



# Communication Law & Ethics

**RU COMS 400 Unit 12**

**Competition, antitrust & the media**



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Class web site:

[revolutionsincommunication.com/law](http://revolutionsincommunication.com/law)

# On Track: Unit 12 Antitrust

- Read Unit 12 on web site
- Consider research / moot court brief
- Take Quiz 12

Structure of this section:

- Anti-monopoly laws history
- Current antitrust cases against "big tech"

# Laws & Cases

- Sherman antitrust act, 1890
- US v Standard Oil, 1911
- Motion Picture Patents Co v Universal , 1915
- Clayton antitrust act, 1915
- AP v International News Service, 1918
- NBC v US, 1943
- AP v US, 1945
- US v Paramount, 1948
- Loraine Journal v US , 1951



# Modern monopoly problem

- Corporate concentration has reached a level today not seen since years before the Great Depression, when industrial monopolies dominated the American landscape and the American economy according to the [Institute for Local Self Reliance](#).
- Excessive concentration of financial power leads to unemployment, high costs for essentials like prescription drugs, and failing farms and small businesses,



# Modern monopoly problem

- We've lost 65,000 small independent retailers in the last decade. Walmart accounts for one in four dollars that Americans spend on groceries and captures more than half of grocery sales in 43 metropolitan areas.
- One in three local banks has disappeared over the last ten years, leaving one-third of U.S. counties without a local financial institution. On Wall Street, four big banks control more than \$7 trillion in assets, or 41 percent of the assets of the entire U.S. banking system.



**FREE PARKING**  
When you land on this space, you may park your car for free. If you are already parked, you may move your car to any other free parking space.

**CHANCE**  
When you land on this space, you may choose to roll the dice again.

**STRAND** \$330  
When you land on this space, you must pay \$330 to the bank.

**TRAFALGAR SQUARE** \$340  
When you land on this space, you must pay \$340 to the bank.

**PENITENT SQUARE** \$360  
When you land on this space, you must pay \$360 to the bank.

**WATER SWIRLS** \$150  
When you land on this space, you must pay \$150 to the bank.

**WATER SWIRLS** \$360  
When you land on this space, you must pay \$360 to the bank.

**GO TO JAIL**  
When you land on this space, you must go to jail immediately. The next time you roll the dice, you must roll a 7 or 11 to get out of jail.

**100**  
**50**  
**20**  
**10**  
**5**  
**1**

**WHITE WHITE**  
When you land on this space, you may choose to roll the dice again.

**FREE PARKING**  
When you land on this space, you may park your car for free. If you are already parked, you may move your car to any other free parking space.

**1**  
**5**  
**10**  
**20**  
**50**  
**100**  
**500**

**COMMUNITY CHEST**  
When you land on this space, you may choose to roll the dice again.

**STOP**

**CHANCE**

**FREE PARKING**  
**CHANCE**  
**STRAND** \$330  
**CHANCE**  
**TRAFALGAR SQUARE** \$340  
**PENITENT SQUARE** \$360  
**WATER SWIRLS** \$150  
**WATER SWIRLS** \$360  
**GO TO JAIL**  
**RESIST STREET** \$300  
**OUTRAGE STREET** \$300  
**COMMUNITY CHEST**  
**BOND STREET** \$320  
**LIFEBLOOD STATION** \$300  
**CHANCE**  
**PARK LANE**  
**SUPER TAX** PAY \$100  
**MAYFAIR** \$400  
**JUST VISITING**  
**PENTONVILLE ROAD** \$120  
**EUSTON ROAD** \$100  
**CHANCE**  
**KING'S CROSS STATION** \$200  
**INCOME TAX** PAY 10% OR \$200  
**WHITECHAPEL ROAD** \$60  
**COMMUNITY CHEST**  
**OLD KENT ROAD** \$60  
**COLLECT \$200 SALARY AS YOU PASS**

