality.

- Employment *falls* as employers' power over the labor market increases and is roughly *13 percent* less today because of concentration (Harvard Law Review, 2018).
- Dominant corporations hire *fewer workers*, produce less output, and earn higher profits than would otherwise be the case (Brookings Institution, 2018).
- Dominant corporations *shed more workers than they hire* most years (Economic Innovation Group, 2017).
- The economy would have produced *nearly a million additional jobs in new companies* in 2014 alone had the startup rate been as high as it was in 2006 (Economic Innovation Group, 2017).

UNDERMINES SMALL BUSINESSES AND COMMUNITY WELL-BEING

Large corporations increasingly dominate local economies, pitting states and cities against each other and undermining small businesses and community well-being.

- During the 2010 to 2014 recovery, the creation of net new businesses in *just five metro areas* was equal to that in the rest of America combined. This concentration of new investment is likely a function of concentrations of economic power (Economic Innovation Group, 2017).
- Counties where small, locally-owned businesses account for a *larger share* of the economy have higher *income* and job growth and lower poverty rates (Federal Reserve Bank of Atlanta, 2013; Economic Development Quarterly, 2011).
- Local businesses return a *far higher* share of their revenue to the local economy—in profits paid to local owners, wages to local workers, procurement from local suppliers—than national chains do (Maine Center for Economic Policy, 2011).
- Surveys show that independent businesses are *declining in most industries* due to market concentration and unfair competition from large competitors (Institute for Local Self-Reliance, 2019).

DEPRESSES BUSINESS DYNAMISM

Corporate concentration stifles entrepreneurship as dominant corporations make it harder for smaller or newer competitors to enter the marketplace.

- America's start-up rate *has collapsed*, *falling by half* since the 1970s (Economic Innovation Group, 2017; Brookings Institution, 2014). Increased concentration has gone hand in hand with its decline (Economic Innovation Group, 2017).
- Existing corporations open fully *40 percent* of new businesses, while the number of "high growth" firms—young companies that play an *especially important* role in employment, productivity, and wage growth—has *declined* (Brookings Institution, 2018; Brookings Institution 2014).
- There are *fewer* startups in states where a smaller number of companies dominate (Brookings Institution, 2014).
- It's *twice as expensive* for small or medium sized businesses to borrow money than it is for large corporations. (IMF, 2020)

UNDERMINES INNOVATION

Dominant corporations invest *less* in basic research, spending instead on technology acquisitions or stock buybacks to raise their share price.

- Dominant corporations invest *less* in basic research (NBER, 2015).
- Business investment has fallen by half since the 1970s (Brookings Institution, 2018). In 2018, corporations spent just *$404 billion* on research and development compared to more than *$1 trillion* in stock buybacks (Congressional Research Service, 2020; CNBC, 2018).
- Instead of innovating, dominant firms acquire. Yet technology acquisition results in *significantly lower returns on R&D investment* at both dominant and acquired firms (Harvard Business Review, 2018).

REINFORCES RACIAL INEQUITY AND INJUSTICE

Corporate concentration extracts wealth and opportunity out of Black and brown communities, even as corporations shape our laws in ways that exacerbate and perpetuate racial injustice.

- The effects of corporate concentration *disproportionately impacts* communities of color in a range of ways, exacerbating existing inequalities caused by racial exclusion and structural discrimination (Hamilton and Nighty, 2019).

- Dominant corporations have *rolled-up Black-owned businesses* or made it more difficult for them to prosper. Tens of thousands of Black-owned businesses have disappeared since the 1980s and the per-capita number of Black employers declined by 12 percent between 1997 and 2014 alone (Feldman, 2017).

- The privatization of public resources *further concentrates corporate wealth and power* while *disproportionately harming Black communities* (NAACP LDF, 2019; Food and Water Watch, 2015).

- Corporate concentration has contributed to the decline of Black media: Black-owned newspapers have *lost advertising revenue* to Google and Facebook, white-owned media companies have *rolled-up Black outlets*, and the number of Black journalists working at daily newspapers declined by *40 percent* between 1997 and 2014 (Democracy Fund, 2019; Atlanta Black Start, 2015; Pew Research, 2014).

