salon

In antitrust, size isn't everything

Marshall Auerback

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When it comes to businesses in need of reform, the saying "size isn't everything" should apply. Unfortunately, this isn't the thinking in the realm of antitrust, where size is seen as inextricably linked to questions of competitiveness, political corruption, the stifling of innovation and distortions of economic power. At least that's the case made by Professor Tim Wu, in his new work, "The Curse of Bigness: Antitrust in the New Gilded Age." Reviewing the book, New York Times correspondent David Leonhardt accepts Wu's central premise:

"The new corporate behemoths have been very good for their executives and largest shareholders — and bad for almost everyone else. Sooner or later, the companies tend to raise prices. They hold down wages, because where else are workers going to go? They use their resources to sway government policy. Many of our economic ills — like income stagnation and a decline in entrepreneurship — stem partly from corporate gigantism."

If every corporate behemoth is seen as a problematic nail, then a resort to the antitrust hammer is understandable. But it is questionable whether or not the ills outlined above by Wu and Leonhardt are a product of economic gigantism per se. A better reason why these pathologies exist is the following: a sustained multi-decade attack on unionization, the concomitant growing imbalance between capital and labor, the ascendancy of the doctrine of "shareholder capitalism" (which has induced corporations to prioritize share price performance over R&D and investment), global labor arbitrage, and the existence of America's "pay to play" system of politics (entrenched and exacerbated by recent Supreme Court decisions, such as Citizens United).

To address these problems, we need solutions that go well beyond breaking up a big corporation just because it happens to be big, or simply embracing the neoliberal faith that "letting markets be markets" will do the job. Or, for that matter, relying on an archaic regulatory framework that sits uneasily with our 21st-century version of capitalism. While it is understandable why antitrust proponents such as Wu evoke early examples of trust-busters such as Theodore Roosevelt to garner support and provide historical legitimacy for their arguments, it's hard to see how rules promulgated in the context of an early 20th-century economy are germane to a 21st-century global economy dominated by very different kinds of industries and market structures.

Ironically, a fitting lesson to be drawn from our nation's past is the one that today's antitrust enthusiasts generally ignore. As the economists Robert Atkinson and Michael Lind illustrate, one of the earliest trust-busters, President Theodore Roosevelt, argued that "the remedy for abuse was not mindlessly breaking up big firms, but preventing specific abuses by means of a strong national regulation of interstate corporations." Likewise, his cousin Franklin Delano Roosevelt ultimately concluded that optimal outcomes were more likely to be achieved via “prudent government oversight and using antitrust laws to police abuses — not to break up every big company simply because it’s big.”

Atkinson and Lind expand these ideas in their book "Big Is Beautiful: Debunking the Myth of Small Business." On the size metric, they make the following observation: “On virtually every meaningful indicator, including wages, productivity, environmental protection, exporting, innovation, employment diversity and tax compliance, large firms as a group significantly outperform small firms.” Echoing the Roosevelts, the authors argue that the remedy for abuse is not mindlessly breaking up big firms, but preventing specific abuses by means of a strong national regulation of businesses, regardless of size. They also point out that the corollary — namely, that small is good — is often wrong as well, in spite of many Americans’ long-standing belief that small business is the main engine of job growth and economic opportunity:

“In 2015, small enterprises were four times more likely to lay off their workers than large ones. Workers employed by large firms also earned more — on average, 54 percent more than workers at small companies. Companies with more than 500 employees offer 2.5 times more paid leave and insurance benefits and 3.9 times more in retirement benefits than workers at firms with fewer than 100 employees. Large firms are also more likely to be unionized, and they employ a greater share of women and minorities than small firms do, making Big Business an unlikely enemy of progressives.”

Even if small companies do not constitute the engine of growth, are they not the main avatars of entrepreneurialism and American innovation? While the image of Steve Jobs and Steve Wozniak beavering away in a garage to create Apple has done much to legitimize this myth, in reality, as Atkinson and Lind document, “the tech revolution owes far more to teams of scientists and engineers working in well-funded corporate labs than to college dropouts tinkering at home.” In support of this proposition, the authors cite the study of professors Anne Marie Knott and Carl Vieregger, which shows that “large firms not only invest more in R&D than small firms, they get more innovation output per dollar invested.”

To the extent that American innovation and entrepreneurialism have dissipated in the last few decades, the cause is less “economic gigantism,” and more financialization, especially post the establishment of SEC Rule 10b-18, which engendered an explosion in share buybacks (until the rule was introduced, companies buying back their own shares was considered a form of stock manipulation). The impact of this rule cannot be overstated: Instead of spending needed dollars on R&D or investment, billions of dollars of corporate cash flow have been deployed toward stock repurchases to fatten executive compensation. An additional contributing factor has been the diminishment of government involvement in the economy. This is a salient consideration given the state’s historic contributing role in “transformational technologies from the internet to GPS,” as venture capitalist William Janeway has noted in his book "Doing Capitalism in the Innovation Economy."

What about the notion that economic size has contributed to the problem of income stagnation and non-existent wage growth? Here again, the evidence suggests that other factors are more important. In fact, as the economists Lance Taylor and Özlem Ömer illustrate in a recent study, the “stagnant” low-wage sectors — nursing homes, fast food, construction, education and health, business services, transportation and warehousing, maids — are the least concentrated with the lowest profit margins. Concentration per se can’t explain low wages in these industries.

