

Competition at a Crossroads:

A Comparative Guide to
Recent White House Records
on Antimonopoly Policy

“Now that Ken Frazier of Merck Pharma has resigned from President’s Manufacturing Council, he will have more time to LOWER RIPOFF DRUG PRICES!”

- DONALD TRUMP, 2017

“Capitalism without competition is exploitation.”

- JOE BIDEN, 2021

Since the financial crisis of 2008, Americans have come to realize that we face a monopoly crisis, a set of “Too Big to Fail” corporations in many sectors across our economy that foster a host of problems, from harming small business formation to hiking prices for consumers to fostering shortages in key goods to structuring key avenues for speech. Even excluding concentration trends from prior decades, 75% of U.S. industries became more concentrated between the year 2000 and 2015.¹ Profit margins of large firms are at 70-year highs, and the labor share of income has fallen 10% since 1970, with rent extraction as the culprit.² The number of public corporations has fallen by more than half since the 1990s, largely due to mergers.³

During and after the COVID-19 pandemic, an inflationary spike allowed corporations to reap high profits, leading to increased political support for taking on corporate power, with a majority of voters across party lines supporting measures to reduce consolidation.⁴ One of the most important domestic policy choices the next president will have to make is how to tackle America’s concentration crisis.⁵

In this report, we review the records of the Trump-Pence and Biden-Harris administrations, up through mid-October 2024,⁶ in fighting to halt — and ultimately reverse — this trend. Although a full accounting of each administration’s broader impacts on America’s political economy is beyond the scope of this report, we note that it would require an assessment of monetary, trade, tax, and industrial policies, among others. This report focuses on a specific set of policies relating to antitrust and fair competition, which were implemented by agencies whose budgets are currently a small fraction of others with economy-wide scope. Broadly speaking, we found that the Trump administration made notable progress in initiating a revival of antitrust enforcement by launching monopolization cases against Google and Facebook, but overall struggled to break from four decades of pro-consolidation orthodoxy.

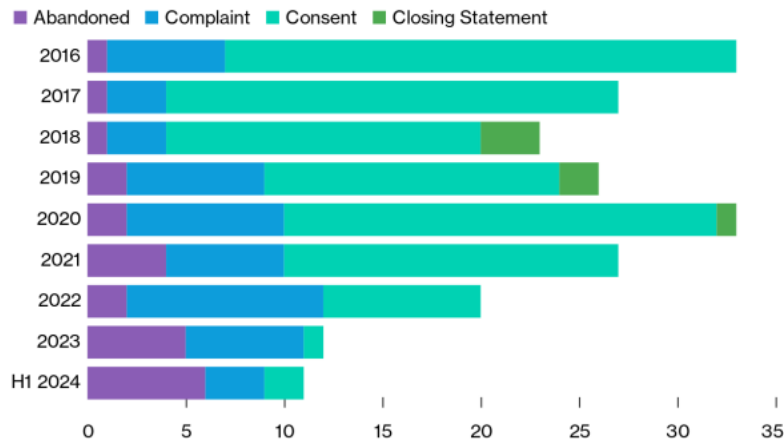
The Biden-Harris administration has had a more aggressive and focused approach. Ideologically, leaders of the Federal Trade Commission and the Antitrust Division of the Department of Justice restored competition policy to its original rich set of aims, moving away from a narrow technocratic approach to one incorporating how competition impacts consumers, workers, and small businesses. To operationalize this new framework, enforcers did three things. First, they addressed rampant consolidation via new merger guidelines and a merger deterrence litigation strategy. Second, they focused on dominant intermediaries, first by restoring monopolization law with the first successful lawsuit in two decades, against Google,⁷ and then by reviving enforcement against unfair methods of competition,⁸ exclusive dealing and tying arrangements,⁹ price discrimination,¹⁰ and kickbacks. Third, they have democratized regulation. The FTC holds public meetings, launched a new open merger examination process, and has incorporated public feedback as a key mechanism for policy formulation. The DOJ and FTC have also helped other agencies solicit more public feedback.

On the enforcement front, Biden-Harris enforcers brought to trial four times as many billion-dollar merger challenges as Trump-Pence or Obama-Biden enforcers did.¹¹ The Biden-Harris

administration also filed two and a half times as many monopolization claims (Apple, Amazon, Meta, Live Nation/Ticketmaster, Google adtech) and won the first major monopolization claim against a Big Tech firm in a generation.

The purple bar in the below chart illustrates the different impacts of the two administrations’ enforcers on the dealmaking climate.¹²

Abandoned Deals Rise as Antitrust Enforcers Avoid Settlements
Six mergers were abandoned in the first half of the year amid US antitrust investigations, a figure surpassing yearly totals from the past decade.



Source: Dechert
Note: Data covers merger investigations that result in a consent order, a complaint challenging the transaction, an official closing statement, or an abandoned tie-up that prompts an agency press release.
Bloomberg Law

Graph Credits: Justin Wise and Mahira Dayal, [“Failed Deals Climb as Antitrust Enforcers Push Aggressive Agenda,” Bloomberg, Sept. 23, 2024](#)

The antitrust enforcers that Biden appointed have not just been bolder in temperament than their predecessors but have also made a concerted effort to review the full extent of their statutory authorities to ensure that they have faithfully applied the laws they are charged with enforcing.

Our recommendations for the next administration include vigorously supporting current antitrust litigation to pursue bold remedies, endorsing congressional proposals to strengthen antitrust laws, undoing problematic mergers, reviving dormant enforcement tools, engaging in a sustained legislative- and executive-branch campaign to break up and regulate dominant corporations across the economy — and making appointments across government aligned with these goals. Effectively tackling America’s concentration crisis requires having the courage to challenge powerful corporate interests. With strong executive backing and this roadmap in hand, key personnel can hit the ground running and continue the fight to restore the promise of America’s free enterprise system through competition policy.

BACKGROUND

AMERICA'S CONCENTRATION CRISIS

For decades, America faced an accelerating crisis that few politicians understood until mid-2016¹³ — shortly before Donald Trump's victory in the presidential election rocked the political establishment. Nearly every sector of an economy that was once dynamic, locally rooted, and competitive was by then dominated by a few distant masters due to unchecked consolidation.¹⁴ This shift was not the consequence of some inevitable economic process but instead reflected policy choices.

Specifically, starting in the 1970s, policymakers abandoned the traditional American skepticism of concentrated power and conflicts of interest, and adopted a view that efficiency should be paramount in guiding value in competition policy.¹⁵ After this radical ideological shift, a wave of mergers across the economy ensued.

Without competitive pressure, dominant corporations charged more for worse-quality products, gained bargaining leverage over suppliers and workers, and even began forbidding employees from changing jobs or starting their own small businesses.¹⁶ Americans also lost trusted local news sources.¹⁷ Policymakers became less responsive to constituent concerns¹⁸ — a trend correlated with an explosion of corporate lobbying fueled by monopoly rents.¹⁹ Voters became more concerned about the corrupting influence of money in politics²⁰ but also felt increasingly powerless to do anything about it. Then the COVID-19 pandemic laid bare another consequence of hyper-consolidation: too many supply chains had single points of failure. Disruptions led to price-gouging or shortages — not only of consumer goods but also of essential medical supplies, and even products such as baby formula.²¹

Prior to the ideological change of the 1970s and 1980s, antitrust law was run through a framework called the structure-conduct-performance paradigm, an industrial organizational model positing that large firms in consolidated markets tend to exploit market power, and should be dissuaded by making it harder for them to acquire rivals or engage in coercive business practices, such as tying or price discrimination.²² Thinkers from what is known as the Chicago School challenged this framework with a legal doctrine known as the “consumer welfare standard,” a term that tethered antitrust law to highly speculative theoretical models from economists. The rationale was that government action was usually harmful, and that any private monopolies will be easily and quickly disrupted by new technologies and the invisible hand of a self-correcting market.²³ Thus, antitrust should be used sparingly, if at all. Although Congress enacted antitrust laws to disperse power,²⁴ the Chicago Schoolers, through administrative choices rather than statutory changes, reduced antitrust to an economist-driven exercise in predicting future price changes rather than a law-driven framework for protecting

competitive market structures. Enforcers turned into dealmakers, bent on greasing the way for unlawful transactions rather than preventing them.²⁵ The ideology failed even on its own terms; retrospective studies found that when enforcers chose not to challenge “mergers that resulted in six or fewer significant competitors prices rose in nearly 95 percent of cases.”²⁶ A stark indicator of how deeply rooted this ideology became in both parties is that the Department of Justice failed to bring any major monopolization cases under either George W. Bush or Barack Obama.²⁷ Corporate America adapted to a world where monopolization was de facto legal.

THE PIVOT IN PROGRESS

Even under the best circumstances, reversing decades of damage to the economy takes more than four years. Efforts to right the ship started to gain traction during the Trump administration. In some ways, his choices facilitated consolidation; notably, judges appointed by Trump have ruled to weaken the Clayton Act and regulatory policy.²⁸ But Trump also broke with a 40-year policy architecture fostering corporate centralization with a series of antitrust suits. In 2017, the Trump Antitrust Division brought the first vertical merger challenge in 40 years, litigating to stop the merger of AT&T and Time Warner.²⁹ In 2020, the Trump administration launched the first big monopolization cases in decades, against Google and Facebook.³⁰

In 2021, under the Biden-Harris administration, the nascent reorientation toward fair competition took deeper root. Notable actions included forming a White House Competition Council within the Executive Office,³¹ issuing an Executive Order on Promoting Competition in the American Economy³² — so that every federal agency would take steps to foster fair competition — increasing the budgets of the Antitrust Division and Federal Trade Commission, passing antitrust legislation in Congress,³³ strengthening merger policy, and appointing strong enforcers who not only continued the Trump administration’s monopolization lawsuits but also launched an onslaught of major new ones.

Both administrations took significant steps to address America’s concentration crisis. President Trump jump-started antitrust agencies plagued by an endemic culture of under-enforcement. President Biden then oversaw more systemic efforts to dislodge the harmful Chicago School ideology from the halls of power. Such a pivot is necessary to support free enterprise among businesses of all sizes. As detailed below, for example, under the Biden-Harris administration more Americans have launched small businesses, and dominant corporations have had to cut prices — while still making sustainable profits — in several industries that have been subject to strong enforcement. The durability of this progress depends on continued executive branch commitment — especially in the face of deep-pocketed lawbreakers fixated on eradicating antitrust law enforcers, whether through constitutional challenges or personnel changes.³⁴

COMPARING THE ANTIMONOPOLY RECORDS OF TRUMP-PENCE AND BIDEN-HARRIS

STAFFING THE ANTITRUST ENFORCEMENT AND OTHER KEY FEDERAL AGENCIES

The heart of antimonopoly policy is strong enforcement and strong regulatory guidance. The pacesetter agencies in this regard are typically the Federal Trade Commission (FTC) and the Department of Justice’s (DOJ) Antitrust Division. In this section, we compare each administration’s key appointments to these agencies and briefly compare appointments to other agencies with competition mandates and powers.

THE TRUMP-PENCE ADMINISTRATION’S ENFORCERS

For the top spot in the DOJ, Trump chose Attorney General William Barr, who, despite having a background in defending large corporations against antitrust cases, vocally favored reining in the outsized power of Big Tech.³⁵ For deputy assistant attorney general for the Antitrust Division, Trump nominated Makan Delrahim, a corporate lawyer and former lobbyist for Big Tech³⁶ and Qualcomm.

Delrahim continued to operationalize a consumer welfare standard-oriented enforcement philosophy.³⁷ In office, with the notable exception of the AT&T-Time Warner case, he often operated as a dealmaker looking to assist consolidation rather than a law enforcer, and aggressively sought to expand the power of firms, like Qualcomm, that profit through patent thickets and offshoring rather than making products themselves. Similar to the way Chicago School ringleader Robert Bork misrepresented the legislative history of the antitrust laws, Delrahim stretched patent law history to advocate what he called a “New Madison” approach to patent rights.³⁸ He systematically deployed amicus briefs to spread this ideology,³⁹ which sought to justify extortionate patent licensing practices in the context of industry standard protocols, such as USB or Bluetooth.⁴⁰

President Trump nominated Joseph Simons to chair the FTC. Simons was not a Chicago School ideologue, and he had even played a role in the government’s antitrust case against Microsoft.⁴¹ While at the FTC, he did not pursue major reforms, but he was the only Republican commissioner to vote in favor of unwinding Facebook’s acquisitions of Instagram and WhatsApp, which was also supported by Democratic commissioners Rohit Chopra and Rebecca Slaughter. Simons also sought to strengthen the FTC’s privacy enforcement powers.⁴² The other two FTC commissioners Trump nominated, corporate lawyers Noah Phillips and Christine

Wilson, were both ideologically devoted to the consumer welfare standard and voted against suing Big Tech.⁴³ All three Republicans voted against rulemaking for “Made in America” and “Made in USA” labeling,⁴⁴ and refused to issue any fines or penalties for violating existing Made-in-USA requirements, even after President Trump issued a “Buy American and Hire American” executive order.⁴⁵ Instead, it was the two Democratic commissioners who argued in their dissenting statements that such deceptive labeling warranted meaningful penalties.⁴⁶ In particular, Rohit Chopra argued that the FTC should resolve Made-in-USA fraud through remedies including “restitution, disgorgement, notice, and admissions of wrongdoing,”⁴⁷ and also pointed to unused legal authority in the North American Free Trade Agreement for requiring offenders to pay over \$40,000 per violation.⁴⁸ But the obstructionism of Phillips and Wilson did not stop with thwarting Made-in-USA enforcement — both even opposed a budget increase for their own agency in the midst of a historic merger wave.⁴⁹

President Trump allowed professor Joshua Wright to run his FTC transition team.⁵⁰ Wright later fell from grace and resigned from George Mason University in 2023 in connection with allegations that he had pressured multiple students into sexual relationships. Investigative reporting by The Wall Street Journal led to a series of articles that exposed not only his personal ethical lapses but also his professional impunity.⁵¹ Under Wright, George Mason University’s Global Antitrust Institute “funneled millions of dollars from Google, Meta, Amazon, and Qualcomm into fancy events in Napa Valley and Hawaii with judges and foreign officials, so much so that it led to an FBI investigation over potential violations of anti-corruption laws.”⁵² Retained by Google’s lobbyist Adam Kovacevich — now CEO of the Big Tech-funded think tank Chamber of Progress — Wright was tremendously influential, not only impacting personnel decisions but also persuading judges and FTC commissioners alike to make enforcement harder. Several of his former colleagues took on staff roles in Trump’s FTC.

Beyond the FTC and DOJ, Trump’s agency appointments often did worse than embrace a failed status quo; they often actively sought to stop their agencies from fulfilling their statutory missions. For example:

- **Consumer Financial Protection Bureau (CFPB)**: Trump’s appointments to the CFPB — first Mick Mulvaney and then Kathy Kraninger, who both came from the Office of Budget and Management — quickly tamped down enforcement, returning far less money to consumers and levying slap-on-the-wrist \$1 fines to firms engaged in illegal debt collection.⁵³ With the support of the administration, Kraninger even sided with a lawsuit challenging the constitutional structure of her own agency.⁵⁴
- **Department of Labor**: After Trump’s first labor secretary, Alexander Acosta, resigned due to his mishandling of an investigation against sex trafficker Jeffrey Epstein,⁵⁵ Trump chose Eugene Scalia (son of Supreme Court Justice Antonin Scalia) to serve as his replacement. In addition to pursuing policies that impeded union organizing and dismantling worker protections,⁵⁶ Scalia co-authored an op-ed in The Wall Street

Journal setting out a legal roadmap urging the Supreme Court to kneecap the FTC's authority.⁵⁷

Other appointments embodied, rather than drained, the unethical D.C. “swamp” that Trump had railed against in his campaign. For example:

- **Department of Transportation (DOT)**: For transportation secretary, Trump chose Elaine Chao, a Washington insider who worked as deputy transportation secretary under President George H.W. Bush and labor secretary under George W. Bush — and who happened to be married to Senator Mitch McConnell.⁵⁸ While serving under Trump, she misused her public position for private gain, making her staff run personal errands and help family members run a shipping business.⁵⁹ She also refused to carry out congressional instructions, under the Federal Aviation Administration Reauthorization Act, to review and establish a policy that would require airlines to seat families with their children without incurring additional junk fees.⁶⁰
- **Federal Communications Commission (FCC)**: Trump promoted Obama FCC commissioner Ajit Pai as chair. Pai had previously worked at Verizon and led a majority vote at the FCC to roll back net neutrality rules, waved through a merger between Sprint and T-Mobile that decreased the number of U.S. wireless carriers from four to three, and sought to weaken rules preventing concentration in local media markets.⁶¹
- **Department of Health and Human Services (HHS)**: Trump's first health secretary, Tom Price, resigned after angering Trump with his extravagant use of private jets for government trips.⁶² Trump appointed as his replacement Alex Michael Azar II, then-president of the U.S. division of pharmaceutical company Eli Lilly, who had previously served as HHS general counsel and deputy secretary under George W. Bush.⁶³ Azar defended the Trump administration's decision not to follow through on a campaign promise to allow Medicare to directly negotiate drug prices. Instead, he told a Senate committee that it would be better to partner with pricing middlemen known as pharmacy benefit managers.⁶⁴ HHS did propose a rule to reform an exemption for such prescription-drug middlemen in an anti-kickback statute by requiring more transparency and changing the types of fees that would be exempted.⁶⁵ However, the rule stopped short of ending the most abusive practices, and in any event was never finalized. Unlike other appointees, Azar did not focus on reducing the power of his own agency.⁶⁶ Notably, Azar — whose father had kidney disease — drove adoption of an executive order addressing the dialysis duopoly, encouraging more at-home dialysis and kidney transplants.⁶⁷ The move was hailed by one patient group as the “largest shift in American kidney policy in 50 years,” which brought “long-overdue innovations in kidney diagnostics, drugs, and devices.”⁶⁸ Azar also attempted to address skyrocketing hospital prices by imposing transparency requirements. Unfortunately, the rules have not been effective, with many hospitals gaming or simply ignoring the requirements.⁶⁹ In addition, Azar expanded the privatization of Medicare.⁷⁰

- **U.S. Department of Agriculture:** When Sonny Perdue became secretary of the U.S. Department of Agriculture, he had already been fined for ethics violations as governor of Georgia.⁷¹ Perdue promptly confirmed fears that he would be a “company man” by withdrawing rules to strengthen a law that had been proposed in the waning days of the Obama administration.⁷² Then USDA dissolved the agency in charge of enforcing the Packers and Stockyards Act — often called the “Farmer and Rancher Bill of Rights” — and reallocated its duties, with a slashed budget, to a marketing-oriented branch of USDA.⁷³
- **Department of Defense:** Immediately before serving as Secretary of Defense, retired Marine Corps General James Mattis had served on the board of defense contractor General Dynamics — a position he resumed after resigning from the Department of Defense due to disagreements with Trump.⁷⁴ He was succeeded by Mark Esper, who had previously worked as a deputy assistant secretary at the Pentagon under the George W. Bush administration, as chief of staff of the Heritage Foundation, and as COO of an aerospace industry association.⁷⁵ Both Mattis and Esper failed to reverse the pro-consolidation mindset that had dominated military procurement ever since Clinton’s defense secretary held a “Last Supper” with top defense contractors in 1993 and told them to “consolidate or evaporate,” which resulted in a reduction in the number of prime contractors from 16 to six and quadrupled subcontractor mergers.⁷⁶ For instance, in 2018, the Trump administration allowed the merger of Northrop Grumman and Orbital-ATK, which fostered market power in rockets, leading to dramatic cost overruns in rebuilding the nuclear triad.⁷⁷

THE BIDEN-HARRIS ADMINISTRATION’S ENFORCERS

President Biden’s successes in reorienting economic policy stem from the recognition that addressing concentrated economic power need to be a cabinet-level priority. Appointees such as Bharat Ramamurti as deputy director at the National Economic Council and Tim Wu as a White House special assistant for technology and competition policy drove the adoption of a coherent “whole-of-government” approach to fair competition policy. When Biden announced an executive order to implement this approach, which included the creation of a White House Competition Council as well as dozens of competition mandates for specific federal agencies, he cited Franklin Delano Roosevelt’s call for an economic bill of rights that would guarantee “the right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies.”⁷⁸

The Biden-Harris administration made waves by appointing strong enforcers to the DOJ and the FTC. President Biden’s head of the DOJ, Merrick Garland, was — at least initially — not as vocal as his predecessor in supporting strong antitrust enforcement with respect to Big Tech.⁷⁹ But President Biden’s choice for chief of the Antitrust Division, Jonathan Kanter, not only had extensive antitrust litigation experience, including against Big Tech firms,⁸⁰ but had

been speaking out for years about the flaws of the consumer welfare standard and the need to reinvigorate enforcement.⁸¹

For FTC chair, President Biden chose Lina Khan, a leading thinker in the antimonopoly movement, already renowned for her academic scholarship, with unusually deep experience conducting factual investigations into market realities, both as a journalist and as a House Judiciary Committee staffer.⁸² For the other Democratic FTC commissioner slots, Biden renominated FTC Commissioner Rebecca Slaughter, known for her consumer protection work,⁸³ and appointed Alvaro Bedoya, known for his privacy expertise.⁸⁴

As discussed below, enforcers from both agencies not only continued cases initiated under Trump but also brought ambitious new cases. Importantly, they also discarded the failed “consumer welfare standard” ideology and applied the full scope of statutory language and Supreme Court precedents.⁸⁵

Anti-monopoly leaders extended into a few other federal regulatory agencies.