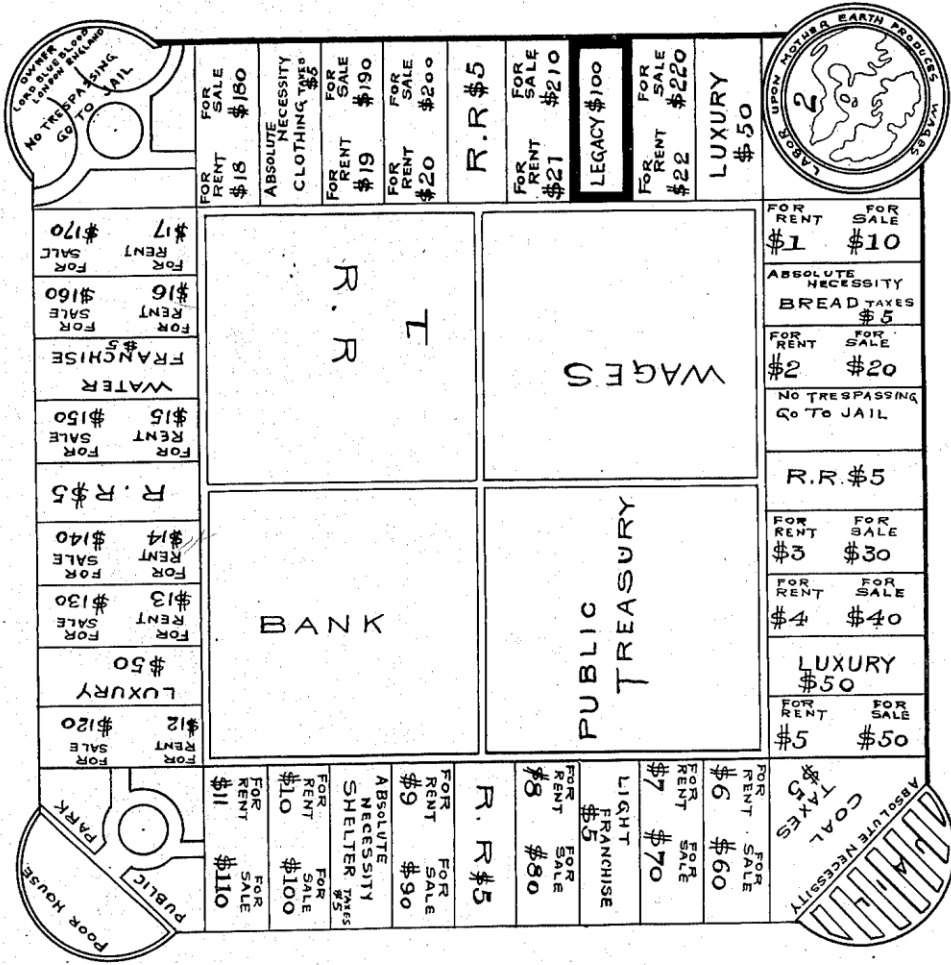
**TITLE DEED HARLBOROUGH STREET**  
Rent \$14  
With 1 House \$ 70  
With 2 Houses 900  
With 3 Houses 550  
With 4 Houses 750  
With HOTEL \$950  
Mortgage Value \$90  
Houses cost \$100 each  
Hotels, \$100 plus 4 Houses

**TITLE DEED MARYLEBOE STATION**  
Rent \$25  
If 2 Railways are crossed 50  
With 1 House \$ 30  
With 2 Houses 270  
With 3 Houses 400  
Mortgage Value 100

**TITLE DEED EUSTON ROAD**  
**TITLE DEED PENTONVILLE ROAD**  
**TITLE DEED THE ANGEL ISLINGTON**  
Rent \$6  
With 1 House \$ 30  
With 2 Houses 90  
With 3 Houses 270  
With 4 Houses 400  
With HOTEL \$50  
Mortgage Value \$50  
Houses cost \$50 each  
Hotels, \$50 plus 4 Houses

**TITLE DEED OXFORD STREET**  
Rent \$20  
With 1 House \$ 130  
With 2 Houses 390  
With 3 Houses 900  
With 4 Houses 1100  
With HOTEL \$175  
Mortgage Value \$175  
Houses cost \$200 each  
Hotels, \$200 plus 4 Houses

# Landlord's Game 1904



American anti-monopolist [Lizzie Magie](#) created [The Landlord's Game](#), which she hoped would explain the theory of [single-tax](#). It was intended as an educational tool to illustrate the negative aspects of concentrating land in private [monopolies](#).