- Media monopolies like Comcast *discriminate against Black content-creators*, placing the means to shape commercial imagery almost exclusively in the hands of white corporate executives (Stoller, 2020).

JEOPARDIZES AMERICANS' HEALTH AND SAFETY

Dominant corporations use their outsized power over workers and consumers to prioritize profits over safety with relative impunity.

- Concentrated hospital markets—which face less competition on quality and innovation—have been associated with significantly *higher mortality rates* and *substantially worse* patient outcomes (House Energy and Commerce Committee, 2018; Health Affairs, 2017).

- Concentration in the dialysis industry has *resulted in reduced quality of care*, evidenced by higher hospitalization rates and lower survival rates. (National Bureau of Economic Research, 2020).

- Amazon pushed for ever-faster delivery times *even when warned* it would almost certainly cost lives, with dozens of injuries and *at least 10 deaths* from delivery-related accidents occurring since 2015, with the actual numbers likely far higher (The New York Times, 2019).

- Corporations that dominate the extremely concentrated U.S. food system are notoriously abusive towards workers and suppliers. Since the start of the COVID-19 outbreak, at least *57,000 people* in meatpacking, food processing, and farm work have gotten sick or died (FERN, 2020).

- Lax antitrust enforcement allowed a "killer acquisition" in the *ventilator market* to shut down production of low-cost ventilators meant to be used in case of a pandemic like COVID-19 (New York Times, 2020).

- One of only two global passenger airplane manufacturers, Boeing's reckless pursuit of shareholder profits cost *346 lives lost* in crashes of the corporation's 737 Max (Economic Liberties, 2020).

THREATENS THE SUPPLY OF CRITICAL GOODS

Dominant corporations expose American consumers to significant risks of disruption from concentrated supply chains, including shortages of essential drugs and medical equipment.

- Large corporations have *sacrificed resiliency* to maximize profits, embracing just-in-time delivery, eliminating built-in redundancies, concentrating production in vulnerable locations, and relying on subcontractors across their supply chains (Advisen Insurance Intelligence, 2013).

- In the pharmaceutical market, consolidation among drug manufacturers caused a *steep increase* in essential drug shortages long before the coronavirus pandemic (Duke University, 2018).

- Manufacturing *parts suppliers* have also consolidated in recent decades, exposing supply chains to greater risk of product shortages when disaster strikes (National Academy of Engineering, 2014).

WEAKENS OUR DEMOCRACY

Dominant corporations use their power to shape public discourse, influence government policy, undermine democratic institutions, and avoid accountability.

- Corporations are spending unprecedented amounts to influence policy outcomes. Lobbying expenditures reached an eight-year high of *$3.4 billion* in 2018, *not including* the hundreds of millions of dollars businesses spend on unregulated influence campaigns every year (Open Secrets, 2019; The Intercept 2019).

- Industry groups controlled by monopolies have used the courts to reshape our labor laws, gutting fundamental worker protections like *the right to organize* and *sue to remedy harms*. The Supreme Court is *the most business-friendly* it has been in a century (Minnesota Law Review, 2013).

- Google and Facebook have monopolized digital advertising, harvesting *nearly 60 percent* of U.S. advertising revenue, decimating newspapers, magazines, and other outlets even before the coronavirus pandemic (PwC, 2019). Roughly *1,800 local newspapers* disappeared in America between 2004 and 2018 (UNC, 2018).

HOW SHOULD WE RESPOND TO AMERICA'S CONCENTRATION CRISIS?

There's no one-size-fits-all solution or single bill to reverse corporate concentration, promote fair competition, and advance economic liberty for all. While reinvigorating antitrust enforcement is key, combating concentrated corporate power requires a holistic reorientation of government's relationship to private power. That means that a constellation of federal and state democratic institutions—Congress, federal agencies, state governments—must vigilantly wield a suite of powerful policy tools, such as Congressional oversight, antitrust enforcement, anti-corruption measures, tax policy, financial regulation, international trade arrangements, and a reinvigorated administrative state, to challenge monopolies' dominance over our society.