- **Consumer Financial Protection Bureau:** Biden appointed former FTC Commissioner Rohit Chopra as director of the CFPB.⁸⁶ According to one news profile, the Great Financial Crisis persuaded Chopra that “[t]here’s just no question that the way in which financial firms have long been overseen was a failure.”⁸⁷ Thus, at both the FTC and CFPB, Chopra focused on ensuring that agencies use the full scope of their legal authority. As discussed below, Chopra has paired vigorous enforcement with rulemaking that promotes fair competition and innovation in consumer financial services.
- **Department of Labor:** The first labor secretary Biden appointed, former Boston mayor Marty Walsh, initiated rulemaking to prevent misclassification of employees as independent contractors but also brokered an end to a dispute between freight railways and rail unions that was criticized as weak.⁸⁸ Walsh stepped down early in his term to run the National Hockey League Players’ Association. Biden then promoted Deputy Secretary Julie Su to serve as acting secretary in 2021.⁸⁹ Su has been praised for her role in brokering a strong deal for longshoremen to avert a port strike in October 2024.⁹⁰
- **Department of Transportation:** Biden’s transportation secretary, Pete Buttigieg, was also praised for contributing to that negotiation process. After a slow start, typified by token fines for airlines that refused to fulfill their legal obligations to issue ticket refunds,⁹¹ Buttigieg brought on a chief competition officer who had deep experience at the FTC,⁹² revived the Department of Transportation’s merger challenge authority,⁹³ imposed stronger route protections and other guarantees as merger conditions,⁹⁴ partnered with states to strengthen oversight,⁹⁵ and proposed new rules such as stopping airlines from charging extra for families to sit together.⁹⁶
- **FCC:** Biden promoted Democratic FCC Commissioner Jessica Rosenworcel to chair. Although this choice was viewed skeptically by progressives because of a record

that included opposing an FCC proposal to make the cable set-top box industry more competitive,⁹⁷ as chair, Rosenworcel has taken some significant actions, such as administratively challenging a \$5.4 billion acquisition of broadcasting conglomerate Tegna by hedge fund Standard General (backed by private equity titan Apollo) — which led to abandonment of the deal.⁹⁸ The FCC also implemented a new law imposing caps on exorbitant phone and video call rates for prisoners and their families.⁹⁹

- **Department of Health and Human Services:** Despite a promising antitrust enforcement record as California attorney general, Xavier Becerra has been less active in addressing competition issues in his role as HHS secretary.¹⁰⁰ In some instances he has focused more on making broken systems transparent rather than fixing them.¹⁰¹ Most steps that HHS took to begin studying the impact of concentration on health care were not taken alone but with the guidance of the FTC and DOJ.¹⁰² HHS implemented a new law to introduce competitive bidding for management of the country’s organ transplant system, which had been monopolized by the same provider for decades, resulting in a lack of accountability and patient deaths.¹⁰³ In September 2024, it announced the first ever multi-vendor contract awards for the Organ Procurement and Transplantation Network and made its board of directors independent from the nonprofit that had mismanaged the system.¹⁰⁴ Consistent with the Biden administration’s campaign against junk fees, Centers for Medicare & Medicaid Services issued a new rule protecting consumers against junk insurance.¹⁰⁵ The creation of a chief competition officer role within HHS in December 2023 also raises the possibility of more reforms during the remainder of the term.¹⁰⁶
- **Department of Agriculture:** Biden’s pick for secretary of agriculture was met with widespread criticism. Tom Vilsack had previously served as Obama’s secretary of agriculture and bore responsibility for policies that fueled exploitation and devastated farmers.¹⁰⁷ Moreover, he spent his time between public service stints as an industry lobbyist. Nonetheless, after joining the Biden-Harris administration, Vilsack hired a senior advisor on fair and competitive markets.¹⁰⁸ Biden’s 2021 executive order on competition instructed the USDA to reinvigorate enforcement of the Packers and Stockyards Act. But it took the USDA until 2024 to propose rules to fix overly narrow interpretations of the Packers and Stockyards Act¹⁰⁹ as well as rules that would prohibit meatpackers from docking chicken growers below their contractual base pay¹¹⁰ and require fairer benchmarks for formula pricing agreements regarding fed-cattle.¹¹¹ The USDA has also strengthened rules to ensure the accuracy of “Product of USA” meat labeling,¹⁷⁹ introduced a tool to assist small and disadvantaged entities in finding federal procurement opportunities,¹¹² and designated \$15 million to support enforcement coordination with state attorneys general.¹¹³ Nonetheless, aspects of USDA culture remain inconsistent with the executive order on competition, as exemplified by a senior USDA economist who testified in support of a sugar industry merger and openly touted her ties to the industry, even as the DOJ sought to block the deal.¹¹⁴

- **Department of Defense:** Biden’s secretary of defense, Lloyd J. Austin III, had a four-decade career in the Army, which included serving as commanding general overseeing all combat operations in Iraq, after which he served on the Boards of Raytheon Technologies, Nucor, and Tenet Healthcare.¹¹⁵ One significant positive development during his term was the Pentagon’s cancellation of a Trump-era process that would have awarded \$10 billion to a single cloud vendor for 10 years.¹¹⁶ In its place, the Pentagon introduced a multi-vendor contract that would last only three years with optional extensions, thereby enhancing both competition and oversight.¹¹⁷ Another is that the DOD will become more aware of consolidation going forward, because Congress added provisions in the National Defense Authorization Act requiring merging parties involved in large transactions to notify the DOD in advance. Yet overall, the DOD has not recovered from the pro-consolidation mindset of Clinton’s Last Supper and has not prioritized understanding the extent to which consolidation threatens American defense. A government study revealed that DOD reviews only 10% of M&A transactions in the defense base per year because it devotes only a few staffers to reviewing them.¹¹⁸ Senators from both parties have expressed concern that DOD’s insufficient review process jeopardizes national security.¹¹⁹

AGENCY ACTIONS — AND INACTIONS

TRUMP-PENCE ADMINISTRATION

THE GOOD

The signature achievement of the Trump administration’s antitrust enforcers was breaking a multi-decade enforcement dry spell. When President Trump took office, the DOJ had not brought a single major monopolization case in the two decades that had elapsed since the Microsoft case in the 1990s,¹²⁰ even though Big Tech firms made 1,000 acquisitions in the 10-year period between 2008 and 2018.¹²¹ In late 2020, toward the end of the Trump administration, the FTC filed an antitrust complaint against Facebook to challenge Facebook’s strategy of buying out emerging competitors (particularly Instagram and WhatsApp) to maintain market dominance, as well as other anti-competitive practices.¹²² The DOJ brought its own antitrust action to challenge Google’s monopoly over general search markets, which Google maintains in part by paying browser companies and mobile-phone makers to be preinstalled as the default search engine — essentially bribing Apple not to launch its own competing search engine.¹²³ These major cases continued into the Biden era.¹²⁴ The Facebook case is still pending, and in August 2024 a judge ruled that Google engaged in illegal anti-competitive practices to maintain its search monopoly.¹²⁵

Trump-era FTC leaders also authorized a retrospective study of the hundreds of acquisitions by Big Tech that had never been challenged, to learn from the failures of both the George W. Bush administration (when Google cemented its adtech monopoly by acquiring DoubleClick) and the Obama administration (when Facebook acquired Instagram and WhatsApp).¹²⁶ That study was ultimately completed early in the Biden administration.¹²⁷ Trump's FTC also brought a monopolization case against Surescripts, an online prescription delivery service that dominated its market through kickbacks.¹²⁸ Unfortunately, enforcers lost the ability to seek monetary relief due to an unfavorable Supreme Court decision about the scope of the FTC's authority.¹²⁹ The case continued under the Biden administration and concluded with a settlement that required Surescripts to remove anti-competitive contractual terms and end employee noncompete agreements.¹³⁰

One of the Trump administration's signature achievements was reviving long-forgotten approaches to industrial policy when responding to the COVID-19 pandemic.¹³¹ Changes in trade law and the consolidation of buying power in the hands of group purchasing organizations had driven critical supply chains offshore, and the moves to combat that involved aggressive public structuring of markets.¹³² In March 2020, President Trump invoked the Defense Production Act to facilitate production and distribution of medical supplies, including personal protective equipment, test kits, drug products, and medical gases.¹³³

Two months later, President Trump launched Operation Warp Speed. This partnership between the U.S. Department of Defense and HHS accelerated America's response to the COVID-19 pandemic by leveraging the government's capacity to directly create and structure markets. Vaccines typically take five to 10 years to develop, but Operation Warp Speed delivered the first doses by the end of 2020.¹³⁴ Operation Warp Speed harnessed preexisting medical science, including key public research supported by the National Institutes of Health (NIH),¹³⁵ and brought it across the finish line with private sector incentives to deliver a successful vaccine, including handing out multiple contracts to incentivize competition among vaccine developers. At the same time, the government nearly eliminated risks for these firms by not only providing billions of dollars up front for production but also making massive purchase order commitments early on.¹³⁶ This enabled manufacturers to scale their production capacity while vaccine candidates were still undergoing tests, rather than waiting until testing was finished.¹³⁷ Officials also actively troubleshooted problems for large manufacturers.¹³⁸

THE BAD

Other than initiating marquee monopolization cases and challenging Big Tech, the Trump administration's legal strategies largely stayed within the consumer welfare orthodoxy that had hamstrung enforcement. Although Trump's DOJ followed through on his campaign-trail promise to challenge AT&T's \$85 billion acquisition of Time Warner, the DOJ lost in court because enforcers acquiesced to the narrow constraints of the consumer welfare standard rather than fighting for statutory rigor. In affirming the loss, the appeals court indicated that the government

might have won by pursuing a different strategy.¹³⁹ After the merger, AT&T raised prices for both consumers and competitors,¹⁴⁰ discontinued its cheapest cable offerings,¹⁴¹ and reduced content quality.¹⁴² AT&T also cut 77,000 jobs — equivalent to the entire workforce of former competitor T-Mobile.¹⁴³ The merger harmed everyone but the CEOs and dealmakers, who earned hefty bonuses. Just a few years later, AT&T sold off Time Warner at a heavy discount.¹⁴⁴

The DOJ's avoidable loss led to a mega-merger spree not only in the media but in other industries as well.¹⁴⁵ Disney's purchase of 21st Century Fox sailed through with only mild concessions, and President Trump personally called Rupert Murdoch to congratulate him on the deal, even though the transaction enabled Disney to place onerous terms on movie theaters, reduce consumer choice, double down on wage suppression practices, and lay off thousands of workers.¹⁴⁶ The loss also likely discouraged the DOJ from mounting a serious challenge to the merger between Sprint and T-Mobile (then the third- and fourth-largest mobile carriers in the country), even though internal text messages between top Sprint executives admitted the merger would result in price hikes.¹⁴⁷ Instead, Makan Delrahim played dealmaker, personally coordinating meetings between executives to get a deal done.¹⁴⁸ The result was worse customer service, increased prices, and mass layoffs.¹⁴⁹ In 2024, T-Mobile lost an appeal of an order certifying a class of consumers who brought an antitrust lawsuit over the Sprint acquisition.¹⁵⁰

Similarly, although the DOJ issued a “second request” to investigate Google's acquisition of Fitbit, a wearable fitness tracking device company, the DOJ never challenged the deal despite concerns about how Google would leverage user data for advertising purposes.¹⁵¹ Legal observers speculated that the DOJ may have had difficulty shoehorning a data-centric case into restrictive market definition-focused case law from the consumer welfare standard era.¹⁵² Since then, Google has been able to profit from that data while degrading product quality.¹⁵³

Trump's FTC also made some poor choices. The FTC voted to close an investigation into Essilor and Luxottica, two of the largest companies in the optical industry, despite concerns expressed by the American Antitrust Institute, smaller rivals, and optometrist groups.¹⁵⁴ Within a year, the merged entity had hiked prices by 1,000%.¹⁵⁵ Although Trump's FTC levied a record-breaking \$5 billion fine against Facebook for illegally sharing user data without consent in connection with the Cambridge Analytica scandal (violating a 2012 FTC consent decree),¹⁵⁶ the seemingly impressive figure amounted to only 9% of a single year's revenue for Facebook — and its market cap actually rose by \$6 billion by the end of the day the fine was announced.¹⁵⁷ The order also imposed various data restrictions and internal bureaucratic requirements.¹⁵⁸ But just like the original Obama-era consent decree, the measures were too weak to solve the problem. Facebook again violated the revised decree, and in 2023 Biden's FTC proposed additional changes to strengthen Facebook's privacy practices, especially with respect to minors.¹⁵⁹

In other instances, the Trump administration's approach appeared to be hamstrung by conflicts of interest. Notably, although the FTC continued litigating an antitrust case against semiconductor patent licensing entity Qualcomm filed just before President Trump took office,¹⁶⁰

the case was torpedoed by the Trump administration's own DOJ, which took the unprecedented step of filing an amicus brief opposing the FTC's case,¹⁶¹ and by the U.S. Department of Defense, which likewise opposed enforcement without explaining how Qualcomm's patent-licensing tactics assist national security.¹⁶²

The Trump administration also inherited, but failed to fix, problems from the Obama era. The 2010 merger of Live Nation and Ticketmaster combined the nation's largest concert promoter, venue operator, and artist manager with the nation's largest ticketing service.¹⁶³ Although the merged firm repeatedly violated the weak consent decree through anti-competitive practices — such as threatening venues with losing access to lucrative concerts if they did not use Ticketmaster for sales — the Trump administration did not take the opportunity to implement stronger remedies, instead levying slap-on-the-wrist fines and requiring Live Nation to build an internal “compliance” bureaucracy.¹⁶⁴

In some instances, the Trump administration's enforcers proactively perpetuated Chicago School ideology. For example, in 2017 the DOJ and FTC sided with the Chamber of Commerce by filing a joint amicus brief opposing a Seattle law that would have strengthened labor rights for Uber and Lyft drivers.¹⁶⁵

In the defense industry, the Trump administration doubled down on a Clintonian strategy of actively promoting industry consolidation. Although Trump pushed back against Raytheon's purchase of United Technologies in 2020, the merger was eventually approved by his own DOJ thanks to the dealmaking mentality of his enforcers.¹⁶⁶ Several other deals further consolidated rocket engines, radio production, and major defense contractors.¹⁶⁷ Weak consent decrees were quickly violated.¹⁶⁸ In another instance, the Department of Defense announced a major initiative to modernize the U.S. military's information technology systems — but structured the bidding as single winner-take-all contract worth \$10 billion over ten years.¹⁶⁹ If awarded to Amazon, as early observers expected, it would have cemented Amazon's leading cloud position into a permanent monopoly, squashing nascent cloud competitors.¹⁷⁰ President Trump criticized that choice, prompting a controversial switch to Microsoft.¹⁷¹ But the real problem was the single-sourced structure. Under pressure, the Department of Defense put the deal on hold, and under the Biden administration, it pivoted to a shorter, multi-vendor contract instead.¹⁷²

Although the country's number of banks had shrunk from 15,000 in 1990¹⁷³ to just over 5,000 in 2016,¹⁷⁴ Trump's antitrust enforcers failed to deny any bank mergers. As a result, by 2020, America had 700 fewer banks.¹⁷⁵ Similarly, neither the DOJ nor the FTC sued to block a single merger in the food and agriculture sector during Trump's tenure; as a result there were various deals that turbocharged a trend toward consolidation, including the Big Six agricultural biotech firms merging into a Big Three, fertilizer combinations that led to price hikes of 60%-70%, and more.¹⁷⁶ The U.S. Department of Agriculture, meanwhile, formalized the previous two administrations' disregard for the Packers & Stockyards Act by making cuts to the agency in charge of enforcing it and proposing rules that would have practically nullified it.

Despite the success of Operation Warp Speed, there were also gaps in the Trump administration’s industrial policy response to the pandemic. For example, even though Pfizer and Moderna made windfall profits built in part on public research breakthroughs, government funding, and guaranteed purchase orders, the government failed to negotiate contractual terms that would ensure reasonable prices in the long run. Pfizer and Moderna tripled the price of booster shots within a few years.¹⁷⁷ In addition, there were missed coordination opportunities. In April 2020 President Trump took the position that “the Federal Government is merely a back-up for state governments,”¹⁷⁸ leaving states to scramble to form regional alliances and reallocate federal supplies that were not reaching under-resourced hot spots.¹⁷⁹ Moreover, without an institutional equivalent to the “Smaller War Plants Corporation” — which facilitated government procurement from small businesses during World War II¹⁸⁰ — the Trump administration was largely unable to coordinate with smaller manufacturers that had production capacity to spare, which could have rebooted domestic supply chains in a more durable way.¹⁸¹ West Virginia’s remarkably fast distribution of the COVID-19 vaccine, which was achieved by partnering with independent pharmacies rather than large chains, hints at the unrealized potential of proactively reaching out to local, independent businesses in times of crisis.¹⁸²

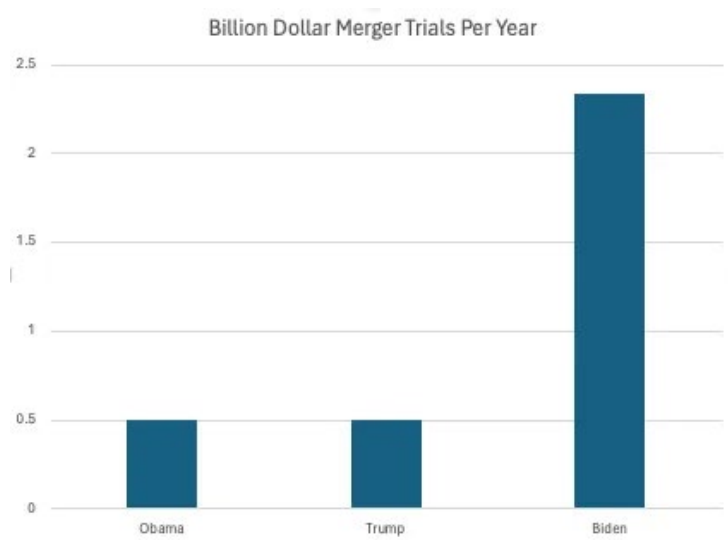
Moreover, as noted above, Trump’s appointments to agencies beyond the FTC and DOJ often not only failed to advance fair competition goals but even challenged the authority of their agencies to use longstanding statutory powers.

BIDEN-HARRIS ADMINISTRATION

FTC/DOJ ENFORCEMENT: THE GOOD

The Biden-Harris administration's enforcement priorities centered on the high prices caused by extractive monopolies and new forms of collusion. For instance, the Department of Justice brought groundbreaking cases against algorithmic price-setting among landlords in rental markets; price-fixing and merger cases in vegetables, poultry, turkey and pork markets; and extractive price-setting among generic pharmaceutical producers.¹⁸³ The Federal Trade Commission is suing to stop the largest proposed supermarket merger in U.S. history,¹⁸⁴ which would hike food prices, as well as taking action to bring down the cost of inhalers and EpiPen-style auto-injectors.¹⁸⁵

Statistics indicate that the Biden-Harris administration's antitrust enforcers have been four times bolder than their predecessors in challenging the billion-dollar merger transactions that have the biggest potential economic impacts.¹⁸⁶



As noted above, the agencies continued to litigate the antitrust cases against Facebook and Google launched under the Trump administration. The Facebook case is still pending, but the DOJ won the Google search monopoly case¹⁸⁷ and is now litigating the scope of remedies that will open up markets for general search and general search text ads.¹⁸⁸

The Biden administration also launched other major antitrust cases against Big Tech companies, including another case against Google (targeting its adtech monopoly, which Google leverages to take 30 cents out of every dollar spent on online advertising and to kneecap news publishers),¹⁸⁹ Amazon (two cases: one targeting anti-competitive practices against sellers and another to target deceptive interface designs for Prime enrollment and cancellation), and Apple (for monopolizing smartphone markets through practices that lock in consumers and keep prices high).¹⁹⁰ The

DOJ’s requested remedies include structural relief, which might take the form of spinning off conflicted business units into separate companies.¹⁹¹

The Biden administration’s antitrust enforcers have also achieved major victories, such as:

- Blocking Simon & Schuster’s planned merger with Penguin Random House, which would have slashed pay for writers.¹⁹² This win, in the first case to block a merger solely based on labor harms, unlocked new ways to protect workers in future cases.
- Winning the first criminal monopolization case in 50 years, against a paving contractor that colluded with a competitor to unlawfully carve up regional markets.¹⁹³
- Winning the first-ever criminal case against employers that used “no-poach” agreements to stop caregivers for special needs children from finding better jobs.¹⁹⁴
- Winning a unanimous Fifth Circuit ruling that established critical precedent recognizing vertical merger harms and ultimately spurred abandonment of a deal that would have increased prices and decreased quality of cancer detection tests.¹⁹⁵
- Stopping a collusive deal between airlines.¹⁹⁶

The agencies also thwarted collusion by forcing dozens of board resignations via Section 8 of the Clayton Act¹⁹⁷ and by forbidding oil executives who colluded with OPEC to fix gas prices — which cost the average family \$3,000 and caused 27% of all inflationary increases in 2021 — from serving on corporate boards.¹⁹⁸ Many other illegal deals — including a billion-dollar shipping merger that would have imperiled supply chain resiliency¹⁹⁹ — have been abandoned due to newly credible enforcement pressure.²⁰⁰

Ongoing efforts in other high-profile matters include:²⁰¹

- Suing to break up Live Nation-Ticketmaster after an investigation revealed that the merged entertainment behemoth had repeatedly violated a previous consent decree by abusing its market power through exclusionary contracts that harm smaller rivals and fans.²⁰²
- Suing to stop price-fixing schemes by software firms to hike rent and rig agricultural markets, because using algorithms to coordinate collusion is just as illegal as if the transactions were intermediated by “a guy named Bob.”²⁰³
- Suing Visa for inflating the cost of debit card transactions across the economy for both businesses and consumers by boxing out rival platforms through bribes and threats.²⁰⁴
- Launching inquiries into the managed care industry²⁰⁵ and serial health care acquisitions by private equity firms²⁰⁶ — timely topics given polling reflecting Americans’ deep concerns about rising health care costs.²⁰⁷

Antitrust enforcers have also cracked down on health care conglomerates and lowered drug prices. The FTC is lowering prices on essential medication — including insulin and inhalers, to \$35 per month²⁰⁸ — by targeting Big Pharma’s anti-competitive practices.²⁰⁹ In September 2024,

the FTC sued prescription-drug middlemen for orchestrating a “rebate” kickback scheme that artificially inflated the price of insulin.²¹⁰ The lawsuit is expected to have far-reaching impact, as the Big Three pharmaceutical benefit managers — Caremark Rx, Express Scripts (ESI), and OptumRx — together administer about 80% of all prescriptions in the United States. In a statement, the FTC indicated that “drug manufacturers like Eli Lilly, Novo Nordisk, and Sanofi” may be targeted next for their role in inflating drug prices.