Fig. 1.

Witnesses  
*F. L. Orvand.*  
*M. H. Orvand.*

Inventor  
*Lizzie Magie*  
 by *John A. Paul*  
 Attorney

# 1890 monopoly was a problem

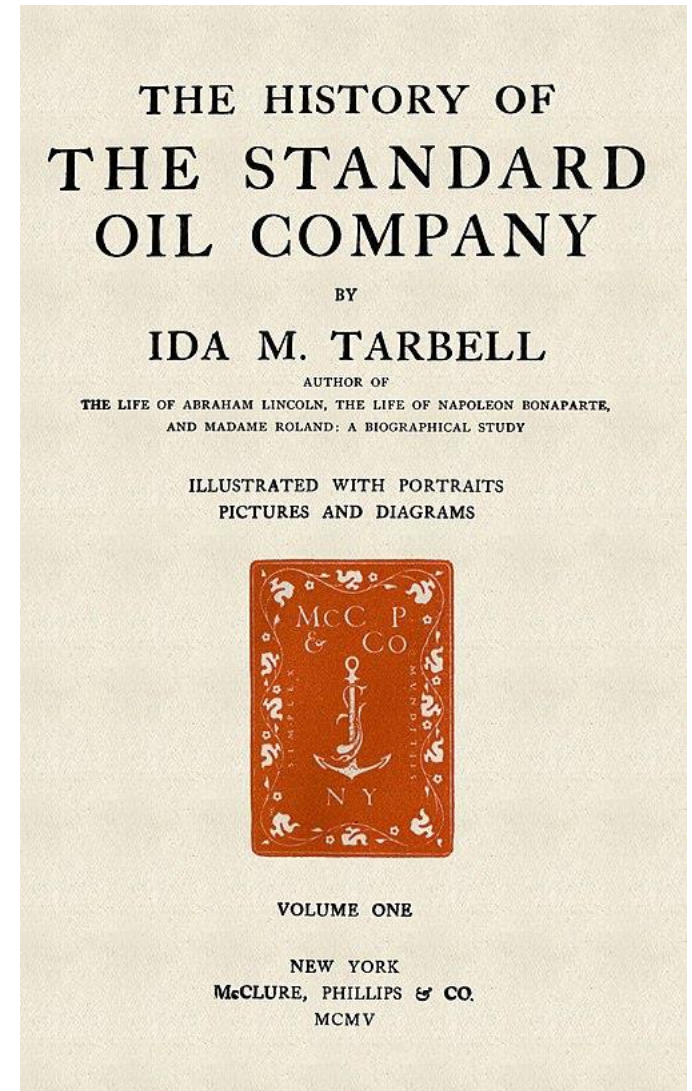
- Big tobacco
- Standard Oil
- Telephone & telegraph
- Associated Press
- Movies
- Baseball



THE BOSSES OF THE SENATE.