Companies in these sectors are usually the ones that complain the most about a $15/hour minimum wage, or the unionization of their work forces, claiming they don't have the economic resources to pay the kinds of wages and benefits often secured in union-negotiated deals.

An inflation-eroded minimum wage, the absence of unions, replacement of full-time employees by contractors and mass low-wage immigration are better explanations for wage stagnation, and non-enforcement of antitrust remedies is irrelevant to those causes. Wage and labor laws matter. The decades-long sustained attacks on unions have given corporations, both large and small, the power to break the traditional nexus between worker productivity and wage gains. This development has generated a massive shift in income from labor to capital over the past 35 years. To avert this problem, policy should therefore be fighting against worker exploitation, irrespective of whether workers are employed by Amazon or mom-and-pop sweatshops. Targeting based on size alone won't get rid of all of the abuses.

In fact, Amazon implicitly proved that big is not always bad and sometimes can be better. Recall how quickly the company recently introduced the $15/hour minimum wage in response to vast public pressure. Ideally, a robust competing private power center — i.e., organized labor — means corporations, in the most feral analysis, have to fight a two-front war. How to get there from here is a problem the Democrats might be spending more time thinking about, assuming they can take their single-minded focus away from the evils of economic gigantism.

For fragmented "sweatshop" industries where a "big three tripartite" model among government, unions and big business doesn't apply, governments can substitute unionized wage boards that were created in the early 20th century in the UK and copied in the United States. New York Governor Andrew Cuomo, for example, has used a state wage board to raise the fast-food wage. Wage boards with tripartite government-employer-worker representation can be used by U.S. states in low-wage sectors that can't be removed to another state or country (construction, health care, nursing, restaurants). They should have power over hours and working conditions, not just wages.

As far as high-tech industries go, the question of regulation vs. breaking up may miss the main worries, especially in regard to some of our newer 21st-century behemoths, such as Google or Facebook. Facebook, for example, may have some features of being a broadcaster (which would suggest FCC-style oversight), but that is still a relatively small part of its business. Similarly, it would be difficult to call Google a broadcaster in the traditional sense of an FCC-regulated company, although it should be subject to the 21st-century equivalent of fair broadcast rules.

Whether the FCC is fully equipped to promulgate and enforce those rules is another question. Communications have changed a lot over the last half-century, and media have taken on a multiplicity of functions that were not in existence when the FCC was established. Using a "horse and carriage" model for an internet superhighway is problematic.

Both Facebook and Google collect massive amounts of private data (which makes them different from broadcasters), sell heavily targeted advertising, offer tech solutions to the larger social media world, and provide forms of services (search and personal networking). The regulation would need to come to grips with the interrelationship of the four or the nature of the vertical integration. Creating eight "mini-Facebooks" doesn't seem like a good way to do this, especially if the problem of how the company handles your data isn't adequately addressed. Rather, the

European Union's General Data Protection Regulation represents a good starting basis for a new regulatory framework, because it regulates function, regardless of size.

What about our "pay to play" political system? Doesn't corporate size play a role here? Yes, but this is because companies scale up in size in order to maximize their abilities to "pay to play," as Professor Thomas Ferguson asserts in his seminal work, "Golden Rule; The Investment Theory of Party Competition and the Logic of Money-Driven Political Systems": "With enough money, candidates can pole vault over the whole rotting structure of party politics in America."

The scale up, however, is a function of inadequate restrictions on private campaign finance. Ferguson's book demonstrates that powerful blocs of business elites, large *and*small, with durable (largely economic) interests are a constant feature of American politics. Smaller businesses do it as well. They too have an incentive to "scale up" via a trade association to maximize the impact of their "political investment." Change the incentives in "pay to play," and size becomes less of a polluting impact on the American polity. The corollary also applies: If the government were suddenly to embrace an antitrust agenda, and aggressively break up the big corporate behemoths, absent campaign finance reform, he who has the gold would still rule.

More generally, it is worth considering the whole underlying premise that market considerations on their own deliver optimal social outcomes. Consider that in times of grave national emergency, such as war, market mechanisms are generally subjugated to broader strategic objectives. We didn't use "the market" to help us win World War II, during which the U.S. rationed raw materials, established wage and price controls, capped profits, organized cartels of manufacturers, set production targets and directed labor into war munitions. Civilians were exhorted to put their savings into wartime bonds, and the economy was largely controlled by federal bureaucrats like Simon Kuznets and generals like Brehon Somervell and Bill Knudsen. By no means am I suggesting a comparable scale of government involvement today; I am simply questioning the optimistic premise underlying traditional market-oriented antitrust remedies. Some national development/government-led industrial policy must play a role in shaping market mechanisms to broader public purpose.

Above all else, the implicit assumption of the antitrusters seems to be that America is not capitalist enough, and that more market competition will raise wages and lower prices and reduce inequality. They posit a minimal role for a state involvement, even though the state has historically played a large role in national development, innovation and entrepreneurialism. The monomaniacal focus on antitrust ironically sounds more like something from the Cato Institute or the Koch brothers, rather than a progressive plan to improve the aggregate quality of life for the majority of Americans. Antitrust is an instrument that has its place, but simply placing faith in benign outcomes by "letting markets be markets," or assuming that "big is bad," are theological doctrines, not real solutions.