FTC/DOJ ENFORCEMENT: THE BAD

There were, however, some high-profile losses as well.²¹¹ Unlike under Trump, these were not due to enforcers adhering to the old consumer welfare orthodoxy. For example, Biden’s DOJ lost several big jury trials involving wage-fixing and no-poach agreements, which focused on labor rather than consumer theories of harm.²¹² The FTC lost a case against Facebook (Meta) that sought to block its acquisition of Within Unlimited, a startup that offers subscription-based virtual reality fitness services.²¹³ Although the court credited the viability of FTC’s theory that a monopolist violates antitrust law when it is an actual or perceived potential competitor in a new market (virtual reality), the court found that the evidence presented was insufficient to satisfy the theory. And the FTC unsuccessfully sought to block Microsoft’s acquisition of Activision, maker of blockbuster game series such as Call of Duty, in a \$69 billion deal — the largest video game deal in history.²¹⁴ Although the FTC brought forth evidence of Microsoft’s history of withholding content from rivals, and the harm that would likely result to consumers, Judge Jacqueline Scott Corley, who did not recuse herself even though her son works for Microsoft, denied the FTC’s motion for an injunction to forestall the merger until the FTC’s in-house adjudicative proceedings ran their course.²¹⁵ Although the FTC appealed to correct the legal errors in the opinion, Microsoft was able to close the acquisition.²¹⁶ Microsoft then announced plans to lay off 1,900 people in its video game division²¹⁷ and announced a 17% year-over-year price increase for a game subscription while discontinuing a cheaper product.²¹⁸ In July 2024, Microsoft board member Reid Hoffman went on CNN to publicly urge the firing of FTC Chair Lina Khan in the midst of coordinating a Silicon Valley fundraising tour for presidential candidate Kamala Harris.²¹⁹

Aside from losses, the agencies have not always fulfilled their strategic goals. The Federal Trade Commission has not yet brought a Robinson-Patman Act challenge on price discrimination, and the Antitrust Division’s merger challenge activity, which was initially robust, has tapered off in 2024.

More fundamentally, the main challenge of the Biden-Harris era — inflation — saw a split within the administration. In 2022, there was ample evidence on investor calls that CEOs were attempting to collude with rivals to decrease capacity and raise prices.²²⁰ However, despite this evidence, the White House Council of Economic Advisors and the Federal Reserve opposed blaming higher prices on corporate concentration, which restricted the ability of enforcers to

bring litigation based on invitation-to-collude theories.²²¹ Evidence of collusion in oil markets came out in 2024,²²² but it was too late to change litigation strategies.

FTC/DOJ RULEMAKING: THE GOOD

One of the most significant policymaking achievements of the Biden-Harris administration's DOJ and FTC was jointly releasing new merger guidelines in 2023.²²³ Although this guidance is nonbinding, it has historically been relied upon by courts — and it puts merging parties on notice regarding the agencies' enforcement priorities. The new guidelines are strongly rooted in case law and reflect extensive public and academic input about market realities. Significantly, in 2024 the DOJ also withdrew the lax 1995 Bank Merger Guidelines, explaining that the 2023 Merger Guidelines apply across industries, including banking.²²⁴ This is consistent with Supreme Court case law recognizing that “concentration in banking accelerates concentration generally.”²²⁵ The DOJ and FTC also adopted an updated reporting form to implement the Hart-Scott-Rodino Act to focus premerger information collection on more relevant information that will enable faster decision-making about mergers, along with a portal to accept public comments on specific mergers.²²⁶ The form was approved on a unanimous, bipartisan basis by FTC Commissioners.

The FTC also pursued significant rulemaking efforts. Closing the loop on Rohit Chopra's Trump-era work on labeling, in 2021 the FTC issued rules adding teeth to “Made in USA” truth-in-labeling requirements by authorizing penalties for violations.²²⁷ In April 2024, the FTC banned noncompete agreements,²²⁸ which trap over 30 million workers.²²⁹ This ban was expected to reduce health care costs by \$194 billion, result in over 8,500 new businesses, increase innovation, and boost wages by about \$488 billion over the next decade.²³⁰ Although a Texas judge has purported to set aside the ban on a nationwide basis, the FTC will likely appeal and is expected to continue targeting such agreements on a case-by-case basis.²³¹ In October 2024, after gathering 16,000 public comments, the FTC announced a final “click-to-cancel” rule requiring companies to make cancelling gym memberships, cable subscriptions, and other auto-renewal programs as easy as signing up for them.²³²

The FTC and DOJ also jointly submitted comments encouraging the U.S. Patent and Trademark Office to revise patent procedures to cut down on low-quality patents that block competition,²³³ and the FTC also issued warning letters to pharmaceutical companies that improperly take advantage of FDA patent-listing procedures to block generic products.²³⁴ The FTC, DOJ, and Department of Transportation have worked to lower airline prices²³⁵ through antitrust enforcement²³⁶ and rulemakings²³⁷ that have led to more flights and routes, and allow more low-cost carriers to compete.

FTC/DOJ RULEMAKING: THE BAD

Some agency rules, such as the FTC’s ban on noncompete clauses, which enable workers to switch jobs without fear of reprisal, have been challenged by corporate interests and stalled by judges who are hostile to the administrative state.²³⁸ These challenges often attack not only the substance of the rules but the very structure of the FTC and its ability to govern through its statutory rulemaking authority.²³⁹

OTHER AGENCIES: THE GOOD

As noted above, a variety of agencies have made some progress to comply with the Biden White House’s executive order on competition. In particular, the CFPB has pursued a wide portfolio of consumer protection and antimonopoly work.²⁴⁰ When Rohit Chopra assumed leadership of the agency, it had never used certain legal authority expressly granted to it by Congress in 2010 in the wake of the financial crisis. Under Director Chopra, the CFPB finally used this authority to finalize an “open banking” rule to enable consumers to more easily switch to financial providers and stimulate competition to lower prices on loans and other fees and improve customer service in payments, credit, and banking markets.²⁴¹ Another notable focus has been pricing practices that are “really about cheating [rather] than competing.”²⁴² Chopra reportedly coined the phrase “junk fees” to denote the practice of companies tacking on opaque, mandatory fees that are often not disclosed until the very end of a transaction and often offer no “convenience” that is not already inherent in the product or service being sold. Such efforts garner widespread support in public polling.²⁴³ Related initiatives include reducing consumer penalties that are disproportionate to any cost imposed on banks. The CFPB has also taken action against credit card late fees,²⁴⁴ overdraft fees,²⁴⁵ and mortgage fees²⁴⁶ — which are predicted to save consumers over \$20 billion per year.²⁴⁷ The CFPB also eliminated nearly \$50 billion in medical debt, which unfairly lowered credit scores for 15 million Americans, and will ban medical debt on credit reporting moving forward.²⁴⁸ Enforcement actions against banks have also returned hundreds of millions of dollars to account holders for legal violations.²⁴⁹

Other agencies have also started to make progress. The DOT has rediscovered its authority to challenge mergers that do not meet a “public interest” standard²⁵⁰ and is engaging in consumer-friendly rulemaking.²⁵¹ The FCC, too, challenged a major merger.²⁵² For example, in 2021 the USDA adopted a policy for stronger enforcement of the Packers and Stockyards Act and engaged in rulemaking to ensure that meat processors cannot use their market dominance to abuse farmers and ranchers through unfair and deceptive practices and undue preferences.²⁵³ In 2024, the USDA tackled the exploitative “tournament” system by proposing a rule to prohibit meatpackers from docking chicken grower compensation below their contractual base pay.²⁵⁴ The USDA also strengthened rules to make sure “Product of USA” meat labels accurately reflect the origin of the meat.²⁵⁵

OTHER AGENCIES: THE BAD

Despite these wins and the Biden-Harris administration’s whole-of-government approach to fair competition policy, in practice some agencies have continued to hold fast to the pro-consolidation status quo.²⁵⁶ Notable examples include the HHS, which oversees America’s broken health care system, and the Office of the Comptroller of the Currency, which supervises the federal banking system (nearly 1,100 entities ranging from community banks to the largest Too Big to Fail banks).²⁵⁷ Consolidation in the health care system is accelerating in part due to perverse incentives in the Affordable Care Act.²⁵⁸ Case-by-case antitrust enforcement has halted some deals,²⁵⁹ but scarce resources have meant that it is difficult to keep pace with the tide of consolidation. Meanwhile, HHS leaders have done little in the way of systemic reform. More vigorous enforcement of antitrust laws in the banking sector is especially critical to provide small businesses with access to capital,²⁶⁰ prevent the “Too Big to Fail” banking risks that ruined lives during the Great Financial Crisis, and otherwise ensure the stability of the economy.²⁶¹ Yet unconfirmed Acting Comptroller Michael Hsu has embraced a dealmaker mentality and blessed multiple bank mergers despite opposition from public interest groups, other bank regulators, and his own agency’s staff.²⁶² During the venture capitalist-driven bank run of March 2023, Hsu approved the sale of First Republic to JPMorgan, circumventing the Riegle-Neal national deposit cap and inflating the size of the nation’s largest bank by \$200 billion.²⁶³ The following year, in “the culmination of a pattern of oversight failures,” Hsu approved NYCB’s acquisition of \$38 billion of the collapsed Signature Bank’s assets, compounding risk and contributing to NYCB’s own near-collapse, which required a billion-dollar private equity-led rescue infusion.²⁶⁴

Other agencies are starting to study their own blind spots but have not yet made meaningful changes. In October 2023, the Government Accountability Office (GAO) issued a report that found the DOD reviews only about 40 of 400 M&A transactions per year because they only have a handful of staffers devoted to such reviews.²⁶⁵ Failure to consider competition often imperils other important policy goals. Notably, one of the Biden-Harris administration’s signature accomplishments — the CHIPS Act, to boost domestic semiconductor production — is at risk of falling short of its potential due to unchallenged chokepoints and anti-competitive practices.²⁶⁶

In addition, some agency rules — such as the Federal Communications Commission’s open internet (or “net neutrality”) rules, the CFPB’s ban on excessive credit card late fees, and DOT’s ban on hidden junk fees — have been challenged by corporate interests.²⁶⁷

Contravening the whole-of-government philosophy, sometimes agencies even work at cross-purposes to oppose the efforts of enforcers to promote competition. The DOD derailed the FTC’s initially successful attempt to prevent an acquisition of Aerojet Rocketdyne.²⁶⁸ As a result of missed opportunities under both Trump and Biden, the cost of modernizing the nuclear missile arsenal ballooned over 80% from a 2020 cost estimate, to a total price tag of nearly \$141 billion.²⁶⁹ Even other parts of the DOJ have undermined the Biden-Harris administration’s progress. For example, Deputy Attorney General Lisa Monaco, the second-ranking leader in the DOJ — who

has significant personal conflicts of interest²⁷⁰ — forced adoption of a “Safe Harbor Policy” that immunizes acquirers who discover during diligence that a target company potentially criminally violated the Sherman Act.²⁷¹

RECOMMENDATIONS

Addressing America’s monopoly crisis has only just begun. Following through on legal enforcement and reorienting policy takes time. The below recommendations highlight priorities for the next administration to build on early successes and fill critical gaps.

DOUBLE DOWN ON A WHOLE-OF-GOVERNMENT APPROACH TO FAIR COMPETITION POLICY

Redoubling executive branch commitment to a whole-of-government approach to fair competition is essential to develop lasting solutions to America’s crisis of concentrated economic power.²⁷² The next administration should review President Biden’s executive order as a checklist to identify which actions still need to be undertaken and which agencies need stronger, more aligned leadership.

SUPPORT ONGOING ANTITRUST ENFORCEMENT ACTIONS AND RULEMAKING

The next administration should strongly back existing agency investigations,²⁷³ the 2023 Merger Guidelines,²⁷⁴ efforts to end collusive board seat overlaps between competitors,²⁷⁵ and antitrust cases. Indeed, some lawsuits — such as the Google search case — are in the critical phase of determining how to foster competition in markets closed through anti-competitive behavior.²⁷⁶ It would be a mistake for the next administration to water down remedies²⁷⁷ and repeat the failed approach of European regulators.²⁷⁸

The next administration’s support must extend to supporting vigorous remedies that solve the underlying incentives and firm structures that lead monopolies to abuse their dominant positions. It should support revival of dormant legal authorities, such as Section 3 of the Clayton Act and the Robinson-Patman Act, which prohibit exclusive dealing and tying arrangements, price discrimination, and kickbacks — major problems perpetuated by firms ranging from grocery chains to pharmaceutical benefit managers.²⁷⁹ It should also encourage agencies to conduct retrospective studies of consent decrees and seek stronger relief when monopolists violate weak consent decrees leftover from past administrations.

In addition, the next administration should defend agency administrative proceedings and rulemaking, including the FTC’s ban on noncompete agreements — which implicates broader

questions about the ability of a single court to vacate agency rules nationwide²⁸⁰ — and support the FTC’s democratized rulemaking process, which includes public participation in meetings and public comments on proposed rules.²⁸¹ Fortunately, the Supreme Court’s elimination of Chevron deference has limited impact on much of the FTC’s work for the simple reason that the FTC has historically rarely relied on that doctrine.²⁸² The next administration should vigorously defend the FTC in lawsuits challenging its substantive rulemaking authority.²⁸³

RESTORE FTC AND DOJ ANTITRUST DIVISION BUDGETS

The next administration should also advocate boosting agency budgets. The FTC and DOJ Antitrust Division together have about 1,000 attorneys plus a similar number of non-attorney staffers (paralegals, technologists, economists, etc.) — smaller than some big law firms.²⁸⁴ Their combined budget of \$845 million is a single-digit percentage of other agencies with economy-wide scope, such as the Department of Commerce or the Treasury.²⁸⁵ At a minimum, funding for the FTC and DOJ Antitrust Division should be immediately restored to (inflation-adjusted) 1979 levels, but considering that the economy has grown by a factor of 10 since then,²⁸⁶ a more appropriate increase would reflect that growth too.²⁸⁷

Federal agencies that have independent antitrust enforcement authority, such as the Department of Transportation and the Federal Communications Commission, should initiate their own actions to block or unwind harmful mergers. Other federal agencies — including, importantly, the Department of Defense²⁸⁸ — have a critical role to play in studying consolidation issues and coordinating with the FTC and DOJ to identify and prioritize enforcement opportunities.

APPOINT AGENCY LEADS AND NOMINATE JUDICIAL CANDIDATES WHO SUPPORT ACCESS TO MARKETS AND DO NOT HAVE CONFLICTS OF INTEREST

For those who wish to restore the promise of American fair enterprise, the most important danger to avoid during this inflection point is falling back on failed habits due to expediency or familiar social connections. Even the most well-intentioned members of the old guard from the Clinton and Obama administrations and the antitrust establishment tend to be incrementalist in nature because they remain rooted in an old and limited frame of reference. Potential agency leaders should be vetted for their commitment to a genuine shift in ideological approach, grounded in empirical evidence and market realities rather than abstract economic theory.

Beyond retaining effective enforcers already in place, the next administration should prioritize appointing leaders who will reorient:

- Banking agencies to vigorously enforce existing laws restricting bank mergers, as well as revising bank merger guidelines.²⁸⁹ Stopping the proposed merger between Capital One and Discover should be a high priority.²⁹⁰

- HHS to rein in health care consolidation and price-gouging middlemen such as pharmaceutical benefit managers.²⁹¹
- The Department of Defense to eschew single-source procurement contracts and more aggressively screen and weigh in against harmful mergers. Just as importantly, the defense agency must stop leveraging “national security” excuses to block antitrust enforcers, because overreliance on “national champions” undermines national security.²⁹²
- The Department of Agriculture to expand enforcement of the Packers and Stockyards Act and take other actions to address the extreme concentration in food industries.²⁹³

The next presidential transition team should undertake a thorough review to identify similar leadership gaps in other federal agencies as well, and question potential judicial nominees about their views and understanding of antitrust law.

ENCOURAGE AND SUPPORT CONGRESS TO STRENGTHEN ANTITRUST LAWS, REVERSE BAD JUDICIAL DECISIONS, RESUME OVERSIGHT OF THE JUDICIARY, AND ADDRESS CORPORATE POWER IN MAJOR SPENDING LEGISLATION²⁹⁴

The next administration should encourage Congress to strengthen antitrust laws. There are a variety of good bills from both sides of the aisle — including some bills targeting Big Tech that had sufficient bipartisan support and would likely have been signed into law but for Senator Chuck Schumer’s maneuvering to prevent a floor vote.²⁹⁵ Worthwhile ideas include:

- Legislatively overruling the judge-made consumer welfare standard²⁹⁶ and cases such as *Verizon Communications Inc. v. Law Offices of Curtis Trinko, LLP*, 540 U.S. 398 (2004), which hamstring antitrust enforcement.²⁹⁷
- Adopting bright-line and per se standards for merger challenges to ensure clear, objective standards to guide judges, boardrooms, and dealmakers and to ban all mergers that exceed certain thresholds, thereby preventing hyper-consolidation of the economy.²⁹⁸
- Introducing structural separation requirements — similar to what Glass-Steagall did to separate commercial banking from investment banking in the wake of the 1929 stock market crash — to other industries, for example, by ending conflicts of interest in digital advertising markets and on dominant platforms;²⁹⁹ preventing Big Tech companies from becoming banks;³⁰⁰ reinstating the Paramount Consent Decrees to prevent major studios from owning movie theaters;³⁰¹ and banning health care insurers from owning medical providers, pharmacies, and intermediaries.³⁰²
- Banning self-preferencing by dominant platforms and adopting traditional nondiscrimination principles for both dominant platforms and internet providers.³⁰³

- Making housing more affordable by breaking up homebuilding cartels dominated by middlemen,³⁰⁴ banning algorithmic rent-fixing,³⁰⁵ and stopping Wall Street from buying up single-family homes.³⁰⁶
- Rebalancing bargaining power between dominant platforms and news publishers.³⁰⁷
- Banning surveillance advertising.³⁰⁸
- Strengthening laws against predatory pricing.³⁰⁹
- Stopping private equity firms from looting hospitals and ruining professions.³¹⁰
- Banning race-to-the-bottom tax giveaways to dominant corporations.³¹¹
- Enacting a national right-to-repair law to guarantee that farmers, ranchers, and all consumers have the right to repair their own devices and equipment.³¹²
- Enacting a no-fault monopolization law.³¹³
- Closing loopholes that incentivize mergers through tax breaks.³¹⁴

The next administration should also urge Congress to ensure that major spending legislation includes conditions to end stock manipulation that redirects profits away from productive uses, address other practices that consolidate power, and stop shielding bad actors from the consequences of exploitative business models.³¹⁵

In addition, the next administration should encourage Congress to remove barriers to private enforcement. Legislation should ban mandatory pre-dispute arbitration clauses, class action waivers, forum selection clauses, confessions of judgment, unilateral modification clauses, and other coercive contractual terms. Such provisions prevent consumers, workers, and small businesses from having their day in court. The new Congress should overrule judge-made hurdles that unfairly deprive plaintiffs of basic discovery and dismiss antitrust cases too early.³¹⁶

Finally, the next administration should encourage Congress to reclaim its traditional role of writing the rules of federal procedure to prevent judicial overreach, to require that the judiciary provide remote public access to most court proceedings (as they did during the pandemic),³¹⁷ to stop charging for access to filings on court dockets,³¹⁸ and to otherwise enact measures to ensure that the press and the public can generally follow cases of interest in real time.

CONCLUSION

The next administration has a tremendous opportunity to set America's course for a generation, establishing a new bipartisan consensus — just as New Dealers did (for the better) starting in the 1930s and the neoliberals did (for the worse) starting in the late 1970s. The next administration must take bold steps to foster an economy that strengthens local democratic self-governance, protects consumers, and provides fair opportunities for success for businesses of all sizes.

ENDNOTES

- 1 The American Economic Liberties Project (AELP), "Problem," <https://www.economicliberties.us/problem/#>; AELP, "M&A Activity, 2017-2021," <https://www.economicliberties.us/merger-wave-2017-2021/>; Gustavo Grullon, Yelena Larkin, and Roni Michaely, "Are US Industries Becoming More Concentrated?," April 2017, <https://www.stern.nyu.edu/sites/default/files/assets/documents/Michaely,%20Roni%20-%20Are%20US%20Industries%20Becoming%20More%20Concentrated.pdf>; see also Robert J. Samuelson, "The curse of middle-aged capitalism," Washington Post, Aug. 13, 2017, https://www.washingtonpost.com/opinions/the-curse-of-middle-aged-capitalism/2017/08/13/61452d20-7eb3-11e7-83c7-5bd5460f0d7e_story.html; Connor O'Brien, "Like the Broader Economy, the High Tech Sector is Becoming Less Dynamic," Economic Innovation Group, June 22, 2023, <https://eig.org/high-tech-dynamism/> ("The High Tech sector saw much higher startup rates during the 1980s, peaking at 17.9 percent, also in 1984").
- 2 U.S. Department of Commerce, Bureau of Economic Analysis, "Prototype Measures of Economic Well-Being and Growth: Distribution of Income Between Labor and Capital," March 28, 2024, <https://apps.bea.gov/well-being/#jump-03>; Simcha Barkai, "Declining Labor and Capital Shares," April 26, 2020, <https://onlinelibrary.wiley.com/doi/full/10.1111/jofi.12909>; Katia Dmitrieva, "U.S. Profits Just Peaked. That Usually Means Jobs Are At Risk," Bloomberg, Feb. 16, 2023, <https://www.bloomberg.com/news/articles/2023-02-16/highest-profits-since-1950-helped-employers-hoard-jobs-now-they-may-reverse>.
- 3 John E. Kwoka, Jr., "Prepared Statement before the U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights," March 5, 2019, <https://www.judiciary.senate.gov/imo/media/doc/Kwoka%20Testimony.pdf>.
- 4 Letter from Fight Corporate Monopolies to President Joseph R. Biden, June 1, 2022, https://fcm-prod.s3.amazonaws.com/media/documents/FCM_WH_Letter.pdf.
- 5 Krista Brown, Matt Buck, Pat Garofalo, et al., "The Courage to Learn," AELP, January 2021, http://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn_12.12.pdf.
- 6 This report reviews the full term of the Trump presidency, from January 2017 through December 2020, and the Biden presidency from January 2021 up through mid-October 2024 (i.e., with three months remaining in the term).
- 7 Section 2 of the Sherman Act, 15 U.S. Code § 2.
- 8 Section 5 of the FTC Act, 15 U.S. Code § 45.
- 9 Section 3 of the Clayton Act, 15 U.S. Code § 14.
- 10 The Robinson-Patman Act, 15 U.S. Code § 13.
- 11 Matt Stoller, "In Lake Wobegon, All Antitrust Enforcers Are Above Average," BIG, March 19, 2024, <https://www.thebignewsletter.com/p/in-lake-wobegon-all-antitrust-enforcers>.
- 12 Justin Wise and Mahira Dayal, "Failed Deals Climb as Antitrust Enforcers Push Aggressive Agenda," Bloomberg, Sept. 23, 2024, <https://news.bloomberglaw.com/antitrust/failed-deals-climb-as-antitrust-enforcers-push-aggressive-agenda>; see also Robert Freedman, "Few companies fight FTC, DOJ over antitrust," Legal Dive, Oct. 14, 2024, <https://www.legaldive.com/news/FTC-DOJ-HSR-review-2023-report-antitrust-law/729776/>.
- 13 Matt Stoller, "Why Anti-Monopoly Politics Woke from Its Slumber, Part III," BIG, July 5, 2019, <https://www.thebignewsletter.com/p/why-anti-monopoly-politics-woke-from>; Senator Elizabeth Warren, "Reigniting Competition in the American Economy," Keynote Remarks at New America's Open Markets Program Event, June 29, 2016, https://www.warren.senate.gov/files/documents/2016-6-29_Warren_Antitrust_Speech.pdf; Maurice E. Stucke and Ariel Ezrachi, "The Rise, Fall, and Rebirth of the U.S. Antitrust Movement," Harvard Business Review, Dec. 15, 2017, <https://hbr.org/2017/12/the-rise-fall-and-rebirth-of-the-u-s-antitrust-movement>.
- 14 AELP, "M&A Activity, 2017-2021," <https://www.economicliberties.us/merger-wave-2017-2021/>; Gustavo Grullon, Yelena Larkin, and Roni Michaely, "Are US Industries Becoming More Concentrated?," April 2017, <https://www.stern.nyu.edu/sites/default/files/assets/documents/Michaely,%20Roni%20-%20Are%20US%20Industries%20Becoming%20More%20Concentrated.pdf>.
- 15 AELP, "Problem," <https://www.economicliberties.us/problem/>; Pitchfork Economics, "How Monopolies Feed Plutocracy (With Matt Stoller)," Dec. 3, 2019, <https://pitchforkeconomics.com/episode/how-monopolies-feed-plutocracy-with-matt-stoller/>.
- 16 José Azar, Ioana Marinescu, and Marshall Steinbaum, "Labor Market Concentration," The Journal of Human Resources, April 2022, <https://jhr.uwpress.org/content/57/S/S167>; Writers Guild of America West, "Comment on the DOJ-FTC Request for Information on Merger Enforcement," https://www.wga.org/uploadedfiles/news_and_events/public_policy/wgaw_comment_on_doi-ftc_rfi_on_merger_enforcement.pdf; Mack DeGeurin, "New Google Trial Docs May Explain Why Search Sucks So Bad Now," Gizmodo, Nov. 2, 2023, <https://gizmodo.com/new-google-trial-docs-explain-why-search-is-worse-1850982736>.
- 17 Pat Garofalo, "Close to Home: How the Power of Facebook and Google Affects Local Communities," AELP, Aug. 30, 2020, <https://www.economicliberties.us/our-work/close-to-home-how-the-power-of-facebook-and-google-affects-local-communities/>.
- 18 Jarron Bowman, "Do the Affluent Override Average Americans? Measuring Policy Disagreement and Unequal Influence," April 29, 2020, <https://onlinelibrary.wiley.com/doi/full/10.1111/ssqu.12791>.
- 19 Reed Showalter, "Democracy for Sale: Examining the Effects of Concentration on Lobbying in the United States," AELP, Aug. 25, 2021, <https://www.economicliberties.us/our-work/democracy-for-sale/#>; Brody Mullins and Luke Mullins, "The Wolves of K Street," <https://www.simonandschuster.com/books/The-Wolves-of-K-Street/Brody-Mullins/9781982120597>.
- 20 Pew Research, "Money, power and the influence of ordinary people in American politics," Sept. 19, 2023, <https://www.pewresearch.org/politics/2023/09/19/money-power-and-the-influence-of-ordinary-people-in-american-politics/>.
- 21 Matt Stoller, "Counterfeit Capitalism: Why a Monopolized Economy Leads to Inflation and Shortages," The Big Newsletter, Sept. 9, 2021, <https://www.thebignewsletter.com/p/counterfeit-capitalism-why-a-monopolized>; Zephyr Teachout, Matt Stoller, "Our Economic Model is Making Us More Vulnerable to Coronavirus," Jacobin, March 5, 2020, <https://jacobin.com/2020/03/monopoly-coronavirus-antitrust-supply-chain-disaster-preparedness>.
- 22 Krista Brown, Matt Buck, Pat Garofalo, et al., "The Courage to Learn," AELP, January 2021, http://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn_12.12.pdf.