Behind this broad policy agenda must be widespread recognition that the neoliberal approach of the past 40 years has failed to deliver key progressive goals and resulted in dangerous and destabilizing unintended consequences. Much of the policy focus during this time has been on ameliorating the symptoms of corporate concentration, without a complementary focus on restraining corporate power in the first place. Equally important is to recognize that these challenges, though severe, are solvable through smart, enforced rules against private concentrations of power.

Policymakers should structure markets to achieve three broad outcomes such that:

- Working people, consumers, and communities are not subject to unjust transfers of wealth and power resulting from discrimination, extortion, and abuse from monopolies and predatory finance.
- Entrepreneurs and businesspeople can succeed on the merits of their ideas and hard work, not through leveraging market power or engaging in race-to-the-bottom, unfair conduct towards workers, consumers, suppliers, or competitors.
- Wealth and political power are broadly and equitably distributed in support of a strong, inclusive democratic society.

With these overarching principles in mind, we can think about a comprehensive approach to address corporate concentration in four categories:

- Stemming pandemic-related concentration as a part of the economic response to the COVID-19 crisis.
- Arresting and reversing concentration across the board through a revitalized regulatory and enforcement approach.

- Designing industry-by-industry legal and regulatory remedies for particularly concentrated and abusive markets.
- Reforming the operational structures and culture of democratic institutions that currently bias them towards advancing the interests of large corporate actors, at the expense of workers, consumers, small businesses, and marginalized communities.

Below, we use these four categories to lay out a high-level framework for organizing a comprehensive response to America's concentration crisis.

REVERSING PANDEMIC-RELATED CONCENTRATION

The policy response to the coronavirus pandemic is accelerating corporate concentration and inequality, as large corporations, private equity, and banks take advantage of the Federal Reserve's market interventions to expand their economic and political power. To begin to address this, Congress should:

- Enact a temporary merger moratorium to prevent big corporations from further consolidating their economic and political power and force the Federal Reserve to place conditions on corporations accessing its credit facilities related to stock buybacks, executive compensation, and worker retention.
- Establish an independent, no-fault commission to break apart or regulate essential businesses that have become more powerful due to the coronavirus, without decades of litigation or the need to prove wrongdoing.
- Create a public bank, similar to the Reconstruction Finance Corporation from the 1930s and 1940s, to serve as a new investment authority to marshal public resources to help businesses go through quick reorganizations without excessive damage to owner equity or creditors who extended commercial loans.
- Prevent private equity executives from looting the bailouts by enacting the Stop Wall Street Looting Act as part of the next relief package to ensure private equity firms share responsibility for the companies under their control, preventing them from capturing all the rewards of their investments while insulating themselves from risk.

ARRESTING AND REVERSING CORPORATE CONCENTRATION

To begin to combat concentration across the economy requires a fundamental reorientation of public institutions and their relationship to private power, including but not limited to Congress and antitrust agencies. Priorities include:

- The Federal Trade Commission should abandon the failed consumer-oriented enforcement approach of the past 40 years, adopt bright line standards for enforcement, embrace a far more robust investigatory agenda, and exercise its rulemaking authority, including on abusive and widespread practices such as non-compete agreements, exclusive dealing, and in little-attended but critical areas such as franchising law.

- Congress should lead a thorough study of market concentration in the U.S., similar to the Temporary National Economic Commission created in the 1930s and as proposed in the 21st Century Competition Commission Act of 2017.
- Congress should overrule Law and Economics-driven judicial precedent that has eroded antitrust and public utility laws and hobbled private rights of action in recent decades. This includes decisions that have allowed corporations to use mandatory arbitration clauses to block lawsuits and decisions that have unjustifiably raised pleading, summary judgment, and class certification standards, frustrating injured parties' attempts to obtain compensation and deter future antitrust violations.
- Federal agencies, from the Department of Agriculture to the Department of Defense, should use all regulatory tools at their disposal to ensure that injured workers, businesses, and consumers can seek vindication under antitrust laws and ensure that markets under their jurisdiction are open and competitive. This should include reconsidering the importance of public utility laws in setting terms and pricing in everything from airlines to software.
- The federal government should view trade policy as an extension of its antimonopoly powers and address the relationship between trade, monopolization, and national security, for example by rebuilding concentrated supply chains that leave the United States unwittingly dependent on China.