# Muckraking adds to pressure

- Tarbell's 1904 book documented unethical behavior to dominate the oil market





# Antitrust law (very basic)

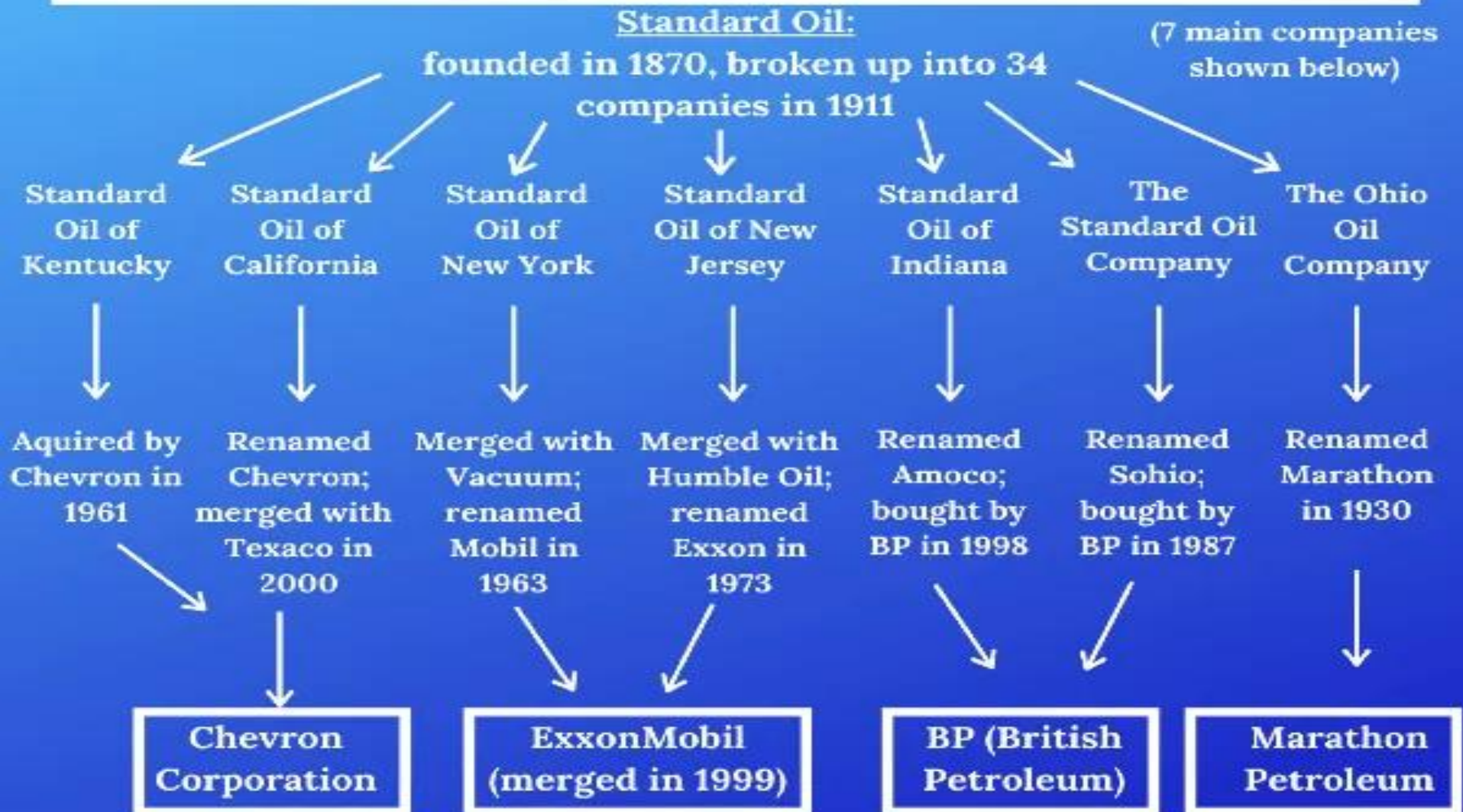
- **Sherman Antitrust Act 1890**
  - Outlaws agreements among competitors to fix prices or wages, rig bids, or allocate customers, workers, or markets.
  - Inspired by Standard Oil monopoly
- **Clayton antitrust act 1914**
  - prohibits action that restricts competition, like tying agreements, predatory pricing, and anti-competitive mergers