- 23 U.S. Department of Justice (DOJ), “Assistant Attorney General Jonathan Kanter Delivers Remarks at New York City Bar Association’s Milton Handler Lecture,” May 18, 2022, <https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-remarks-new-york-city-bar-association>; Ganesh Sitaraman, “Unchecked Power: How monopolies have flourished-and undermined democracy,” The New Republic, Nov. 29, 2018, <https://newrepublic.com/article/152294/unchecked-power>; Sandeep Vaheesan, “The Profound Nonsense of Consumer Welfare Antitrust,” 2019, https://econ.utah.edu/antitrust-conference/session_material/The%20Profound%20Nonsense%20of%20Consumer%20Welfare%20Antitrust.pdf; Lina M. Khan, “The Ideological Roots of America’s Market Power Problem,” The Yale Law Journal Forum, June 4, 2018, https://www.yalelawjournal.org/pdf/Khan_hxxykpx.pdf.
- 24 Federal Trade Commission (FTC) Commissioner Alvaro M. Bedoya, “Returning to Fairness: Prepared Remarks of Commissioner Alvaro M. Bedoya, Midwest Forum on Fair Markets,” Sept. 22, 2022, https://www.ftc.gov/system/files/ftc_gov/pdf/returning_to_fairness_prepared_remarks_commissioner_alvaro_bedoya.pdf; Sandeep Vaheesan, “The Profound Nonsense of Consumer Welfare Antitrust,” 2019, https://econ.utah.edu/antitrust-conference/session_material/The%20Profound%20Nonsense%20of%20Consumer%20Welfare%20Antitrust.pdf
- 25 Krista Brown, Matt Buck, Pat Garofalo, et al., “The Courage to Learn,” AELP, January 2021, http://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn_12.12.pdf.
- 26 John Kwoka, “U.S. antitrust and competition policy amid the new merger wave,” Washington Center for Equitable Growth, July 27, 2017, <https://equitablegrowth.org/research-paper/u-s-merger-policy-amid-the-new-merger-wave/?longform=true>; John Kwoka, “Mergers, Merger Control, and Remedies: A Retrospective Analysis of U.S. Policy,” (Cambridge MA: MIT Press), 2015.
- 27 Krista Brown, Matt Buck, Pat Garofalo, et al., “The Courage to Learn,” AELP, January 2021, http://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn_12.12.pdf.
- 28 See, e.g., Matt Stoller, “The Antitrust Shooting War Has Started,” BIG, Sept. 24, 2022, <https://www.thebignewsletter.com/p/the-antitrust-shooting-war-has-started>; American Economic Liberties Project, “Rogue Judge Temporarily Blocks Popular Noncompete Ban,” press release, July 3, 2024, <https://www.economicliberties.us/press-release/rogue-judge-temporarily-blocks-popular-noncompete-ban/#>; “Corporations vs. The People,” American Economic Liberties Project, <https://www.economicliberties.us/corporations-v-the-people/#>.
- 29 Alex Eule, “AT&T-Time Warner: The President Was Pretty Clear a Year Ago,” Barron’s, Nov. 2, 2017, <https://www.barrons.com/articles/at-t-time-warner-president-trump-comments-1509644744>.
- 30 DOJ, “Justice Department Sues Monopolist Google for Violating Antitrust Laws,” press release, Oct. 20, 2020, <https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-laws>; FTC, “FTC Sues Facebook for Illegal Monopolization,” press release, Dec. 9, 2020, <https://www.ftc.gov/news-events/news/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization>.
- 31 Tim Wu, “The President’s Role in Antitrust Policy,” Columbia Law School, May 19, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4448227.
- 32 The White House, “Executive Order on Promoting Competition in the American Economy,” July 9, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.
- 33 Matt Stoller, “Bank Error in Our Favor,” BIG, Dec. 22, 2022, <https://www.thebignewsletter.com/p/bank-error-in-our-favor>.
- 34 David Dayen, “The Corporate Wishcasting Attack on Lina Khan,” The American Prospect, July 26, 2024, <https://prospect.org/power/2024-07-26-corporate-wishcasting-attack-lina-khan/>; Jody Godoy, “Kroger sues FTC, calling its in-house judges unconstitutional,” Reuters, Aug. 19, 2024, <https://www.reuters.com/markets/deals/kroger-sues-ftc-calling-its-in-house-judges-unconstitutional-2024-08-19/>; Alfred Ng and Josh Sisco, “Meta files suit to kneecap the FTC,” Politico, Nov. 30, 2023, <https://www.politico.com/news/2023/11/30/meta-suit-kneecap-ftc-00129310>.
- 35 Lauren Feiner, “Attorney general pick Barr hints he would look at antitrust in tech,” CNBC, Jan. 15, 2019, <https://www.cnbc.com/2019/01/15/attorney-general-nominee-william-barr-addresses-antitrust-and-tech.html>; David McCabe and Cecilia Kang, “Barr’s Interest in Google Antitrust Case Keeps It Moving Swiftly,” New York Times, Oct. 21, 2020, <https://www.nytimes.com/2020/06/25/technology/barr-google-investigation.html>; William Barr, “One Damn Thing After Another,” New York: William Morrow and Co., 2022.
- 36 Delrahim was recused from the monopolization case against Google, which was overseen by Attorney General Barr.
- 37 Melissa Lipman, “Delrahim Pick Signals Traditional Republican Antitrust Tack,” Law360, March 27, 2017, <https://www.law360.com/articles/905656/delrahim-pick-signals-traditional-republican-antitrust-tack>, archived at https://web.archive.org/web/20220120172946/https://www.cov.com/-/media/files/corporate/publications/2017/03/delrahim_pick_signals_traditional_republican_antitrust_tack.pdf.
- 38 See Makan Delrahim, “The ‘New Madison’ Approach to Antitrust and Intellectual Property Law,” Speech, University of Pennsylvania Law School, March 16, 2018, <https://www.justice.gov/opa/speech/file/1044316/download>.
- 39 Patrick Wingrove, “DoJ antitrust head: ‘my resolve on SEP rights is even stronger,’” Managing IP, October 15, 2020, <https://www.managingip.com/article/2a5cxnmioyww9zirck268/doj-antitrust-head-my-resolve-on-sep-rights--even-stronger>.
- 40 FTC Commissioner Terrell McSweeney, “Holding the Line on Patent Holdup: Why Antitrust Enforcement Matters,” Federal Trade Commission, March 12, 2018, https://www.ftc.gov/system/files/documents/public_statements/1350033/mcsweeney_-_the_reality_of_patent_hold-up_3-21-18.pdf; Letter from Michael A. Carrier et al. to Assistant Attorney General Makan Delrahim, May 17, 2018, <https://www.competitionpolicyinternational.com/wp-content/uploads/2018/05/DOJ-patent-holdup-letter.pdf>; Letter from Rep. David Cicilline to Assistant Attorney General Makan Delrahim, May 22, 2019, https://cicilline.house.gov/sites/evo-subsites/cicilline-evo.house.gov/files/documents/DOJ_05222019.pdf.
- 41 David McLaughlin, Naomi Nix, and Daniel Stoller, “Trump’s Trustbusters Bring Microsoft Lessons to Big Tech Fight,” Bloomberg, June 11, 2019, <https://www.bloomberg.com/news/articles/2019-06-11/trump-s-trustbusters-bring-microsoft-lessons-to-big-tech-fight>.

- 42 Cecilia Kang, “The Man Deciding Facebook’s Fate,” *The New York Times*, March 8, 2019, <https://www.nytimes.com/2019/03/08/technology/ftc-facebook-joseph-simons.html>.
- 43 The Federalist Society, “Fireside Chat with FTC Commissioner Noah Phillips: The House Judiciary Antitrust Staff Report,” Nov. 18, 2020, <https://fedsoc.org/events/fireside-chat-with-ftc-commissioner-noah-phillips-the-house-judiciary-antitrust-staff-report>; Matt Stoller, “Noah Phillips and the Political Collapse of Corporate Republicans,” *BIG*, March 22, 2021, <https://mattstoller.substack.com/p/noah-phillips-and-the-political-collapse>; Leah Nylen and Emily Birnbaum, “FTC’s Phillips Steps Down, Leaves Agency with Republican Vacancy,” *Bloomberg*, Oct. 14, 2022, <https://www.bloomberg.com/news/articles/2022-10-14/ftc-s-phillips-steps-down-leaves-agency-with-republican-vacancy>.
- 44 See, e.g., “Statement of Commissioners Noah Joshua Phillips and Christine S. Wilson,” ALG-Health, Matter No. 222 3044, Aug. 9, 2022, https://www.ftc.gov/system/files/ftc_gov/pdf/2223044ALGHealthPhillipsWilsonStatement.pdf.
- 45 Annie Karni, “On ‘Made in America,’ Trump’s F.T.C. Appointees May Be Out of Step With Him,” *New York Times*, April 17, 2019, <https://www.nytimes.com/2019/04/17/us/politics/made-in-america-ftc-trump.html>.
- 46 *Id.*
- 47 “Statement of Commissioner Rohit Chopra, In the Matters of Nectar Sleep, Sandpiper/PiperGear USA, and Patriot Puck,” Sept. 12, 2018, https://www.ftc.gov/system/files/documents/public_statements/1407380/rchopra_musa_statement-sept_12.pdf
- 48 Annie Karni, “On ‘Made in America,’ Trump’s F.T.C. Appointees May Be Out of Step With Him,” *New York Times*, April 17, 2019, <https://www.nytimes.com/2019/04/17/us/politics/made-in-america-ftc-trump.html>.
- 49 “Statement of Commissioners Noah Joshua Phillips and Christine S. Wilson Regarding the Commission’s Fiscal Year 2023 Budget Request to Congress,” March 28, 2022, https://www.ftc.gov/system/files/ftc_gov/pdf/CBJ-2022.pdf; Khushita Vasant, Mike Swift, “FTC’s Wilson expands on scathing critique of Khan, calling agency’s direction ‘appalling and gut-wrenching,’” *MLex*, Nov. 12, 2021, <https://mlexmarketinsight.com/news-hub/editors-picks/area-of-expertise/antitrust/ftcs-wilson-expands-on-scathing-critique-of-khan-calling-agencys-direction-appalling-and-gut-wrenching>.
- 50 Brody Mullins, “The Hidden Life of Google’s Secret Weapon,” *The Wall Street Journal*, June 6, 2024, <https://www.wsj.com/us-news/law/google-lawyer-secret-weapon-joshua-wright-c98d5a31?mod=e2tw>.
- 51 *Id.*; Brody Mullins, “For Years, an Esteemed Law Professor Seduced Students. Was He Too Important to Fire?” *The Wall Street Journal*, June 8, 2024, <https://www.wsj.com/us-news/education/joshua-wright-student-relationships-c6377572>; Brody Mullins, “Hubris, Revenge and a Breakup Brought Down Big Tech’s Proudest Ally,” *The Wall Street Journal*, June 9, 2024, <https://www.wsj.com/us-news/law/joshua-wright-affair-revenge-breakup-0c75f916>
- 52 Matt Stoller, “Monopoly Round-Up: The Harvey Weinstein of Antitrust,” *BIG*, June 10, 2024, <https://substack.com/home/post/p-145481785>.
- 53 Jeff Sovern, “Mick Mulvaney turned the CFPB from a forceful consumer watchdog into a do-nothing government cog,” June 29, 2018, <https://theconversation.com/mick-mulvaney-turned-the-cfpb-from-a-forceful-consumer-watchdog-into-a-do-nothing-government-cog-98842>; David Lazarus, “Column: \$1 fines from consumer agency were common under Trump. That’s about to change.,” *Los Angeles Times*, Jan. 11, 2021, <https://www.latimes.com/business/story/2021-01-11/column-cfpb-biden>;
- 54 Katy O-Donnell, “High court gives Trump power to fire consumer bureau chief,” *Politico*, June 29, 2020, <https://www.politico.com/news/2020/06/29/supreme-court-consumer-financial-protection-bureau-decision-344324>.
- 55 Kara Scannell, “DOJ review finds Alex Acosta used ‘poor judgment’ in Jeffrey Epstein deal,” *CNN*, Nov. 12, 2020, <https://www.cnn.com/2020/11/12/politics/departement-of-justice-alex-acosta-epstein/index.html>.
- 56 Eyal Press, “Trump’s Labor Secretary Is A Wrecking Ball Aimed at Workers,” *The New Yorker*, Oct. 19, 2020, <https://www.newyorker.com/magazine/2020/10/26/trumps-labor-secretary-is-a-wrecking-ball-aimed-at-workers>.
- 57 Svetlana Gans and Eugene Scalia, “The FTC Heads for Legal Trouble,” *The Wall Street Journal*, Aug. 8, 2022, <https://www.wsj.com/articles/ftc-may-test-the-courts-limits-meta-lina-khan-roberts-nondelegation-major-questions-enforcement-authority-humphreys-executor-administrative-law-noncompet-11659979935>.
- 58 Scott Detrow, “Trump Picks Washington Insider Elaine Chao For Transportation Secretary,” *NPR*, Nov. 29, 2016, <https://www.npr.org/2016/11/29/503728674/trump-taps-elaine-chao-for-transportation-secretary>.
- 59 Jaclyn Diaz, “Elaine Chao Used DOT Resources For Personal Errands, Family Business, IG Report Says,” *NPR*, March 4, 2021, <https://www.npr.org/2021/03/04/973564687/elaine-chao-used-dot-resources-for-personal-errands-family-business-inspector-sa>.
- 60 American Economic Liberties Project, “Economic Liberties Applauds Biden Admin’s Crackdown on Airline Junk Fees,” press release, Feb. 1, 2023, <https://www.economicliberties.us/press-release/economic-liberties-applauds-biden-admins-crackdown-on-airline-junk-fees/#>.
- 61 Sara Morrison, “Ajit Pai, Trump’s FCC chair who repealed net neutrality, is leaving on January 20,” *Vox*, Nov. 20, 2020, <https://www.vox.com/recode/2020/11/30/21726645/ajit-pai-fcc-chairman-leaving-net-neutrality>.
- 62 Kevin Liptak and Miranda Green, “Price out as HHS secretary after private plane scandal,” *CNN*, Sept. 29, 2017, <https://www.cnn.com/2017/09/29/politics/tom-price-resigns/index.html>.
- 63 Maegan Vazquez, “Trump picks former pharma exec, ex-Bush official to lead HHS department,” *CNN*, Nov. 13, 2017, <https://www.cnn.com/2017/11/13/politics/alex-azar-health-and-human-services-secretary/index.html>.

- 64 Tina Reed, "Azar defends PBMs in Trump administration's plan to bring down drug costs," Fierce Healthcare, June 13, 2018, <https://www.fiercehealthcare.com/hospitals-health-systems/azar-defends-trump-administration-s-outlook-negotiating-or-not-drug-prices>.
- 65 Jesse C. Dresser, "Did the Inflation Reduction Act Spare PBMs?," Frier Levitt, Feb. 16, 2023, https://www.frierlevitt.com/articles/did-the-inflation-reduction-act-spare-pbms/#_ftn4. Congress ultimately delayed implementation until 2032, which critics did not lament because "replacing drug rebates with fixed service fees under the safe harbor does not fix the systematic issues in the Medicare Part D space."
- 66 Margot Sanger-Katz, "Trump's New Health and Human Services Secretary Is a Joyful Regulator," The New York Times, May 18, 2018, <https://www.nytimes.com/2018/05/18/upshot/alex-azar-trumps-health-and-human-services-secretary-joyful-regulator.html>.
- 67 The White House, Executive Order: "Executive Order on Advancing American Kidney Health," July 10, 2019, <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-advancing-american-kidney-health/>.
- 68 American Association of Kidney Patients, "Patients Mark Anniversary of Historic Kidney Executive Order," press release, July 10, 2023, <https://aakp.org/wp-content/uploads/2023/07/Secretary-Azar-Honored-with-Global-Innovations-Award-final.pdf>.
- 69 CMS, "Trump Administration Announces Historic Price Transparency Requirements to Increase Competition and Lower Healthcare Costs for All Americans," press release, Nov. 15, 2019, <https://www.cms.gov/newsroom/press-releases/trump-administration-announces-historic-price-transparency-requirements-increase-competition-and>; Patient Advocate Rights, "Sixth Semi-Annual Hospital Price Transparency Report," Feb. 2024, <https://www.patientrightsadvocate.org/semi-annual-report-feb2024>; Robert Pear, "Hospitals Must Now Post Prices. But It May Take a Brain Surgeon to Decipher Them," The New York Times, Jan. 13, 2019, <https://www.nytimes.com/2019/01/13/us/politics/hospital-prices-online.html>.
- 70 CMS, "CMS Announces New Model to Lower Drug Prices in Medicare Part D and Transformative Updates to Existing Model for Medicare Advantage," press release, Jan. 18, 2019, <https://www.cms.gov/newsroom/press-releases/cms-announces-new-model-lower-drug-prices-medicare-part-d-and-transformative-updates-existing-model>.
- 71 Eric Lipton and Steve Eder, "Ethical Questions Dogged Agriculture Nominee as George Governor," The New York Times, March 8, 2017, <https://www.nytimes.com/2017/03/08/us/politics/sonny-perdue-georgia.html>.
- 72 Jenny Hopkinson, "GIPSA decision makes advocates fear Perdue will be a pro-business regulator," Politico, Oct. 18, 2017, <https://www.politico.com/story/2017/10/18/gipsa-decision-makes-advocates-fear-perdue-will-be-a-pro-business-regulator-243910>.
- 73 Claire Kelloway, "Trump Administration Guts Office Designed to Protect Farmers from Ag Monopolies," Food & Power, Dec. 6, 2018, <https://www.foodandpower.net/latest/2018/12/06/trump-administration-guts-office-designed-to-protect-farmers-from-ag-monopolies>.
- 74 General Dynamics, "James N. Mattis, Director," <https://investorrelations.gd.com/corporate-governance/board-of-directors/person-details/default.aspx?ItemId=5ef16611-f849-4022-b43f-94bfb9a162e0>; Daniel Bush, "Read James Mattis' Full Resignation Letter," PBS News, Dec. 20, 2018, <https://www.pbs.org/newshour/politics/read-james-mattis-full-resignation-letter>.
- 75 U.S. Department of Defense, "Dr. Mark T. Esper," <https://www.defense.gov/About/Biographies/Biography/Article/1378166/>.
- 76 Matt Stoller, "The Pentagon Turns on Wall Street," BIG, Feb. 10, 2021, <https://www.thebignewsletter.com/p/the-pentagon-turns-on-wall-street>
- 77 Elle Ekman, "The Stakes of a Nuclear Missile Monopoly," The American Conservative, Oct. 12, 2021, <https://www.theamericanconservative.com/the-stakes-of-nuclear-missile-monopoly/>.
- 78 "Remarks by President Biden At Signing of An Executive Order Promoting Competition in the American Economy," The White House, July 9, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/09/remarks-by-president-biden-at-signing-of-an-executive-order-promoting-competition-in-the-american-economy/>.
- 79 David Dayen and Alexander Sammon, "The New Brandeis Movement Has Its Moment," The American Prospect, July 21, 2021, <https://prospect.org/justice/new-brandeis-movement-has-its-moment-justice-department-antitrust-jonathan-kanter/>.
- 80 Justin Sink and David McLaughlin, "President Biden to Name Google Foe Jonathan Kanter as U.S. Department of Justice Antitrust Chief," Time, July 20, 2021, <https://time.com/6082040/doj-antitrust-chief-jonathan-kanter/>.
- 81 Senate Judiciary Committee, Questions for the Record, Jonathan Kanter, Nominee to be Assistant Attorney General of the Antitrust Division, <https://www.judiciary.senate.gov/imo/media/doc/Kanter%20Responses%20to%20Questions%20for%20the%20Record.pdf>; Justin Sink and David McLaughlin, "President Biden to Name Google Foe Jonathan Kanter as U.S. Department of Justice Antitrust Chief," Time, July 20, 2021, <https://time.com/6082040/doj-antitrust-chief-jonathan-kanter/>.
- 82 Josh Sisco, "'She was put in this role to shake things up,'" Politico, Dec. 22, 2023, <https://www.politico.com/news/2023/12/21/lina-khan-biden-2024-profile-00132921>; Lina M. Khan, "Amazon's Antitrust Paradox," The Yale Law Journal, January 2017, <https://www.yalelawjournal.org/note/amazons-antitrust-paradox>; Sheelah Kolhatkar, "Lina Khan's Battle to Rein in Big Tech," The New Yorker, Nov. 29, 2021, <https://www.newyorker.com/magazine/2021/12/06/lina-khans-battle-to-rein-in-big-tech>; Michelle Goldberg, "Billionaire Donors Have It Out for This Legal Prodigy, but President Harris Will Need Her," The New York Times, Aug. 23, 2024, <https://www.nytimes.com/2024/08/23/opinion/lina-khan-antitrust-harris.html>.
- 83 The White House, "President Biden Announces Key Nominees," press release, Feb. 13, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/13/president-biden-announces-key-nominees-37/>.
- 84 Josh Sisco, "The FTC's newest commissioner speaks," Politico, Dec. 30, 2022, <https://www.politico.com/news/2022/12/30/ftc-commissioner-alvaro-bedoya-interview-00075146>.