INDUSTRY REMEDIES FOR SPECIFIC CHALLENGES

Immediate Congressional and agency scrutiny should be brought to bear on several specific industries and dimensions of harms resulting from economic concentration. Particularly abusive industries and/or corporations that warrant enhanced scrutiny include:

- Pharmaceuticals
- Medical services
- Food and agriculture, especially meatpackers, seeds and chemicals, and food distribution
- Private equity
- Online advertising (Google and Facebook)
- Online retail and logistics (Amazon)

Additionally, policymakers should investigate the impact of market power on:

- Wealth-building in historically marginalized communities
- Rural communities' economic well-being
- Workers' wages, ability to organize, and ability to move freely in labor markets
- Professionals' ability to form co-operatives

REFORMING GOVERNMENT STRUCTURES AND PROCESSES TO ADDRESS PRO-CORPORATE BIASES

Many of our democratic institutions and regulatory processes are biased towards large corporate and financial actors at the expense of workers, small businesses, and families, particularly those in communities already subject to systemic exclusion. The response to COVID-19 has spotlighted the ways in which the government can quickly and easily support large, entrenched institutions, but is not designed to equitably and efficiently provide support to the rest of society. A much broader review should be undertaken, but initial priorities should include:

- Re-examining the dominance of economists and flawed economic theory as part of the broader administrative state, including the role of the Bureau of Economics at the FTC and FCC and the Office of Information and Regulatory Affairs.
- Reforming the Small Business Administration to facilitate the provision of direct, equitable support to small businesses without the use of private financial intermediaries.
- Assessing the role that the Federal Reserve has played in concentrating corporate power and exacerbating inequality, and diversifying its leadership.
- Redesigning procurement policy to promote fair competition and eliminate price gouging.

CONCLUSION

Decentralizing economic power is a key part of the effort to redistribute power in our society, tackle historic levels of wealth inequality, and create an inclusive, robust democracy. A more just and equitable system requires both public institutions and private markets to function in ways that are fair, transparent, and accessible.

Redistributing wealth after the fact is necessary but not sufficient. Reducing corporate concentration is essential, and should work in complement with, and reinforce, other critical priorities: attacking the deep, structural barriers to capital and economic opportunity faced by historically marginalized groups; strengthening labor bargaining power; and shifting responsibilities for providing essential necessities, such as health care, away from private monopolies and towards equitably designed public systems. This will help level the playing field between labor and capital and provide avenues to wealth-building for people for whom it has historically been denied.

As this document lays out, the consequences of concentrated corporate power are not trivial or superficial. The challenge we face today is reminiscent of the challenge of concentrated corporate power and economic crisis that President Franklin Delano Roosevelt inherited. His words at his 1932 inauguration still resonate:

"Liberty requires opportunity to make a living—a living decent according to the standard of the time, a living which gives man not only enough to live by, but something to live for. A small group [has] concentrated into their own hands an almost complete control over other people's property, other people's money, other people's labor—other people's lives...Against economic tyranny such as this, the American citizen could appeal only to the organized power of Government."

It is up to the American people to hold our government accountable for confronting the monopolization that is now systemic in our society in pursuit of liberty and justice for all.

AMERICAN ECONOMIC LIBERTIES PROJECT

The American Economic Liberties Project is a non-profit and non-partisan organization fighting against concentrated corporate power to secure economic liberty for all. We do not accept funding from corporations. Contributions from foundations and individuals pay for the work we do.

economicliberties.us

@econliberties

info@economicliberties.us