# Standard Oil Trust broken

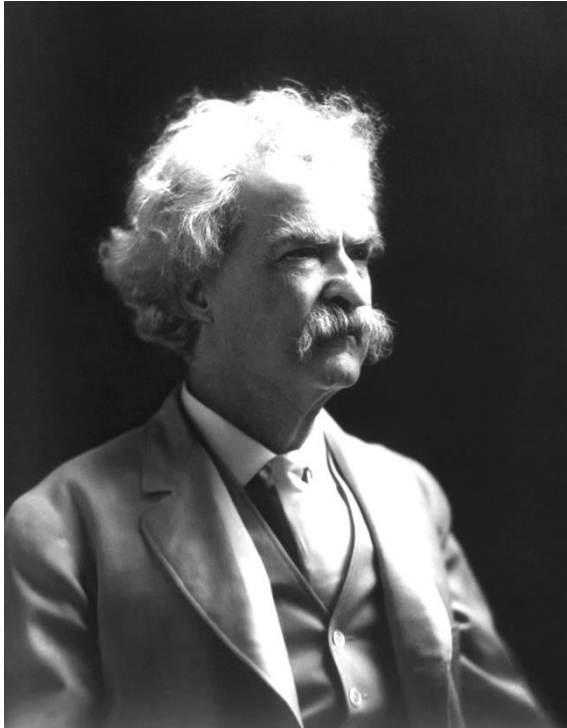


- 1906 on of first suits under the [Sherman Antitrust Act](#) of 1890;
- 1911 the New Jersey company was ordered to [divest](#) itself of its major holdings—33 companies in all.
- Standard of Ohio, Indiana, NY, NJ, become Amoco, Chevron, Exxon, Arco ...

# THE LEGACY OF THE BREAKUP OF STANDARD OIL



# The Brilliant Associated Press



- “There are only two forces that can carry light to all corners of the globe -- the sun in the heavens and the Associated Press down here. I may seem to be flattering the sun, but I do not mean to do so...” Mark Twain, 1906

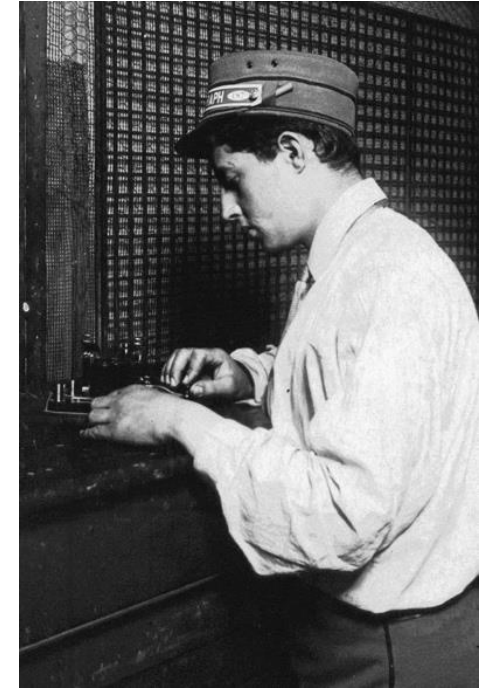
# AP criticized, investigated



- Congress -- 96 bills, 48 committee reports on AP and Western Union, 1866 – 1910
- AP monopoly meant that news of regional controversy would come from biased sources.
- Cartoon (above) from The Masses pictures AP poisoning the well of news about the West Virginia mine wars around 1912.

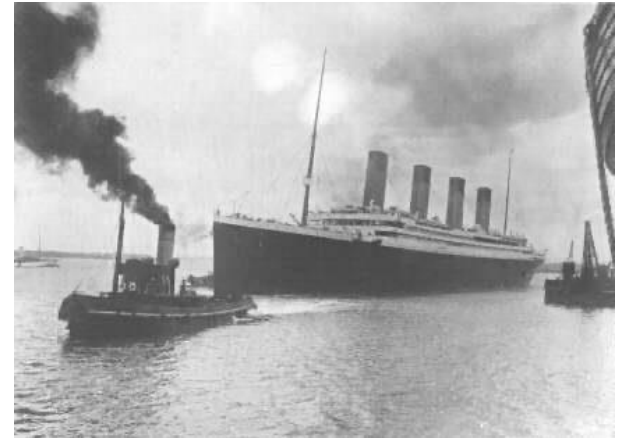
# Opposition to monopoly

- AP-Western Union was one of dozens of trusts they tried to break up
- United Press (Scripps), International News (Hearst) formed to compete with AP 1907
- AP finally loses anti-trust suit 1945



# 1912 Titanic disaster

- American Marconi radio monopoly held back technology and safety standards
- Marconi “spark” transmission wireless technology was obsolete
- Should have switched to “continuous wave” that would have allowed more than one channel.