- 85 Early on, Chair Khan issued a memo setting forth the vision and priorities for her tenure. Memorandum from Lina M. Khan to Commission Staff and Commissioners, “Vision and Priorities for the FTC,” Sept. 22, 2021, https://www.ftc.gov/system/files/documents/public_statements/1596664/agency_priorities_memo_from_chair_lina_m_khan_9-22-21.pdf.
- 86 Rohit Chopra, Director, Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/the-bureau/about-director/>; Elana Dure, “Rohit Chopra: Early Life and Education, Role at CFPB, FAQs,” Investopedia, March 6, 2024, <https://www.investopedia.com/who-is-rohit-chopra-5096158>.
- 87 Stacey Cowley, “Wall Street’s Most Hated Regulator Faces a Fundamental Threat,” New York Times, Oct. 1, 2023, <https://www.nytimes.com/2023/10/01/business/rohit-chopra-consumer-financial-protection-bureau-wallstreet.html>.
- 88 Andrea Hsu, “Labor Secretary Marty Walsh Leaves Biden administration to lead NHL players’ union,” NPR, Feb. 16, 2023, <https://www.npr.org/2023/02/16/1155348338/labor-secretary-marty-walsh-resigns-nhl-union>.
- 89 Sahil Kapur and Liz Brown-Kaiser, “Biden to keep Julie Su on indefinitely as Labor chief despite lack of Senate votes,” NBC News, July 21, 2023, <https://www.nbcnews.com/politics/white-house/joe-biden-plans-keep-julie-su-indefinitely-labor-chief-rcna95539>.
- 90 Elly Burns, “Local ILA says port strike is over,” Count on 2 News, Oct. 3, 2024, <https://www.counton2.com/news/local-news/local-ila-says-port-strike-is-over/>.
- 91 Matt Stoller, “The Pete Buttigieg Fake Governing Problem,” BIG, July 19, 2022, <https://www.thebignewsletter.com/p/the-pete-buttigieg-fake-governing>.
- 92 David Dayen, “Anti-Monopoly Reformer Joins Department of Transportation,” The American Prospect, Jan. 18, 2023, <https://prospect.org/infrastructure/transportation/2023-01-18-anti-monopoly-reformer-jen-howard/>.
- 93 49 U.S.C. § 41105(a)-(b).
- 94 DOT, “USDOT Requires Alaska and Hawaiian Airlines to Preserve Rewards Value, Critical Flight Service as Merger Moves Forward,” press release, Sept. 17, 2024, <https://www.transportation.gov/briefing-room/usdot-requires-alaska-and-hawaiian-airlines-preserve-rewards-value-critical-flight>.
- 95 AELP, “Economic Liberties Applauds USDOT for Partnering with State Attorneys General to Strengthen Oversight of Airlines,” press release, April 16, 2024, <https://www.economicliberties.us/press-release/economic-liberties-applauds-usdot-for-partnering-with-state-attorneys-general-to-strengthen-oversight-of-airlines/#>.
- 96 David Dayen, “The Transportation Department’s New Path,” The American Prospect, April 25, 2024, <https://prospect.org/infrastructure/transportation/2024-04-25-transportation-departments-new-path/>.
- 97 Makena Kelly, “Biden appoints Jessica Rosenworcel to lead the FCC,” The Verge, Oct. 26, 2021, <https://www.theverge.com/2021/10/26/22746223/net-neutrality-fcc-jessica-rosenworcel-chair-gigi-sohn-ajit-pai-broadband>.
- 98 Matt Stoller, “Pete Buttigieg’s Moment of Truth,” BIG, March 3, 2023, <https://www.thebignewsletter.com/p/pete-buttigiegs-moment-of-truth>; Reuters, “Tegna scraps \$8.6 bln Standard General deal after regulatory pushback,” May 23, 2023, <https://www.reuters.com/markets/deals/teгна-terminates-86-billion-merger-with-standard-general-2023-05-22/>.
- 99 See FCC, “FCC Caps Exorbitant Phone & Video Call Rates for Incarcerated Persons & Their Families,” press release, July 18, 2024, <https://docs.fcc.gov/public/attachments/DOC-404087A1.pdf>.
- 100 U.S. Department of Health and Human Services, “Xavier Becerra,” April 26, 2022, <https://www.hhs.gov/about/leadership/xavier-becerra.html>.
- 101 See, e.g., FTC, “FTC, DOJ and HHS Work to Lower Health Care and Drug Costs, Promote Competition to Benefit Patients, Health Care Workers,” press release, Dec. 7, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-doj-hhs-work-lower-health-care-drug-costs-promote-competition-benefit-patients-health-care>.
- 102 See, e.g., U.S. Department of Health and Human Services, “HHS, DOJ, and FTC Issue Request for Public Input as Part of Inquiry into Impacts of Corporate Ownership Trend in Health Care,” press release, March 5, 2024, <https://www.hhs.gov/about/news/2024/03/05/issue-request-for-public-input-as-part-of-inquiry-into-impacts-of-corporate-ownership-trend-in-health-care.html>; FTC, “Federal Agencies Launch Portal for Public Reporting of Anticompetitive Practices in the Health Care Sector,” press release, April 18, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/federal-agencies-launch-portal-public-reporting-anticompetitive-practices-health-care-sector>.
- 103 Lenny Bernstein, “Congress authorizes overhaul of troubled organ transplant system,” Washington Post, July 28, 2023, <https://www.washingtonpost.com/health/2023/07/27/organ-transplant-overhaul-approved/>.
- 104 HHS, “In Historic Step, HRSA Makes First Ever Multi-Vendor Awards to Modernize the Nation’s Organ Transplant System and End the Current Contract Monopoly,” press release, Sept. 19, 2024, <https://www.hhs.gov/about/news/2024/09/19/hrsa-makes-first-ever-multi-vendor-awards-to-modernize-the-nations-organ-transplant-system.html>.
- 105 Centers for Medicare & Medicaid Services, “Biden-Harris Administration Protects Consumers from Low-Quality Coverage by Limiting ‘Junk Health Plans,’” press release, March 28, 2024, <https://www.cms.gov/newsroom/press-releases/biden-harris-administration-protects-consumers-low-quality-coverage-limiting-junk-health-plans>.

- 106 HHS, “Secretary Becerra Names Chief Competition Officer to Help Identify Areas to Promote Competition in Health Care,” press release, Jan. 8, 2024, <https://www.hhs.gov/about/news/2024/01/08/secretary-becerra-names-chief-competition-officer-to-help-identify-areas-to-promote-competition-in-health-care.html>.
- 107 Mariama Eversley and Miranda Litwak, “From Civil Rights Giants to Dairy Farmers, Tom Vilsack for USDA is Bad Politics,” Revolving Door Project, Dec. 21, 2020, <https://therevolvingdoorproject.org/from-civil-rights-giants-to-dairy-farmers-tom-vilsack-for-usda-is-bad-politics/>; see also CNN, “Sources: Obama to tap Vilsack as Agriculture Secretary,” Dec. 16, 2008, <http://www.cnn.com/2008/POLITICS/12/16/transition.wrap/index.html>.
- 108 Vishal Shankar, “Biden’s Executive Order Promises Relief for Farmers. Will it Deliver?,” Revolving Door Project, July 29, 2021, <https://therevolvingdoorproject.org/bidens-executive-order-promises-relief-for-farmers-will-it-deliver/>.
- 109 Federal Register, Fair and Competitive Livestock and Poultry Markets: A Proposed Rule by the Agricultural Marketing Service, Washington: Government Printing Office, June 28, 2024, <https://www.federalregister.gov/documents/2024/06/28/2024-14042/fair-and-competitive-livestock-and-poultry-markets>.
- 110 U.S. Department of Agriculture, “USDA Proposes Next Steps to Promote Fairer Poultry Markets, Protect Producers, and Enhance Transparency,” press release, June 3, 2024, <https://www.usda.gov/media/press-releases/2024/06/03/usda-proposes-next-steps-promote-fairer-poultry-markets-protect>.
- 111 USDA, “USDA Announces Actions to Lower Food Prices, Bring Fairness to Farmers, and Promote More Competitive Food Supply Chains,” press release, Oct. 8, 2024, <https://www.usda.gov/media/press-releases/2024/10/08/usda-announces-actions-lower-food-prices-bring-fairness-farmers-and>.
- 112 Farm Action, “A 2023 Review of the Biden Administration’s Commitment to Food System Competition,” July 2023, https://farmaction.us/wp-content/uploads/2023/07/2023_Report_Card.pdf.
- 113 U.S. Department of Agriculture, “USDA Launches Historic Partnership with Bipartisan State Attorneys General to Help Reduce Anticompetitive Barriers Across Food, Agricultural Supply Chains,” press release, July 19, 2023, <https://www.usda.gov/media/press-releases/2023/07/19/usda-launches-historic-partnership-bipartisan-state-attorneys>; <https://www.usda.gov/media/press-releases/2022/09/26/biden-harris-administration-announces-major-actions-spur>.
- 114 Matt Stoller, “Antitrust Division to Department of Agriculture: Your Economist Are Corrupt,” BIG, July 21, 2022, <https://www.thebignewsletter.com/p/antitrust-division-to-department>.
- 115 “Lloyd J. Austin III, Secretary of Defense.” U.S. Department of Defense, <https://www.defense.gov/About/Biographies/Biography/Article/2522687/lloyd-j-austin-iii/>.
- 116 Aaron Gregg, “Pentagon doubles down on ‘single-cloud’ strategy for \$10 billion contract,” The Washington Post, Aug. 5, 2018, https://www.washingtonpost.com/business/capitalbusiness/pentagon-doubles-down-on-single-cloud-strategy-for-10-billion-contract/2018/08/05/352cfee8-972b-11e8-810c-5fa705927d54_story.html.
- 117 U.S. Department of Defense, “Department of Defense Announces Joint Warfighting Cloud Capability Procurement,” press release, Dec. 7, 2022, <https://www.defense.gov/News/Releases/Release/Article/3239378/department-of-defense-announces-joint-warfighting-cloud-capability-procurement/>; Colin Demarest, “Pentagon inks dozens of cloud contract orders, more in the pipeline,” C4USRNET, March 25, 2024, <https://www.c4isrnet.com/battlefield-tech/it-networks/2024/03/25/pentagon-inks-dozens-of-jwcc-orders-with-more-in-the-pipeline/>.
- 118 U.S. Government Accountability Office, “Defense Industrial Base: DOD Needs Better Insight into Risks from mergers and Acquisitions,” October 2023, <https://info.bracewell.com/40/2518/uploads/gao-report.pdf>.
- 119 Letter to U.S. Secretary of Defense from Sen. Elizabeth Warren and Sen. Mike Rounds, March 18, 2024, <https://info.bracewell.com/40/2518/uploads/2024.03.18-letter.pdf>.
- 120 U.S. Department of Justice, “Assistant Attorney General Jonathan Kanter of the Antitrust Division Delivers Remarks to the New York State Bar Association Antitrust Section,” Jan. 24, 2022, <https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-antitrust-division-delivers-remarks-new-york>.
- 121 Tim Wu and Stuart A. Thompson, “The Roots of Big Tech Run Disturbingly Deep,” The New York Times, June 7, 2019, <https://www.nytimes.com/interactive/2019/06/07/opinion/google-facebook-mergers-acquisitions-antitrust.html>.
- 122 FTC, “FTC Sues Facebook for Illegal Monopolization,” press release, Dec. 9, 2020, <https://www.ftc.gov/news-events/news/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization>; Mark Scott, “Documents: Zuckerberg allegedly blocked rivals from accessing Facebook data,” Politico, Dec. 5, 2018, <https://www.politico.eu/article/mark-zuckerberg-six4three-facebook-data-damian-collins-internal-documents/>.
- 123 Peter Kafka, “Bill Barr and Elizabeth Warren find a common enemy: Google,” Vox, Oct. 20, 2020, <https://www.vox.com/21524791/google-lawsuit-bill-barr-elizabeth-warren-antitrust>; Complaint, United States v. Google LLC, No. 1:20-cv-03010 (D.D.C. October 20, 2020), <https://www.courtlistener.com/docket/18552824/1/united-states-of-america-v-google-llc/>; Leah Nysten, “Google Payments to Apple Reached \$20 Billion in 2022, Antitrust Court Documents Show,” Bloomberg, May 1, 2024, <https://www.bloomberg.com/news/articles/2024-05-01/google-s-payments-to-apple-reached-20-billion-in-2022-cue-says>.
- 124 The original complaint drafted by Trump’s FTC was dismissed, then amended and refiled with new facts and legal strategies under Biden’s FTC. See “FTC Alleges Facebook Resorted to Illegal Buy-or-Bury Scheme to Crush Competition After String of Failed Attempts to Innovate,” Aug. 19, 2021, <https://www.ftc.gov/news-events/news/press-releases/2021/08/ftc-alleges-facebook-resorted-illegal-buy-or-bury-scheme-crush>.

- [competition-after-string-failed](#). Although the original complaint against Google was not dismissed, Biden's DOJ nonetheless filed an amended complaint in that case as well. *United States of America v. Google LLC*, Case 1:20-cv-03010-APM, D.I. 90 and 94, Jan. 15, 2021, <https://www.courtlistener.com/docket/18552824/united-states-of-america-v-google-llc/>.
- 125 Eva Dou and Gerrit De Vynck, "Google is an illegal monopoly, federal court rules," *The Washington Post*, Aug. 5, 2024, <https://www.washingtonpost.com/technology/2024/08/05/doj-google-monopoly-trial-judgment/>.
 - 126 Krista Brown, Matt Buck, Pat Garofalo, et al., "The Courage to Learn," *AELP*, January 2021, pp. 96, 103-105, http://www.economicliberties.us/wp-content/uploads/2021/01/Courage-to-Learn_12.12.pdf.
 - 127 Lina Khan et al., "Non-HSR Reported Acquisition by Select Technology Platforms, 2010-2019: An FTC Study," Federal Trade Commission, September 2021, <https://www.ftc.gov/news-events/news/press-releases/2021/09/ftc-staff-presents-report-nearly-decade-unreported-acquisitions-biggest-technology-companies>.
 - 128 FTC, "FTC Charges Surescripts with Illegal Monopolization of E-Prescription Markets," press release, April 24, 2019, <https://www.ftc.gov/news-events/news/press-releases/2019/04/ftc-charges-surescripts-illegal-monopolization-e-prescription-markets>.
 - 129 Mike Scarcella, "FTC accuses Surescripts of 'alternate reality' in antitrust case," *Reuters*, April 26, 2022, <https://www.reuters.com/legal/litigation/ftc-accuses-surescripts-alternate-reality-antitrust-case-2022-04-26/>.
 - 130 FTC, "FTC Reacher Proposed settlement with Surescripts in Illegal monopolization Case," press release, July 27, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/07/ftc-reaches-proposed-settlement-surescripts-illegal-monopolization-case>; https://www.ftc.gov/system/files/ftc_gov/pdf/surescriptsstipulatedorder.pdf.
 - 131 Simi Siddalingaiah, "Operation Warp Speed Contracts for Covid-19 Vaccines and Ancillary Vaccination Materials," Congressional Research Service, March 1, 2021, <https://crsreports.congress.gov/product/pdf/IN/IN11560>.
 - 132 AELP, "Congress Can Address Generic Drug Shortages By Reining in Consolidated GPOs, New Policy Brief Explains," Press Release, Oct. 19, 2023, <https://www.economicliberties.us/press-release/congress-can-address-generic-drug-shortages-by-reining-in-consolidated-gpos-new-policy-brief-explains/>.
 - 133 The American Presidency Project, "Executive Order 13911—Delegating Additional Authority Under the Defense Production Act of 1950 With Respect to Health and Medical Resources To Respond to the Spread of COVID-19," March 27, 2020, <https://www.presidency.ucsb.edu/documents/executive-order-13911-delegating-additional-authority-under-the-defense-production-act>; U.S. Government Accountability Office (GAO), "Covid-19: Agencies Are Taking Steps to Improve Future Use of Defense Production Act Authorities," Dec. 16, 2021, <https://www.gao.gov/products/gao-22-105380>.
 - 134 Covid-19 Vaccines," Health and Human Services Department, accessed October 31, 2022, <https://www.hhs.gov/coronavirus/covid-19-vaccines/index.html>; see also, "Operation Warp Speed: Accelerated Covid-19 Vaccine Development Status and Efforts to Address Manufacturing Challenges," GAO, February 2021, <https://www.gao.gov/assets/gao-21-319.pdf>.
 - 135 U.S. National Institute of Allergy and Infectious Diseases, "Decades in the Making: mRNA COVID-19 Vaccines," April 4, 2024, <https://www.niaid.nih.gov/diseases-conditions/decades-making-mrna-covid-19-vaccines>; Lawrence Tabak, "Persistence Pays Off: Recognizing Katalin Kariko and Drew Weissman, the 2023 Nobel Prize Winners in Physiology or Medicine," NIH Director's Blog, Oct. 12, 2023, <https://directorsblog.nih.gov/2023/10/12/persistence-pays-off-recognizing-katalin-kariko-and-drew-weissman-the-2023-nobel-prize-winners-in-physiology-or-medicine/>; Lily H. Meyersohn, "Moderna's COVID Vaccine Price Hike Reveals Government's Failure," *The American Prospect*, Jan. 24, 2023, <https://prospect.org/health/2023-01-23-moderna-covid-vaccine-price-hike-bernie-sanders/>.
 - 136 Simi Siddalingaiah, "Operation Warp Speed Contracts for Covid-19 Vaccines and Ancillary Vaccination Materials," Congressional Research Service, March 1, 2021, <https://crsreports.congress.gov/product/pdf/IN/IN11560>.
 - 137 GAO, "Covid-19: Federal Efforts Accelerate Vaccine and Therapeutic Development, but More Transparency Needed on Emergency Use Authorizations," November 2020, <https://www.gao.gov/assets/gao-21-207.pdf>.
 - 138 Stephanie Baker and Cynthia Koons, "Inside Operation Warp Speed's \$18 Billion Sprint for a Vaccine," *Bloomberg*, Oct. 29, 2020, <https://www.bloomberg.com/news/features/2020-10-29/inside-operation-warp-speed-s-18-billion-sprint-for-a-vaccine>.
 - 139 Erik Larson and Andrew M Harris, "AT&T Judge Quotes Bob Dylan, Slams Government in 172-Page Ruling," *Bloomberg*, June 12, 2018, <https://www.bloomberg.com/news/articles/2018-06-13/at-t-judge-quotes-bob-dylan-slams-government-in-172-page-ruling>; *United States v. AT&T, Inc.*, 916 F.3d 1029, 1045 (D.C. Cir. 2019); April Glaser, "The Government Made the Wrong Argument in Its Failed Challenge to the AT&T-Time Warner Merger," *Slate*, Feb. 27, 2019, <https://slate.com/technology/2019/02/att-time-warner-merger-antitrust-hbo-net-neutrality-doj.html>.
 - 140 AT&T's price hikes reportedly so outraged Justice Department prosecutors that they christened the increases the "Leon Tax," after the federal judge who approved the deal. See Josh Kosman, "DirecTV monthly rates spike after AT&T's Time Warner buy," *The New York Post*, Dec. 15, 2019, <https://nypost.com/2019/12/15/directv-monthly-rates-spike-after-at-t-time-warner-buy/>; Jacqueline Thomsen, "AT&T customers see price increases following Time Warner merger," *The Hill*, July 3, 2018, <https://thehill.com/policy/technology/395318-att-customers-see-price-increases-following-time-warner-merger/>; Chaim Gartenberg, "AT&T and Dish's HBO battle is the bleak future of cable and streaming," *The Verge*, Nov. 2, 2018, <https://www.theverge.com/2018/11/2/18055780/att-dish-hbo-battle-warnermedia-cable-streaming-battle-future>.
 - 141 Jess Barnes, "AT&T Watch TV is No Longer Available for New Subscribers," *Cord Cutters News*, June 25, 2020, <https://www.cordcuttersnews.com/att-watch-tv-is-no-longer-available-for-new-subscribers/>; Michael Hiltzik, "AT&T got nothing but pain from its WarnerMedia merger. It's well deserved," *The Los Angeles Times*, May 18, 2021, <https://www.latimes.com/business/story/2021-05-18/att-warnermedia-merger>.

- 142 Denis Villeneuve, “‘Dune’ Director Denis Villeneuve Blasts HBO Max Deal,” Variety, Dec. 10, 2020, <https://variety.com/2020/film/news/dune-denis-villeneuve-blasts-warner-bros-1234851270/>.
- 143 Iain Morris, “AT&T has let go of 77,400 employees in just four years,” LightReading, Jan. 27, 2022, <https://www.lightreading.com/aiautomation/atandt-has-let-go-of-77400-employees-in-just-four-years/d/d-id/774870>.
- 144 Lauren Feiner, “AT&T battled the DOJ to buy Time Warner, only to spin it out again three years later,” CNBC, May 17, 2021, <https://www.cnbc.com/2021/05/17/att-fought-doj-for-time-warner-only-to-spin-out-three-years-later.html>; Gina Narcisi, “AT&T Dumps Time Warner Business Four Years After \$85B Deal,” CRN, April 5, 2022, <https://www.crn.com/news/networking/at-t-dumps-time-warner-business-four-years-after-85b-deal>.
- 145 R. Mark McCareins, “AT&T-Time Warner ruling a milestone for vertical mergers,” The Hill, June 14, 2018, <https://thehill.com/opinion/finance/392158-att-time-warner-ruling-a-watershed-moment-for-vertical-mergers/>; Thomas Franck, “An unlikely winner from the AT&T-Time Warner decision – CVS Health,” CNBC, June 13, 2018, <https://www.cnbc.com/2018/06/13/an-unlikely-winner-from-the-att-time-warner-decision-cvs-health.html>; Pamela McClintock et al., “Disney-Fox Deal Marks Seismic Shift for Hollywood’s Studio System,” The Hollywood Reporter, Dec. 15, 2017, <https://www.hollywoodreporter.com/news/general-news/disney-fox-deal-marks-seismic-shift-hollywoods-studio-system-1067517/>.
- 146 Ben Kamisar, “Trump Congratulated Murdoch on Disney Purchase of Fox assets,” The Hill, Dec. 14, 2017, <https://thehill.com/homenews/administration/364958-trump-congratulated-murdoch-on-disney-purchase-of-fox-assets/>; Ashley Cullins, “\$100M Disney Settlement Signals End of Animators’ Anti-Poaching Fight,” The Hollywood Reporter, Jan. 31, 2017, <https://www.hollywoodreporter.com/business/business-news/100m-disney-settlement-signals-end-animators-anti-poaching-fight-970887/>; Arthur Villasanta, “Disney, Fox Layoffs: 10,000 May Lose Jobs After Merger,” International Business Times, Feb. 7, 2019, <https://www.ibtimes.com/disney-fox-layoffs-10000-may-lose-jobs-after-merger-2760642>; Kayleigh Donaldson, “The Really Bad Effects Of The Disney-Fox Deal, Explained,” Screenrant, Feb. 12, 2019, <https://screenrant.com/disney-buy-fox-deal-bad-explained/>.
- 147 Yuki Noguchi, “T-Mobile And Sprint Merger Finally Wins Justice Department’s Blessing,” NPR, July 26, 2019, <https://www.npr.org/2019/07/26/745544033/t-mobile-and-sprint-merger-finally-wins-justice-departments-blessing>; Susan Crawford, “The Case Against the T-Mobile/Sprint Merger,” Wired, Oct. 18, 2017, <https://www.wired.com/story/the-case-against-the-t-mobile-sprint-merger/>; Tali Arbel, “Sprint exec suggests T-Mobile deal may increase mobile service prices for consumers,” The Associated Press, Dec. 9, 2019, <https://apnews.com/article/246d9c8b1fcb9a461ab4ac442e7fb6d4>.
- 148 Katie Benner and Cecilia Kang, “How a Top Antitrust Official Helped T-Mobile and Sprint Merge,” The New York Times, Dec. 19, 2019, <https://www.nytimes.com/2019/12/19/technology/sprint-t-mobile-merger-antitrust-official.html>.
- 149 Scott Moritz, “T-Mobile Customer Service Is Getting as Bad as All the Others,” Bloomberg, Dec. 6, 2021, <https://www.bloomberg.com/news/articles/2021-12-06/t-mobile-customer-service-is-getting-as-bad-as-all-the-others>; Communications Workers of America, Comment Submitted Re: Request for Information on Merger Enforcement by the Federal Trade Commission and Department of Justice, Docket No. FTC-2022-0003, https://cwa-union.org/sites/default/files/2022_merger_guidelines_comments_communications_workers_of_america_0.pdf.
- 150 CPI, “T-Mobile Faces Class-Action Lawsuit Over Sprint Merger After Appeal Denied,” PYMNTS.com, May 16, 2024, <https://www.pymnts.com/cpi-posts/t-mobile-faces-class-action-lawsuit-over-sprint-merger-after-appeal-denied/>.
- 151 Josh Kosman, “Feds ramp up probe of \$2.1B Google-Fitbit deal amid privacy worries,” New York Post, April 3, 2020, <https://nypost.com/2020/04/03/feds-ramp-up-probe-of-2-1b-google-fitbit-deal-amid-privacy-worries/>.
- 152 George L. Paul, D Daniel Sokol, and Gabriela Baca, “United States: Tech Mergers,” Global Competition Review (GCR), Nov. 25, 2022, <https://globalcompetitionreview.com/guide/digital-markets-guide/second-edition/article/united-states-tech-mergers>.
- 153 Ron Amadeo, “Google’s abuse of Fitbit continues with web app shutdown,” ARS Technica, June 12, 2024, <https://arstechnica.com/gadgets/2024/06/googles-abuse-of-fitbit-continues-with-web-app-shutdown/>.
- 154 Diane Bartz, “Eyewear mega deal could hurt U.S. consumers, but still be approved,” Reuters, Nov. 7, 2017, <https://www.reuters.com/article/us-luxottica-group-m-a-essilor-usa/eyewear-mega-deal-could-hurt-u-s-consumers-but-still-be-approved-idUSKBN1D72KL>; FTC, “Concerning the Proposed Acquisition of Luxottica Group S.p.A. by Essilor International S.A.,” Closing Statement, March 1, 2018, https://www.ftc.gov/system/files/documents/closing_letters/nid/1710060commissionstatement.pdf.
- 155 David Lazarus, “Why are glasses so expensive? The eyewear industry prefers to keep that blurry,” LA Times, Jan. 22, 2019, <https://www.latimes.com/business/lazarus/la-fi-lazarus-why-are-eyeglasses-so-expensive-20190122-story.html>.
- 156 FTC, “FTC Imposes \$5 Billion Penalty and Sweeping New Privacy Restrictions on Facebook,” press release, July 24, 2019, <https://www.ftc.gov/news-events/news/press-releases/2019/07/ftc-imposes-5-billion-penalty-sweeping-new-privacy-restrictions-facebook>.
- 157 Lauren Feiner and Salvadoe Rodriguez, “FTC slaps Facebook with record \$5 billion fine, orders privacy oversight,” CNBC, July 24, 2019, <https://www.cnbc.com/2019/07/24/facebook-to-pay-5-billion-for-privacy-lapses-ftc-announces.html>.
- 158 US v. Facebook, Inc., Case No. 19-cv-2184, Stipulated Order for Civil Penalty, Monetary Judgment, and Injunctive Relief, July 24, 2019, https://www.ftc.gov/system/files/documents/cases/182_3109_facebook_order_filed_7-24-19.pdf.
- 159 FTC, In the Matter of Facebook, Inc., a corporation, Docket No. C-4365, https://www.ftc.gov/system/files/ftc_gov/pdf/c4365facebookproposedmodifieddecisionandorder.pdf.
- 160 FTC, “FTC Charges Qualcomm With Monopolizing Key Semiconductor Device Used in Cell Phones,” press release, Jan. 17, 2017, <https://www.ftc.gov/news-events/news/press-releases/2017/01/ftc-charges-qualcomm-monopolizing-key-semiconductor-device-used-cell-phones>.

- 161 Kadhim Shubber, “US regulators face off in court tussle over Qualcomm,” *Financial Times*, Feb. 9, 2020, <https://www.ft.com/content/adbca366-49d3-11ea-aeb3-955839e06441>; Court Listener, in *Re: Qualcomm Antitrust Litigation*, Order—Document #1016, Nov. 7, 2023, <https://www.courtlistener.com/docket/6059326/1016/in-re-qualcomm-antitrust-litigation/>.
- 162 Declaration of Under Secretary of Defense for Acquisition and Sustainment Ellen M. Lord, July 16, 2019, <https://www.justice.gov/atr/case-document/file/1183936/download>.
- 163 Katherine Van Dyck and Lee Hepner, “The Case Against Live-Nation Ticketmaster,” *AELP*, Jan. 4, 2024, <https://www.economicliberties.us/our-work/the-case-against-live-nation-ticketmaster/#>.
- 164 *Id.*
- 165 David Gutman, “U.S. Chamber sues Seattle again, says Uber, Lyft taxi drivers can’t form union,” *The Seattle Times*, March 10, 2017, <https://www.seattletimes.com/seattle-news/politics/us-chamber-sues-seattle-a-second-time-over-uber-union-law/>; Brief of the United States Department of Justice and the Federal Trade Commission, Chamber of Commerce of the United States of America and Rasier, LLC, v. City of Seattle, et al., Nov. 6, 2017, <https://www.ftc.gov/legal-library/browse/amicus-briefs/chamber-commerce-united-states-america-rasier-llc-v-city-seattle-et-al>.
- 166 DOJ, “Justice Department Requires Divestitures in Merger Between UTC and Raytheon to Address Vertical and Horizontal Antitrust Concerns,” press release, March 26, 2020, <https://www.justice.gov/opa/pr/justice-department-requires-divestitures-merger-between-utc-and-raytheon-address-vertical-and>; RTX, “Raytheon and united Technologies Obtain All Regulatory Approvals to Close Merger of Equals,” press release, March 30, 2020, <https://investors.rtx.com/news-releases/news-release-details/raytheon-and-united-technologies-obtain-all-regulatory-approvals>; Jill Aitoro, “Raytheon-UTC merger wins approval, pending divestitures,” *DefenseNews*, March 27, 2020, <https://www.defensenews.com/industry/2020/03/27/raytheon-utc-look-to-shed-segments-to-win-merger-approval/>.
- 167 Elle Ekman, “The Stakes of a Nuclear Missile Monopoly,” *The American Conservative*, Oct. 12, 2021, <https://www.theamericanconservative.com/the-stakes-of-nuclear-missile-monopoly/>; Joe Gould, “Exelis, Harris Announce \$4.75 Billion Merger,” *DefenseNews*, Feb. 6, 2015, <https://www.defensenews.com/industry/2015/02/06/exelis-harris-announce-4-75-billion-merger/>; “Trends in Aerospace and Defense Mergers and Acquisitions,” *Deloitte*, 2017, <https://www2.deloitte.com/tw/en/pages/manufacturing/articles/aerospace-defense-ma.html>; Stephen Nellis and Sayanti Chakraborty, “Qualcomm wins a pause in enforcement of FTC ruling,” *Reuters*, Aug. 23, 2021, <https://www.crowell.com/files/20190717-FTC-Facing-Qualcomm-Alone-As-Trump-Admin-Turns-On-Case.pdf>.
- 168 Josh Sisco and Lee Hudson, “FTC turns up the heat on Trump-era defense merger,” *Politico*, July 22, 2022, <https://www.politico.com/news/2022/07/22/ftc-turns-up-the-heat-on-trump-era-defense-merger-00047452>.
- 169 Aaron Gregg, “Pentagon doubles down on ‘single-cloud’ strategy for \$10 billion contract,” *The Washington Post*, Aug. 5, 2018, https://www.washingtonpost.com/business/capitalbusiness/pentagon-doubles-down-on-single-cloud-strategy-for-10-billion-contract/2018/08/05/352cfee8-972b-11e8-810c-5fa705927d54_story.html.
- 170 Naomi Nix et al., “Pentagon Cloud Bid in Congress’s Crosshairs Amid Amazon Concerns,” *Bloomberg*, March 22, 2018, <https://www.bloomberg.com/news/articles/2018-03-22/u-s-spending-bill-directs-pentagon-to-justify-cloud-award>.
- 171 Benjamin Pimentel and Aaron Holmes, “Amazon wants to depose Trump in its JEDI protest saying his ‘bias’ against founder Jeff Bezos influenced DoD decision,” *Business Insider*, Feb. 10, 2020, <https://www.businessinsider.com/amazon-depose-trump-jedi-bias-against-bezos-2020-2>; Scott Shane et al., “Pentagon Delays Award of \$10 Billion Cloud Computing Contract,” *The New York Times*, Aug. 1, 2019, <https://www.nytimes.com/2019/08/01/us/politics/amazon-pentagon-contract.html>.
- 172 Amanda Macias and Joran Novet, “Pentagon expects to award up to \$9 billion in cloud contracts in December,” *CNBC*, March 29, 2022, <https://www.cnn.com/2022/03/29/pentagon-will-award-up-to-9-billion-in-cloud-contracts-in-december.html>.
- 173 Jeremy C. Kress, “Reviving Bank Antitrust,” 72 *Duke Law Journal* 519-598, November 2022, <https://scholarship.law.duke.edu/dlj/vol72/iss3/1/>.
- 174 FDIC, “Annual Historical Bank Data,” <https://banks.data.fdic.gov/bankfind-suite/historical>.
- 175 FDIC, “Annual Historical Bank Data,” <https://banks.data.fdic.gov/bankfind-suite/historical>.
- 176 Caius Z. Willingham and Andy Green, “A Fair Deal for Farmers,” *Center for American Progress*, May 2019, <https://www.americanprogress.org/article/fair-deal-farmers/>; Sarah Carden, “Big Fertilizer: Measuring the Impacts of Food and Farm System Concentration,” *Farm Action*, <https://farmaction.us/wp-content/uploads/2022/01/Big-Fertilizer-Measuring-the-Impacts-of-Food-and-Farm-System-Concentration.pdf>; Federal Register, “Access to Fertilizer: Competition and Supply Chain Concerns,” March 17, 2022, <https://www.federalregister.gov/documents/2022/03/17/2022-05670/access-to-fertilizer-competition-and-supply-chain-concerns#citation-5-p15191>; Claire Kelloway, “Beef Packing Merger Threatens America’s Last Competitive Cash Cattle Market,” *Open Markets Institute*, April 11, 2019, <https://www.openmarketsinstitute.org/publications/beef-packing-merger-threatens-americas-last-competitive-cash-cattle-market>; MEAT+POULTRY, “Marfrig acquires additional 31% of National Beef,” Nov. 19, 2019, <https://www.meatpoultry.com/articles/22218-marfrig-acquires-additional-31-of-national-beef>.
- 177 Rachel Cohrs Zhang, “Did the government get a bad deal on the Covid-19 boosters?,” *Stat*, Sept. 28, 2023, <https://www.statnews.com/2023/09/28/covid-vaccines-higher-price/>; Nikhil Chaudhry and Reshma Ramachandran, “Reasonable Pricing Clauses: A First Step Toward Ensuring Taxpayers a Fair Return on their Public R&D Investment,” *Harvard Law, Petrie-Flom Center*, Sept. 28, 2023, <https://blog.petrieflom.law.harvard.edu/2023/09/28/reasonable-pricing-clauses-a-first-step-toward-ensuring-taxpayers-a-fair-return-on-their-public-rd-investment/>.
- 178 The American Presidency Project, “Letter to Senate Minority Leader Charles E. Schumer on the Federal Coronavirus Response,” April 2, 2020, <https://www.presidency.ucsb.edu/documents/letter-senate-minority-leader-charles-e-schumer-the-federal-coronavirus-response>.

- 179 Christine Ngoc Ngo and Huong Dang, "Covid-19 in America: Global supply chain reconsidered," July 26, 2022, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9350259/>.
- 180 C.W. Fowler, "Legislative Origins Of the Smaller War Plants Corporation," 1945, <https://archive.org/details/legislative-origins-swpc/mode/2up>.
- 181 Christine Ngoc Ngo and Huong Dang, "Covid-19 in America: Global supply chain reconsidered," July 26, 2022, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9350259/>.
- 182 Laura Strickler and Lisa Cavazuti, "'We crushed it': How did West Virginia become a national leader in Covid vaccination?," NBC News, Jan. 31, 2021, <https://www.nbcnews.com/health/health-care/we-crushed-it-how-did-west-virginia-become-national-leader-n1256276>.
- 183 DOJ, "Drug Maker Teva Pharmaceuticals Agrees to Pay \$450M in False Claims Act Settlement to Resolve Kickback Allegations Relating to Copayments and Price Fixing, Oct. 10, 2024, <https://www.justice.gov/opa/pr/drug-maker-teva-pharmaceuticals-agrees-pay-450m-false-claims-act-settlement-resolve-kickback>; DOJ, "Justice Department Sues RealPage for Algorithmic Pricing Scheme that harms Millions of American Renters," press release, Aug. 23, 2024, <https://www.justice.gov/opa/pr/justice-department-sues-realpage-algorithmic-pricing-scheme-harms-millions-american-renters>; DOJ, "Justice Department Sues Agri Stats for Operating Extensive Information Exchanges Among Meat Processors," press release, Sept. 28, 2023, <https://www.justice.gov/opa/pr/justice-department-sues-agri-stats-operating-extensive-information-exchanges-among-meat>.
- 184 FTC, "FTC Challenges Kroger's Acquisition of Albertsons," press release, Feb. 26, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-challenges-krogers-acquisition-albertsons>.
- 185 Lesley Stahl, "FTC trustbuster Lina Khan: feared in boardrooms, cheered on by progressives — and even some MAGA Republicans," 60 Minutes, Sept. 22, 2024, <https://www.cbsnews.com/news/ftc-chair-lina-khan-60-minutes-transcript/>.
- 186 Matt Stoller, "In Lake Wobegon, All Antitrust Enforcers Are Above Average," BIG, March 19, 2024, <https://www.thebignewsletter.com/p/in-lake-wobegon-all-antitrust-enforcers>.
- 187 Memorandum Opinion, U.S., State of Colorado et al. v. Google LLC, No. 1:20-cv-03010 (D.D.C. August 5, 2024), https://storage.courtlistener.com/recap/gov.uscourts.dcd.223205/gov.uscourts.dcd.223205.1033.0_1.pdf.
- 188 Nabaparna Bhattacharya, "Google Parent Alphabet's Breakup Could Boost Stock Value, Citing Higher Investor Appeal for Pure-Play Assets: Analyst," Benzinga Edge, Aug. 6, 2024, <https://www.benzinga.com/markets/equities/24/08/40199230/google-parent-alphabets-breakup-could-boost-stock-value-citing-higher-investor-appeal-for-pure-p>; Lauren Feiner, "How the DOJ wants to break up Google's search monopoly," The Verge, Oct. 9, 2024, <https://www.theverge.com/2024/10/9/24265983/doj-google-search-remedies-monopoly>.
- 189 DOJ, "Justice Department Sues Google for Monopolizing Digital Advertising Technologies," press release, Jan. 24, 2023, <https://www.justice.gov/opa/pr/justice-department-sues-google-monopolizing-digital-advertising-technologies>; AELP, Timeline on Monopoly Lawsuit Regarding Digital Advertising Market," <https://www.economicliberties.us/dept-of-justice-v-google-adtech/#>.
- 190 DOJ, "Justice Department Sues Google for Monopolizing Digital Advertising Technologies," press release, Jan. 24, 2023, <https://www.justice.gov/opa/pr/justice-department-sues-google-monopolizing-digital-advertising-technologies>; FTC, "FTC Sues Amazon for Illegally Maintaining Monopoly Power," press release, Sept. 26, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-sues-amazon-illegally-maintaining-monopoly-power>; FTC v. Amazon.com Inc., No. 2:23-cv-00932 (D.C.W June 21, 2023), <https://www.courtlistener.com/docket/67515622/1/federal-trade-commission-v-amazoncom-inc/>; AELP, "Amazon's "Low Prices" Are a Mirage, New FTC Suit Reveals," press release, Sept. 26, 2023, <https://www.economicliberties.us/press-release/amazons-low-prices-are-a-mirage-new-ftc-suit-reveals/#>; DOJ, "Justice Department Sues Apple for Monopolizing Smart Phone Markets," press release, March 21, 2024, <https://www.justice.gov/opa/pr/justice-department-sues-apple-monopolizing-smartphone-markets>.
- 191 AELP, "Timeline on Monopoly Lawsuit Regarding Digital Advertising Market," <https://www.economicliberties.us/dept-of-justice-v-google-adtech/#>; Rory Van Loo, "In Defense of Breakups: Administering a 'Radical' Remedy," 19555, <https://www.cornelllawreview.org/wp-content/uploads/2020/12/Van-Loo-final.pdf>.
- 192 DOJ, "Justice Department Obtains Permanent Injunction Blocking Penguin Random House's Proposed Acquisition of Simon & Schuster," press release, Oct. 31, 2022, <https://www.justice.gov/opa/pr/justice-department-obtains-permanent-injunction-blocking-penguin-random-house-s-proposed>; AELP, "Reuters: Penguin's big book deal gets a regulatory ice bath," Nov. 2, 2021, <https://www.economicliberties.us/media/reuters-penguins-big-book-deal-gets-a-regulatory-ice-bath/>.
- 193 DOJ, "Executive Pleads Guilty to Criminal Attempted Monopolization," press release, Oct. 31, 2022, <https://www.justice.gov/opa/pr/executive-pleads-guilty-criminal-attempted-monopolization>.
- 194 Dan Papszun, "Justice Nears Antitrust Win in Probe of No-Poaching Agreement," Bloomberg Law, Sept. 2, 2022, <https://news.bloomberglaw.com/antitrust/justice-nabs-first-no-poach-criminal-win-against-staffing-firm>.
- 195 FTC, "Statement Regarding Illumina's Decision to Divest Grail," press release, Dec. 18, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/12/statement-regarding-illumina-s-decision-divest-grail>.
- 196 Diane Bartz and David Shepardson, "American and JetBlue airlines must end alliance, US judge rules," Reuters, May 19, 2023, <https://www.reuters.com/legal/us-justice-dept-wins-antitrust-fight-against-american-jetblue-alliance-2023-05-19/>.
- 197 DOJ, "Assistant Attorney General Jonathan Kanter Delivers Remarks at the American Economic Liberties Project 2024 Antimonopoly Summit," May 21, 2024, <https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-remarks-american-economic-liberties>; FTC, "FTC Acts to Prevent Interlocking Directorate Arrangement, Anticompetitive Information Exchange in EQT, Quantum Energy Deal," press

- release, Aug. 16, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/08/ftc-acts-prevent-interlocking-directorate-arrangement-anticompetitive-information-exchange-eqt>.
- 198 FTC, “FTC Order Bans Hess CEO from Chevron Board in Chevron-Hess Deal,” press release, Sept. 30, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-order-bans-hess-ceo-chevron-board-chevron-hess-deal>; FTC, “FTC Order Bans Former Pioneer CEO from Exxon Board Seat in Exxon-Pioneer Deal,” press release, May 2, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/05/ftc-order-bans-former-pioneer-ceo-exxon-board-seat-exxon-pioneer-deal>; Matt Stoller, “An Oil Price-Fixing Conspiracy Caused 27% of All Inflation Increases in 2021,” BIG, May 3, 2024, https://www.thebignewsletter.com/p/an-oil-price-fixing-conspiracy-caused?utm_source=publication-search.
- 199 DOJ, “Global Shipping Container Suppliers China International Marine Containers and Maersk Container Industry Abandon Merger after Justice Department Investigation,” press release, Aug. 25, 2022, <https://www.justice.gov/opa/pr/global-shipping-container-suppliers-china-international-marine-containers-and-maersk>; Alejandra Carranza, “Maersk abandons \$1B sale of container business after DOJ investigation,” Supply Chain Dive, Aug. 30, 2022, <https://www.supplychaindive.com/news/acquisition-of-maersk-container-business-falls-through-after-doj-investigation/630718/>.
- 200 DOJ, “Assistant Attorney General Jonathan Kanter Delivers Remarks at the American Economic Liberties Project 2024 Antimonopoly Summit,” May 21, 2024, <https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-remarks-american-economic-liberties>.
- 201 For more, see <https://www.economicliberties.us/our-work/transforming-antitrust-enforcement-how-aag-kanter-is-protecting-competition-across-the-economy/#> (DOJ); <https://www.economicliberties.us/our-work/factsheet-the-ftc-is-holding-corporate-actors-accountable-protecting-small-businesses-workers-and-consumers-2/#> (FTC); and <https://www.whitehouse.gov/competition/> (many other agencies); AELP, “The FTC is Holding Corporate Actors Accountable, Protecting Small Businesses, Workers, and Consumers,” July 2024, <http://www.economicliberties.us/wp-content/uploads/2024/07/2024-07-02-FTC-Accomplishments-Doc-an2.docx.pdf>; AELP, “Transforming Antitrust Enforcement: How AAG Kanter is Protecting Competition Across the Economy,” June 2024, <https://www.economicliberties.us/wp-content/uploads/2024/06/2024-06-03-DOJ-Accomplishments.pdf>.
- 202 DOJ, “Justice Department Sues Live Nation-Ticketmaster for Monopolizing Markets Across the Live Concert Industry,” press release, May 23, 2024, <https://www.justice.gov/opa/pr/justice-department-sues-live-nation-ticketmaster-monopolizing-markets-across-live-concert>; Karina Montoya and Daniel A. Hanley, “The Global Benefits of Reining in Live Nation-Ticketmaster’s Power,” Project Syndicate, July 3, 2024, <https://www.project-syndicate.org/commentary/us-antitrust-lawsuit-live-nation-ticketmaster-could-reshape-global-industry-by-karina-montoya-1-and-daniel-a-hanley-2024-07>.
- 203 Leah Douglas, “US DOJ files meat industry antitrust case against Agri Stats,” Reuters, Sept. 28, 2023, <https://www.reuters.com/legal/us-doj-brings-meat-industry-antitrust-case-against-data-company-agri-stats-2023-09-28/>; Luke Goldstein, “Three Algorithms in a Room,” The American Prospect, June 5, 2024, <https://prospect.org/economy/2024-06-05-three-algorithms-in-a-room/>; Heather Vogell, “DOJ Backs Tenants in Case Alleging Price-Fixing by Big Landlords and a Real Estate Tech Company,” ProPublica, Nov. 16, 2023, <https://www.propublica.org/article/doj-backs-tenants-price-fixing-case-big-landlords-real-estate-tech>.
- 204 See DOJ, “Justice Department Sues Visa for Monopolizing Debit Markets,” press release, Sept. 24, 2024, <https://www.justice.gov/opa/pr/justice-department-sues-visa-monopolizing-debit-markets>.
- 205 Anna Wilde Mathews, “U.S. Opens UnitedHealth Antitrust Probe,” The Wall Street Journal, Feb. 27, 2024, <https://www.wsj.com/health/healthcare/u-s-launches-antitrust-investigation-of-healthcare-giant-unitedhealth-ff5a00d2>.
- 206 FTC, “Federal Trade Commission, the Department of Justice and the Department of Health and Human Services Launch Cross-Government Inquiry on Impact of Corporate Greed in Health Care,” press release, March 5, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/03/federal-trade-commission-department-justice-department-health-human-services-launch-cross-government>.
- 207 Julie Appleby and Phil Galewitz, “America Worries About Health Costs – and Voters Want to Hear From Biden and Republicans,” KFF Health News, March 8, 2024, <https://kffhealthnews.org/news/article/2024-campaign-health-costs-voter-concerns/>.
- 208 Jordan Connell, “Biden celebrates drugmakers capping inhaler costs at \$35 per month,” Yahoo News, April 3, 2024, <https://www.yahoo.com/news/biden-celebrates-drugmakers-capping-inhaler-173629981.html>.
- 209 FTC, “FTC Challenges More Than 100 Patents as Improperly Listed in the FDA’s Orange Book,” press release, Nov. 7, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/11/ftc-challenges-more-100-patents-improperly-listed-fdas-orange-book>; FTC, “Warning Letters,” Nov. 7, 2023, <https://www.ftc.gov/legal-library/browse/warning-letters/81927>; Dan Diamond, “FTC opens investigation into Teva, escalating patent fight with pharma industry,” The Washington Post, July 1, 2024, <https://www.washingtonpost.com/health/2024/07/01/teva-patent-pharma-generic-inhaler/>.
- 210 FTC, “FTC Sues Prescription Drug Middlemen for Artificially Inflating Insulin Drug Prices,” press release, Sept. 20, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-sues-prescription-drug-middlemen-artificially-inflating-insulin-drug-prices>.
- 211 Leah Nylen, “DOJ antitrust losses in court are seen as setback for Biden’s merger crackdown,” The Spokesman-Review, Oct. 27, 2022, <https://www.spokesman.com/stories/2022/oct/26/doj-antitrust-losses-in-court-are-seen-as-setback/>.
- 212 Lauren Norris Donahue, Erinn L. Rigney, and Brian J. Smith, “DOJ Jettisons Its Last Criminal No-Poach Prosecution, But Antitrust Scrutiny of Labor Markets is Here to Stay,” K&L Gates, Dec. 21, 2023, <https://www.klgates.com/DOJ-Jettisons-Its-Last-Criminal-No-Poach-Prosecution-but-Antitrust-Scrutiny-of-Labor-Markets-is-Here-to-Stay-12-21-2023>.
- 213 FTC v. Meta Platforms Inc., Case No. 5:22-cv-04325-EJD, D.I. 570 (N.D. Cal. Dec. 13, 2023), <https://www.courtlistener.com/docket/64436614/570/federal-trade-commission-v-meta-platforms-inc/>

- 214 FTC, “FTC Seeks to Block Microsoft Corp.’s Acquisition of Activision Blizzard, Inc.,” press release, Dec. 8, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/12/ftc-seeks-block-microsoft-corps-acquisition-activision-blizzard-inc>.
- 215 Matt Stoller, “Will the Biggest Tech Merger of All Time Go Through?,” BIG, June 29, 2023, <https://www.thebignewsletter.com/p/will-the-biggest-tech-merger-of-all>; Lee Hepner, “Quick Take: Why the Judge Was Wrong in FTC vs. Microsoft-Activision,” AELP, July 11, 2023, <https://www.economicliberties.us/our-work/quick-take-why-the-judge-was-wrong-in-ftc-vs-microsoft-activision/>.
- 216 Jordan Novet, “Microsoft closes \$69 billion acquisition of Activision Blizzard after lengthy regulatory review,” CNBC, Oct. 13, 2023, <https://www.cnn.com/2023/10/13/microsoft-closes-activision-blizzard-deal-after-regulatory-review.html>.
- 217 FTC v. Microsoft Corp. No. 23-15992, Feb. 7, 2024, <https://www.courtlistener.com/docket/67605176/117/ftc-v-microsoft-corporation/>.
- 218 Id.
- 219 Matt Stoller, “Billionaire Orders Kamala Harris to Fire Lina Khan,” BIG, July 25, 2024, <https://www.thebignewsletter.com/p/billionaire-orders-kamala-harris>.
- 220 Groundwork Collaborative, “New Groundwork Report Finds Corporate Profits Driving More Than Half of Inflation,” Jan. 18, 2024, <https://groundworkcollaborative.org/news/new-groundwork-report-finds-corporate-profits-driving-more-than-half-of-inflation/>.
- 221 Jeff Stein, “White House economists push back against pressure to blame corporations for inflation,” Washington Post, Feb. 17, 2022, <https://www.washingtonpost.com/us-policy/2022/02/17/white-house-inflation-corporations/>.
- 222 Matt Stoller, “An Oil Price-Fixing Conspiracy Caused 27% of All Inflation Increases in 2021,” BIG, May 3, 2024, <https://www.thebignewsletter.com/p/an-oil-price-fixing-conspiracy-caused>.
- 223 DOJ, “2023 Merger Guidelines,” <https://www.justice.gov/atr/2023-merger-guidelines>.
- 224 DOJ, “Justice Department Withdraws from 1995 Bank Merger Guidelines,” press release, Sept. 17, 2024, <https://www.justice.gov/opa/pr/justice-department-withdraws-1995-bank-merger-guidelines>.
- 225 U.S. v. Philadelphia Nat’l Bank, 374 U.S. 321 (1963); see also “Assistant Attorney General Jonathan Kanter Delivers Keynote Address at the Brookings Institution’s Center on Regulation and Markets Event ‘Promoting Competition in Banking,’” June 20, 2023, https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-keynote-address-brookings-institution#_ftn1.
- 226 FTC, “FTC Finalizes Changes to Premerger Notification Form,” press release, Oct. 10, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/10/ftc-finalizes-changes-premerger-notification-form>.
- 227 FTC, “FTC Issues Rule to Deter Rampant Made in USA Fraud,” press release, July 1, 2021, <https://www.ftc.gov/news-events/news/press-releases/2021/07/ftc-issues-rule-deter-rampant-made-usa-fraud>.
- 228 FTC, “FTC Announces Rule Banning Noncompetes,” press release, April 23, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-announces-rule-banning-noncompetes>; FTC, 16 CFR Part 910, Non-Compete Clause Rule, Final Rule, https://www.ftc.gov/system/files/ftc_gov/pdf/noncompete-rule.pdf.
- 229 FTC, “FTC Announces Rule Banning Noncompetes,” press release, April 23, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-announces-rule-banning-noncompetes>.
- 230 FTC, “Fact Sheet on FTC’s Proposed Final Noncompete Rule,” press release, April 23, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/fact-sheet-ftcs-proposed-final-noncompete-rule>.
- 231 AELP, “Noncompete Agreements Remain Risky for Employers Nationwide Despite Rogue Texas Ruling,” press release, Aug. 21, 2024, <https://www.economicliberties.us/press-release/noncompete-agreements-remain-risky-for-employers-nationwide-despite-rogue-texas-ruling/#>.
- 232 FTC, “Federal Trade Commission Announces Final ‘Click-to-Cancel’ Rule Making It Easier for Consumers to End Recurring Subscriptions and Memberships,” press release, Oct. 16, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/10/federal-trade-commission-announces-final-click-cancel-rule-making-it-easier-consumers-end-recurring>.
- 233 Jonathan Kanter et al., Comment to the U.S. Patent and Trademark Office on Initiatives to Ensure the Robustness and Reliability of Patent Rights, Antitrust Division of the U.S. Department of Justice, Docket No. PRTO-P-2022-0025-0134, <https://www.justice.gov/atr/page/file/1570801/dl>; FTC, “FTC Submits Comment Supporting Proposed USPTO Rule,” press release, June 18, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/06/ftc-submits-comment-supporting-proposed-uspto-rule>. The agencies also withdrew harmful Trump-era policy guidance that enabled patent holders who received market power windfalls from standards organizations to extort licensees through their unearned market power. See DOJ, “U.S. Patent and Trademark Office and National Institute of Standards and Technology Withdraw 2019 Standards-Essential Patents (SEP) Policy Statement,” press release, Department of Justice Antitrust Division, June 8, 2022, available at <https://www.justice.gov/opa/pr/justice-department-us-patent-and-trademark-office-and-national-institute-standards-and>.
- 234 FTC, “FTC Expands Patent Listing Challenges, Targeting More Than 300 Junk Listings for Diabetes, Weight Loss, Asthma and COPD Drugs,” press release, April 30, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-expands-patent-listing-challenges-targeting-more-300-junk-listings-diabetes-weight-loss-asthma>.
- 235 Sally French, “Airlines Have Dropped. Here’s Why They Could Go Even Lower in 2024,” Nerd Wallet, March 6, 2024, <https://www.nerdwallet.com/article/travel/airfares-have-dropped-heres-why-they-could-go-even-lower-in-2024>.

- 236 AELP, “Falling Airline Fares Show that Antitrust Enforcement Works,” June 12, 2024, <https://www.economicliberties.us/press-release/falling-airline-fares-show-that-antitrust-enforcement-works/>.
- 237 AELP, “DOT’s New Automatic Refund Rule is Another Big Swing Against Corporate Power in Flying,” April 24, 2024, <https://www.economicliberties.us/press-release/dots-new-automatic-refund-rule-is-another-big-crack-against-corporate-power-in-flying/>.
- 238 FTC, “FTC Announces Rules Banning Noncompetes,” press release, April 23, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-announces-rule-banning-noncompetes>; AELP, “Rogue Judge Temporarily Blocks Popular Noncompete Ban,” press release, July 3, 2024, <https://www.economicliberties.us/press-release/rogue-judge-temporarily-blocks-popular-noncompete-ban/#>.
- 239 AELP, “Corporations vs. the People,” <https://www.economicliberties.us/corporations-v-the-people/#>
- 240 American Economic Liberties Project, “Laws Are Not Suggestions: How the CFPB Is Delivering for the American People.” Fact Sheet (updated Oct. 10, 2024), <https://www.economicliberties.us/our-work/laws-are-not-suggestions-how-the-cfpb-is-delivering-for-the-american-people/#>; see also The White House, “Biden-Harris Administration Announces Broad New Actions to Protect Consumers From Billions in Junk Fees,” press release, Oct. 11, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/11/biden-harris-administration-announces-broad-new-actions-to-protect-consumers-from-billions-in-junk-fees/> (other agencies cracking down on junk fees).
- 241 CFPB, “CFPB Finalizes Personal Financial Data Rights Rule to Boost Competition, Protect Privacy, and Give Families More Choice in Financial Services,” press release, Oct. 22, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-personal-financial-data-rights-rule-to-boost-competition-protect-privacy-and-give-families-more-choice-in-financial-services/>.
- 242 Hassan Ali Kanu, “Loaded Up With Junk,” *The American Prospect*, June, 6, 2024, <https://prospect.org/economy/2024-06-06-loaded-up-with-junk/>.
- 243 *Id.*
- 244 CFPB, “CFPB Bans Excessive Credit Card Late Fees, Lowers Typical Fee from \$32 to \$8,” press release, March 5, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-bans-excessive-credit-card-late-fees-lowers-typical-fee-from-32-to-8/>.
- 245 CFPB, “CFPB Proposes Rule to Close Bank Overdraft Loophole that Costs Americans Billions Each Year in Junk Fees,” press release, Jan. 17, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-close-bank-overdraft-loophole-that-costs-americans-billions-each-year-in-junk-fees/>.
- 246 CFPB, “CFPB Takes Action to Stop Illegal Junk Fees in Mortgage Servicing,” press release, April 24, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-stop-illegal-junk-fees-in-mortgage-servicing/>. The District Court for the Northern District of Texas granted a preliminary injunction to stay the rule pending the outcome of a Supreme Court case challenging the agency’s structure; after that challenge failed, in July 2024, the CFPB moved to dissolve the injunction. See Chamber of Commerce of the United States of America et al. v. Consumer Financial Protection Bureau and Rohit Chopra, Case No. 4:24-cv-213-P, D.I. 106 (N.D. Tx. July 18, 2024), <https://storage.courtlistener.com/recap/gov.uscourts.txnd.387342/gov.uscourts.txnd.387342.106.0.pdf>.
- 247 The White House, “Fact Sheet: President Biden Announces New Actions to Lower Costs for Americans by Fighting Corporate Rip-Offs,” press release, March 5, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/03/05/fact-sheet-president-biden-announces-new-actions-to-lower-costs-for-americans-by-fighting-corporate-rip-offs/>; Center for American Progress, “The CFPB Is Cleaning Up Junk Fees,” April 9, 2024, <https://www.americanprogress.org/article/the-cfpb-is-cleaning-up-junk-fees/>.
- 248 CFPB, “CFPB Proposes to Ban Medical Bills from Credit Reports,” press release, June 11, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-to-ban-medical-bills-from-credit-reports/>; The White House, “Fact Sheet: Vice President Harris Announces Proposal to Prohibit Medical Bills from Being Included on Credit Reports and Calls on States and Localities to Take Further Actions to Reduce Medical Debt,” press release, June 11, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/11/fact-sheet-vice-president-harris-announces-proposal-to-prohibit-medical-bills-from-being-included-on-credit-reports-and-calls-on-states-and-localities-to-take-further-actions-to-reduce-medical-debt/>.
- 249 American Economic Liberties Project, “Laws Are Not Suggestions: How the CFPB Is Delivering for the American People.” Fact Sheet (updated Oct. 10, 2024), <https://www.economicliberties.us/our-work/laws-are-not-suggestions-how-the-cfpb-is-delivering-for-the-american-people/#>
- 250 49 U.S.C. § 41105(a)-(b).
- 251 David Dayen, “The Transportation Department’s New Path,” *The American Prospect*, April 25, 2024, <https://prospect.org/infrastructure/transportation/2024-04-25-transportation-departments-new-path/>.
- 252 Matt Stoller, “Pete Buttigieg’s Moment of Truth,” *BIG*, March 3, 2023, <https://www.thebignewsletter.com/p/pete-buttigiegs-moment-of-truth>; Reuters, “Tegna scraps \$8.6 bln Standard General deal after regulatory pushback,” May 23, 2023, <https://www.reuters.com/markets/deals/teгна-terminates-86-billion-merger-with-standard-general-2023-05-22/>.
- 253 U.S. Department of Agriculture (USDA), Agricultural Marketing Service, “USDA Celebrates Landmark Agricultural Legislation’s Century of Service by Committing to Maximum Enforcement of the Packers and Stockyards Act,” press release, Aug. 24, 2021, <https://www.ams.usda.gov/press-release/usda-celebrates-landmark-agricultural-legislation%E2%80%99s-century-service-committing>.
- 254 USDA, “USDA Proposes New Rule to Clarify Unfair Practices in the Livestock, Meat, and Poultry Industries,” press release, June 25, 2024, <https://www.usda.gov/media/press-releases/2024/06/25/usda-proposes-new-rule-clarify-unfair-practices-livestock-meat-and>.
- 255 USDA, “USDA Announces Efforts to Promote Transparency in Product of the USA Labeling,” press release, July 1, 2021, <https://www.usda.gov/media/press-releases/2021/07/01/usda-announces-efforts-promote-transparency-product-usa-labeling>.

- 256 HHS has refused to take action to stop consolidation, instead relying on transparency rules to dodge responsibility, see, e.g., pp. 7-8, https://www.economicliberties.us/wp-content/uploads/2024/07/FTC-2024-0022-2068_attachment_1.pdf; FDA, USPTO have refused to crack down on anticompetitive abuses, costing millions, see, e.g., <https://www.economicliberties.us/press-release/big-pharma-cheated-americans-out-of-more-40-billion-new-economic-liberties-and-i-mak-report-finds/>.
- 257 U.S. Office of the Comptroller of the Currency (OCC), “Michael J. Hsu, Acting Comptroller of the Currency,” <https://www.occ.gov/about/who-we-are/comptroller/bio-michael-hsu.html>.
- 258 Hayden Rooke-Ley, “Medicare Advantage and Vertical Consolidation in Health Care,” American Economic Liberties Project, April 2024, <https://www.economicliberties.us/wp-content/uploads/2024/04/Medicare-Advantage-AELP.pdf>.
- 259 See, e.g., DOJ, “UnitedHealth Group Abandons Two Acquisitions Following Antitrust Division Scrutiny,” press release, July 25, 2024, <https://www.justice.gov/opa/pr/unitedhealth-group-abandons-two-acquisitions-following-antitrust-division-scrutiny>; FTC, “Statement Regarding the Termination of Sanofi’s Proposed Acquisition of Maze Therapeutics’ Pompe Disease Drug,” press release, Dec. 13, 2024, <https://www.ftc.gov/news-events/news/press-releases/2023/12/statement-regarding-termination-sanofis-proposed-acquisition-maze-therapeutics-pompe-disease-drug>; Anirban Sen, “Cigna abandons pursuit of Humana, plans \$10 billion share buyback,” Reuters, Dec. 11, 2023, <https://www.reuters.com/markets/deals/us-health-insurer-cigna-scraps-deal-buy-humana-wsj-2023-12-10/>; FTC, “FTC Orders Illumina to Divest Cancer Detection Test Maker GRAIL to Protect Competition in Life-Saving Technology Market,” press release, April 3, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-orders-illumina-divest-cancer-detection-test-maker-grail-protect-competition-life-saving>. For more, see also, pp. 7, 9-10, <https://www.economicliberties.us/our-work/factsheet-the-ftc-is-holding-corporate-actors-accountable-protecting-small-businesses-workers-and-consumers-2/#>.
- 260 Matt Hanauer et al., “Community Banks’ Ongoing Role in the U.S. Economy,” Federal Reserve Bank of Kansas City, Economic Review 106, No. 2, June 24, 2021, <https://www.kansascityfed.org/documents/8159/EconomicReviewV106N2HanauerLytleSummersZiadeh.pdf>.
- 261 Shahid Naeem, “Capital One-Discover: A Competition Policy and Regulatory Deep Dive,” AELP, March 21, 2024, <https://www.economicliberties.us/our-work/capital-one-discover-a-competition-policy-and-regulatory-deep-dive/#>; OCC approved multiple bank mergers following President Biden’s Executive Order on Promoting Competition, see, e.g., Old National-First Midwest, US Bank-Union Bank, Flagstar Bank-New York Community Bank, Bank of Montreal-Bank of the West, JPMorgan Chase-First Republic.
- 262 See, e.g., “OCC Issues Cease and Desist Order Against MUFG Union Bank for Deficiencies Relating to Technology and Operational Risk Governance,” OCC, Sept. 20, 2021, <https://www.occ.gov/news-issuances/news-releases/2021/nrocc-2021-100.html>; “Statement by Vice Chair Brainard on application by Bank of Montreal and BMO Financial Corp.,” Federal Reserve Board, Jan. 17, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/brainard-statement-20230117.htm>; Jon Prior, “Fair-lending suit puts heat on Old National-First Midwest deal,” American Banker, Oct. 7, 2021, <https://www.americanbanker.com/news/fair-lending-suit-puts-heat-on-old-national-first-midwest-deal>; Letter from California Reinvestment Coalition, “20 Groups File Letter Opposing Proposed BMO Harris-Bank Of The West Merger,” Rise Economy, May 12, 2022, <https://rise-economy.org/crc-20-groups-file-letter-opposing-proposed-bmo-harris-bank-of-the-west-merger/>; The Capitol Forum, “Flagstar Bancorp/New York Community Bancorp: When FDIC Rebuffed Merger Bid, Banks Restructured Deal So OCC Would Review It,” Oct. 18, 2022, <https://thecapitolforum.com/flagstar-bancorp-new-york-community-bancorp-when-fdic-rebuffed-merger-bid-banks-restructured-deal-so-occ-would-review-it/>; Pete Schroeder, Michelle Price, and Koh Gui Qing, “US regulators greenlit NYCB’s rapid growth, even with red flags,” Reuters, March 7, 2024, <https://www.reuters.com/markets/us/us-regulators-greenlit-nycbs-rapid-growth-even-with-red-flags-2024-03-07/>; Letter from Rep. Maxine Waters to Federal Reserve Chair Powell et al., Dec. 10, 2021, https://democrats-financialservices.house.gov/uploadedfiles/waters_bank_ma_review_letter_121021.pdf.
- 263 Breanna Bradham, “Bove Says First Republic May Be JPMorgan’s Best Deal in Decades,” Bloomberg, May 1, 2023, <https://www.bloomberg.com/news/articles/2023-05-01/odeon-s-dick-bove-says-first-republic-may-be-jpmorgan-s-best-deal-in-decades>.
- 264 Dan Ennis, “OCC was ‘asleep at the wheel’ on NYCB, Warren says,” BankingDive, April 17, 2024, <https://www.bankingdive.com/news/warren-blumenthal-hsu-occ-letter-nycb-flagstar-signature-capital-requirements-merger-fdic-cfbp/713428/>.
- 265 GAO, “Defense Industrial Base: DOD Needs Better Insight into Risks from Mergers and Acquisitions,” October 2023, <https://info.bracewell.com/40/2518/uploads/gao-report.pdf>.
- 266 Todd Achilles, Erik Peinert, and Daniel Rangel, “Reshoring and Restoring: CHIPS Implementation for a Competitive Semiconductor Industry,” AELP, Feb. 6, 2024, <https://www.economicliberties.us/our-work/reshoring-and-restoring-chips-implementation-for-a-competitive-semiconductor-industry/#>; Pete Singer, “Apple is America’s Semiconductor Problem,” Semiconductor Digest, August 2024, <https://www.semiconductor-digest.com/apple-is-americas-semiconductor-problem/>.
- 267 Order, In re: MCP No. 185 Open Internet Rule (FCC 24-52), Aug. 1, 2024, <https://docs.fcc.gov/public/attachments/DOC-404438A1.pdf>; AELP, “Corporations vs. the People,” <https://www.economicliberties.us/corporations-v-the-people/#>.
- 268 Austin Ahlman, “After Blockbuster Lockheed Martin Acquisition, FTC Allows Another Defense Firm to Close the Deal,” The Intercept, Aug. 31, 2023, <https://theintercept.com/2023/08/31/ftc-defense-mergers-lockheed-13harris/>.
- 269 Haley Britzky, “Cost of modernizing US Air Force’s nuclear missile arsenal increases by over 80%,” CNN, July 8, 2024, <https://www.cnn.com/2024/07/08/politics/us-air-force-arsenal-cost-increase/index.html>.
- 270 David Dayen, “Deputy AG Monaco Asked to Recuse from DOJ Boeing Decision,” The American Prospect, July 3, 2024, <https://prospect.org/justice/2024-07-03-lisa-monaco-department-justice-boeing-recusal/>.
- 271 WilmerHale, “Antitrust Division’s Updated Leniency Policy Impacts Leniency for Acquirors,” April 10, 2024, <https://www.wilmerhale.com/insights/client-alerts/20240410-antitrust-divisions-updated-leniency-policy-impacts-leniency-for-acquirors>.

- 272 See Tim Wu, “The President’s Role in Antitrust Policy,” May 15, 2023, *Journal of Antitrust Enforcement* 2023, Columbia Public Law Research Paper No. 4448227, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4448227.
- 273 See, e.g., Emilia David, “FTC and DOJ reportedly opening antitrust investigations into Microsoft, Open AI, and Nvidia,” *The Verge*, June 6, 2024, <https://www.theverge.com/2024/6/6/24172868/ftc-doj-antitrust-openai-microsoft-nvidia-investigations>.
- 274 DOJ, “2023 Merger Guidelines,” <https://www.justice.gov/atr/2023-merger-guidelines>.
- 275 DOJ, “Directors Resign from the Boards of Five Companies in Response to Justice Department Concerns about Potentially Illegal Interlocking Directorates,” press release, Oct. 19, 2022, <https://www.justice.gov/opa/pr/directors-resign-boards-five-companies-response-justice-department-concerns-about-potentially>.
- 276 AELP, “Google Search Remedies: A High-Level Framework,” Oct. 8, 2024, <https://www.economicliberties.us/our-work/a-high-level-framework-for-remedies-after-the-google-search-trial/#>.
- 277 The George W. Bush administration dropped key remedies originally requested in the Microsoft case — a decision likely not unrelated to the involvement of a Microsoft executive on the Bush transition team. See Stephen Labaton, “U.S. vs. Microsoft: The Overview; U.S. Abandoning Its Effort to Break Apart Microsoft, Saying It Seeks Resolution,” Sept. 7, 2001, <https://www.nytimes.com/2001/09/07/business/us-vs-microsoft-overview-us-abandoning-its-effort-break-apart-microsoft-saying.html>.
- 278 John Kwoka and Tommaso Valletti, “Unscrambling the eggs: breaking up consummated mergers and dominant firms,” *Industrial and Corporate Change*, Volume 30, Issue 5, October 2021, pp. 1286–1306, <https://doi.org/10.1093/icc/dtab050>.
- 279 AELP, “Enforcers Can Protect Small Businesses by Reviving and expanding the Robinson-Patman Act,” press release, Sept. 21, 2022, <https://www.economicliberties.us/press-release/enforcers-can-protect-small-businesses-by-reviving-and-expanding-the-robinson-patman-act/#>; AELP, “Price Discrimination and Power Buyers: Why Giant Retailers Dominate the Economy and How to Stop It,” Sept. 21, 2022, <https://www.economicliberties.us/our-work/price-discrimination-and-power-buyers-why-giant-retailers-dominate-the-economy-and-how-to-stop-it/#>; FTC, “FTC Releases Interim Staff Report on prescription Drug Middlemen,” press release, July 8, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-releases-interim-staff-report-prescription-drug-middlemen>; Claire Kelloway and Matthew Jinoo Buck, “Kickbacks and Corporate Concentration: How Exclusionary Discounts Limit Market Access for Community-Based Food Businesses,” *Yale Law & Policy Review*, Dec. 30, 2023, https://yalelawandpolicy.org/inter_alia/kickbacks-and-corporate-concentration-how-exclusionary-discounts-limit-market-access.
- 280 See, e.g., Defendants’ Brief in Opposition to Plaintiff’s Motion to Stay Proceedings, *ATS Tree Services, LLC v. Federal Trade Commission*, Case No. 2:24-cv-01743-KBH, D.I. 86 (E.D. PA. Sept. 11, 2024), <https://www.courtlistener.com/docket/68472970/86/ats-tree-services-llc-v-federal-trade-commission/>.
- 281 DOJ, “Justice Department and Federal Trade Commission Release 2023 Merger Guidelines,” press release, Dec. 18, 2023, <https://www.justice.gov/opa/pr/justice-department-and-federal-trade-commission-release-2023-merger-guidelines>; Federal Register, “Merger Notification; Reporting and Waiting Period Requirements,” Feb. 5, 2024, <https://www.federalregister.gov/documents/2024/02/05/2024-02228/premerger-notification-reporting-and-waiting-period-requirements>.
- 282 Interestingly, the Hart-Scott-Rodino Act expressly grants the FTC and the DOJ the power to “define the terms” used in the Act. See 15 U.S. Code § 18a(d)(2)(A).
- 283 For an overview of FTC’ statutory authority and applicable legislative history, see, e.g., Memorandum, *ATS Tree Services, LLC v. Federal Trade Commission*, Case No. 2:24-cv-01743-KBH, D.I. 80 (E.D. PA. July 23, 2024), <https://www.courtlistener.com/docket/68472970/80/ats-tree-services-llc-v-federal-trade-commission/>.
- 284 Staci Zaretsky, “The Biggest of All Biglaw Firms in the United States (2024), Above The Law, May 22, 2024, <https://abovethelaw.com/2024/05/the-biggest-of-all-biglaw-firms-in-the-united-states-2024/>; Antitrust Division (ATR): FY 2025 Budget Request At A Glance, https://www.justice.gov/d9/2024-03/bs_section_ii_chapter_-_atr_-_02.29.24_omb_cleared_0.pdf; Federal Trade Commission, “Congressional Budget Justification: Fiscal Year 2025,” https://www.ftc.gov/system/files/ftc_gov/pdf/fy25-cbj.pdf.
- 285 Eric Katz, “The 9 most significant agency and program reforms in Biden’s budget,” *Government Executive*, March 11, 2024, <https://www.govexec.com/management/2024/03/the-nine-most-significant-agency-and-program-reforms-bidens-budget/394854/>.
- 286 Barry Barnett, “Antitrust Enforcers Must Have More Funding,” *Law360*, July 7, 2023, <https://www.susmangodfrey.com/wp-content/uploads/2023/07/Antitrust-Enforcers-Must-Have-More-Funding.pdf>.
- 287 Matt Stoller, Sarah Miller, and Zephyr Teachout, “Addressing Facebook and Google’s Harms Through a Regulated Competition Approach,” AELP, Working Paper Series on Corporate Power #2, April 2020, <https://www.economicliberties.us/our-work/addressing-facebook-and-googles-harms-through-a-regulated-competition-approach/>.
- 288 Letter from Senator Elizabeth Warren and Senator Mike Rounds to U.S. Secretary of Defense, March 18, 2024, <https://info.bracewell.com/40/2518/uploads/2024.03.18-letter.pdf>.
- 289 Letter from AELP, Washington Center for Equitable Growth, and Open Markets Institute on Antitrust Division Banking Guidelines Review to Makan Delrahim, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, pp. 11-12, Oct. 16, 2020 (calling for “more stringent enforcement of chartering and restrictions on banking activities,” “revisiting bank ownership limitations,” and “more stringent limitations on concentration, tying, and management interlocks”), <https://www.justice.gov/atr/page/file/1330256/download>; Jonathan Kanter, “Assistant Attorney General Jonathan Kanter Delivers Keynote Address at the Brookings institution’s Center on Regulation and Markets Event “Promoting Competition in Banking,” DOJ, June 30, 2023, <https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-keynote-address-brookings-institution>.

- 290 Shahid Naeem, “Capital One-Discover: A Competition Policy and Regulatory Deep Dive,” AELP, March 2024, <https://www.economicliberties.us/our-work/capital-one-discover-a-competition-policy-and-regulatory-deep-dive/>.
- 291 AELP, “Written Comments for HHS, DOJ, and FTC’s RFI on Consolidation in Health Care Markets,” June 5, 2024, <https://www.economicliberties.us/our-work/written-comments-for-rfi-on-consolidation-in-health-care-markets/>.
- 292 “Remarks by Chair Lina M. Khan As Prepared for Delivery Carnegie Endowment for International Peace,” FTC, March 13, 2024, https://www.ftc.gov/system/files/ftc_gov/pdf/2024.03.13-chair-khan-remarks-at-the-carnegie-endowment-for-intl-peace.pdf; Ganesh Sitaraman, “The National Security Case for Breaking Up Big Tech,” Knight First Amendment Institute at Columbia University, Jan. 30, 2020, <https://knightcolumbia.org/content/the-national-security-case-for-breaking-up-big-tech>.
- 293 Farm Action, “Agriculture Concentration Data,” July 2024, <https://farmaction.us/concentrationdata/>; Basel Musharbash, ““Kings Over the Necessaries of Life”: Monopolization and the Elimination of Competition in America’s Agriculture System,” Farm Action, Sept. 2024, <https://farmaction.us/kings-over-the-necessaries-of-life-monopolization-and-the-elimination-of-competition-in-americas-agriculture-system/>.
- 294 See, e.g., Matt Stoller, Sarah Miller, and Zephyr Teachout, “Addressing Facebook and Google’s Harms Through a Regulated Competition Approach,” AELP, Working Paper Series on Corporate Power #2, April 2020, <https://www.economicliberties.us/our-work/addressing-facebook-and-googles-harms-through-a-regulated-competition-approach/>; Kristen O’Shaughnessy, “Senator Josh Hawley Joins Growing Number in Congress proposing Sweeping Antitrust Reform Legislation,” White & Case, April 19, 2021, <https://www.whitecase.com/insight-alert/senator-josh-hawley-joins-growing-number-congress-proposing-sweeping-antitrust-reform>; The New York State Senate, Senate Bill S933A, <https://www.nysenate.gov/legislation/bills/2021/S933/amendment/A>; H.R.4813, Keep Big Tech Out of Finance Act, Nov. 13, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/4813/text>; Matt Stoller, Goliath, Simon & Schuster, 2019, 318; Daniel Hanley, “In Praise of Rules-Based Antitrust,” Competition Policy International Antitrust Chronicle, January 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4710387; U.S. Congress, Senate, Journalism Competition and Preservation Act of 2021, S.673, 117th Congress, 1st sess., introduced in Senate March 10, 2021, <https://www.congress.gov/bill/117th-congress/senate-bill/673>; The Office of U.S. Senator Sheldon Whitehouse for Rhode Island, “Whitehouse, Vance Introduce Bipartisan Legislation to Eliminate Tax Breaks for Corporate Consolidation,” press release, March 21, 2024, <https://www.whitehouse.senate.gov/news/release/whitehouse-vance-introduce-bipartisan-legislation-to-eliminate-tax-breaks-for-corporate-consolidation/>.
- 295 David Dayen, “How Chuck Schumer Deep-Sixed the Tech Antitrust Bills,” The American Prospect, Jan. 26, 2023, <https://prospect.org/power/2023-01-26-chuck-schumer-tech-antitrust-bills/>.
- 296 See, e.g., Kristen O’Shaughnessy, “Senator Josh Hawley Joins Growing Number in Congress proposing Sweeping Antitrust Reform Legislation,” White & Case, April 19, 2021, <https://www.whitecase.com/insight-alert/senator-josh-hawley-joins-growing-number-congress-proposing-sweeping-antitrust-reform>; The New York State Senate, Senate Bill S933A, <https://www.nysenate.gov/legislation/bills/2021/S933/amendment/A>.
- 297 For additional cases that should be overruled, see, e.g., Ron Knox, “Handcuffed By the Courts: How Judges Broke Our Monopoly Laws and What Congress Must Do to Repair Them,” Institute for Local Self-Reliance, March 2022, https://ilsr.org/wp-content/uploads/2022/03/ILSR-Issue-Brief_Handcuffed-By-the-Courts.pdf.
- 298 See, e.g., Daniel Hanley, “In Praise of Rules-Based Antitrust,” Competition Policy International Antitrust Chronicle, January 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4710387; Consolidation Prevention and Competition Promotion Act of 2019, S. 307, 116th Cong. § 1 (2019).
- 299 See, e.g., Mike Lee, U.S. Senator for Utah, “The America Act: Lee Introduces Bill to Protect Digital Advertising Competition,” March 30, 2023, <https://www.lee.senate.gov/2023/3/the-america-act>; Jon Brodtkin, “House committee approves bill that could break up Amazon, Apple, and Google,” Ars Technica, June 24, 2021, <https://arstechnica.com/tech-policy/2021/06/house-committee-oks-big-tech-breakups-and-massive-fines-in-antimonopoly-push/>; Balanced Economy Project, “Can breaking up tech monopolies tame disinformation and hate speech?,” May 29, 2024, <https://thecounterbalance.substack.com/p/can-breaking-up-tech-monopolies-tame>.
- 300 H.R. 4813, Keep Big Tech Out of Finance Act, Nov.13, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/4813/text>.
- 301 Brooks Barnes and Cecilia Kang, “Justice Dept. to Abolish Movie Distribution Rules Dating to 1949,” The New York Times, Nov. 18, 2019, <https://www.nytimes.com/2019/11/18/business/media/movie-distribution-rules.html>; Entertainment Strategy Guy, “Here’s a 7 Point Plan to Save Hollywood Workers and The Marketplace,” Aug. 14, 2024, <https://entertainmentstrategyguy.com/2024/08/14/heres-a-7-point-plan-to-save-hollywood-workers-and-the-marketplace/>.
- 302 Ashley Nowicki and Hayden Rooke-Ley, “Too big to care: It is time for a Glass-Steagall Act for health care,” The Hill, May 1, 2024, <https://thehill.com/opinion/healthcare/4633316-unitedhealth-group-change-cyberattack-glass-steagall-act-healthcare-too-big-to-fail/>.
- 303 Majority Staff Report and Recommendations, “Investigation of Competition in Digital Markets”; Lina M. Khan, “The Separation of Platforms and Commerce,” Columbia Law Review 119, no. 4, 2019, <https://columbialawreview.org/content/the-separation-of-platforms-and-commerce/>; Federal Communications Commission (FCC), “Net Neutrality,” <https://www.fcc.gov/net-neutrality>; see Order, In re: MCP No. 185 Open Internet Rule (FCC 24-52) Aug. 1, 2024, <https://docs.fcc.gov/public/attachments/DOC-404438A1.pdf>.
- 304 Matt Stoller, “It’s the Land, Stupid: How the Homebuilder Cartel Drives High Housing Prices,” BIG, Aug. 15, 2024, <https://www.thebignewsletter.com/p/its-the-land-stupid-how-the-homebuilder>.
- 305 See, e.g., “Welch and Wyden Introduce Legislation to Crack Down on Companies that Inflate Rents with Price-Fixing Algorithms,” press release, Jan. 30, 2024, <https://www.welch.senate.gov/welch-and-wyden-introduce-legislation-to-crack-down-on-companies-that-inflate-rents-with-price-fixing-algorithms/>.

- 306 See, e.g., Hal Singer, “Are Hedge Funds and Private Equity Firms Driving Up the Cost of Housing?” The Sling, July 12, 2024, <https://www.thesling.org/are-hedge-funds-and-private-equity-firms-driving-up-the-cost-of-housing-2/>; S. 2224 – 118th Congress, Stop Predatory Investing Act, <https://www.congress.gov/bill/118th-congress/senate-bill/2224>.
- 307 U.S. Congress, Senate, Journalism Competition and Preservation Act of 2021, S.673, 117th Congress, 1st sess., introduced in Senate March 10, 2021, <https://www.congress.gov/bill/117th-congress/senate-bill/673>.
- 308 Matt Stoller, Sarah Miller, and Zephyr Teachout, “Addressing Facebook and Google’s Harms Through a Regulated Competition Approach,” AELP, Working Paper Series on Corporate Power #2, April 2020, <https://www.economicliberties.us/our-work/addressing-facebook-and-googles-harms-through-a-regulated-competition-approach/>.
- 309 See, e.g., Lina M. Khan, “Amazon’s Antitrust Paradox,” Yale Law Journal 126, no. 3 (2017): 722–730.
- 310 See, e.g., “Warren, Lawmakers Renew Legislative Push to Stop Private Equity Looting,” press release, Oct. 10, 2024, <https://www.warren.senate.gov/newsroom/press-releases/warren-lawmakers-renew-legislative-push-to-stop-private-equity-looting>.
- 311 Coalition to Phase Out Corporate Tax Giveaways, <https://endtaxgiveaways.org/>.
- 312 See, e.g., The White House, Readout of the White House Convening on Right to Repair, Oct. 25, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/25/readout-of-the-white-house-convening-on-right-to-repair/>; Pat Garofalo, “Big Tech Guide for State Lawmakers: Adopt a ‘Right to Repair’ Law for Consumer Electronics,” AELP, Nov. 9, 2021, <https://www.economicliberties.us/our-work/adopt-a-right-to-repair-law/#>; Daniel A. Hanley, Claire Kelloway, and Sandeep Vaheesan, “Fixing America: Breaking Manufacturers’ Aftermarket Monopoly and Restoring Consumers’ Right to Repair,” Open Markets Institute, April 2020, <https://www.openmarketsinstitute.org/publications/fixing-america-breaking-manufacturers-aftermarket-monopoly-restoring-consumers-right-repair>.
- 313 See, e.g., Robert H. Lande and Richard O. Zerbe, “The Sherman Act is a No-Fault Monopolization Statute: A Textualist Demonstration,” American University Law Review 70, 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3580841&download=yes; Matt Stoller, Goliath, Simon & Schuster, 2019, 318.
- 314 The Office of U.S. Senator Sheldon Whitehouse for Rhode Island, “Whitehouse, Vance Introduce Bipartisan Legislation to Eliminate Tax Breaks for Corporate Consolidation,” press release, March 21, 2024, <https://www.whitehouse.senate.gov/news/release/whitehouse-vance-introduce-bipartisan-legislation-to-eliminate-tax-breaks-for-corporate-consolidation/>.
- 315 See, e.g., The Office of Senator Elizabeth Warren, “Warren to Fed, Treasury: Your New \$1.45 Trillion Dollar Bailout Loan Program for Businesses Fails to Protect Workers, Taxpayers and the Economy,” press release, April 16, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-to-fed-treasury-your-new-145-trillion-dollar-bailout-loan-program-for-businesses-fails-to-protect-workers-taxpayers-and-the-economy>; Stop Wall Street Looting Act, S. 2155, 116th Cong. § 1 (2019).
- 316 See, e.g., Ashcroft v. Iqbal, 556 U.S. 662 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007); Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986).
- 317 See, e.g., Letter from Freedom of the Press Foundation et al. to the Judicial Conference, Aug. 11, 2023, https://fingfx.thomsonreuters.com/gfx/legaldocs/gkvlxlymmvb/09122023remote_letter.pdf.
- 318 See, e.g., Free Law Project, “Facts About PACER and CM/ECF,” <https://free.law/pacer-facts/>.

**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.