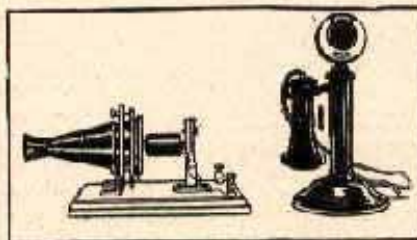


Not all  
Trusts  
were  
busted

Kingsbury  
commitment  
– monopoly  
in return for  
regulation

# How the Public Profits By Telephone Improvements

*Here is a big fact in the telephone progress of this country:*



Original  
Bell Telephone  
1876

Standard  
Bell Telephone  
To-day

Hand in hand with inventions and developments which have improved the service many fold have come operating economies that have greatly cut its cost.

To appreciate these betterments and their resulting economies, consider a few examples:

Your present telephone instrument had seventy-two ancestors; it is better and cheaper than any of them.

Time was when a switchboard required a room full of boys to handle the calls of a few hundred subscribers. Today, two or three girls will serve a greater number without confusion and very much more promptly.

A three-inch underground cable now carries as many as eight hundred wires. If strung in the old way, these would require four sets of poles, each with twenty cross arms—a congestion utterly prohibitive in city streets.

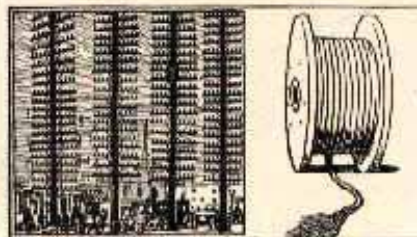
These are some of the familiar improvements. They have saved tens of millions of dollars. But those which have had the most radical effect, resulting in the largest economies and putting the telephone within everyone's reach, are too technical to describe here. And their value can no more be estimated than can the value of the invention of the automobile.

This progress in economy, as well as in service, has given the United States the Bell System with about ten times as many telephones, proportionate to the population, as in all Europe.



Early  
Telephone  
Exchange

Typical  
Present-day  
Exchange



If City Wires  
Were Carried  
Overhead

800 Wires  
in Underground  
Cable



AMERICAN TELEPHONE AND TELEGRAPH COMPANY  
AND ASSOCIATED COMPANIES

*One Policy*

*One System*

*Universal Service*

## WITHIN THE REACH OF MILLIONS



**T**HE most valuable things on earth are the commonest things. Gifts of Mother Nature—air, rain, sunlight and colors in the sky, grass underfoot and foliage overhead. Gifts of human nature—love, loyalty, handclasps and friendly speech.

Then, of material things, some of the most useful are the commonest and cheapest. These we take almost for granted. There is no way to reckon their worth.

It is a great tribute to the value of the telephone that within a few short generations it has come to be ranked among these common things. Its daily use is a habit of millions of people. It speeds and eases and simplifies living. It extends the range of your own personality. It offers you gayety, solace, security—a swift messenger in time of need.

Daily it saves untold expense and waste, multiplies earning power, sweeps away confusion. Binds together the human fabric. Helps the individual man and woman to triumph over the complexities of a vast world.

You cannot reckon fully the worth of so useful and universal a thing as the telephone. You can only know that its value may be infinite.

**A M E R I C A N T E L E P H O N E  
A N D T E L E G R A P H C O M P A N Y**



AT&T lobbied for  
"regulated monopoly"  
status 1913 Kingsbury  
Commitment

Electric utilities and  
cable companies have  
also operated as  
regulated monopolies

Newspaper monopolies  
were made legal under  
the "newspaper  
preservation act" of  
1980

# Anti Trust law (very basic)

- Some companies were split up (Standard Oil) and others retained “natural” monopoly status (AT&T)
  - “Bell system” phone cos broken up in 1984
- IBM being investigated by Justice Dept early 80s when MS and Apple emerged
- Sat radio & tv OK’d only if competitive  
1990s / Now one satellite radio and one satellite TV system



# Principles of competition

- Competition (antitrust) laws protect the marketplace by prohibiting anti-competitive practices and regulating mergers and acquisitions that could reduce competition.
- The premise of antitrust laws is that consumers benefit when there is full and fair competition.

# Regulatory philosophies

- **Liberal** - 1930s thru 70s Warren court — Pro Regulation (per se test)
  - Per se — by itself — Market dominance is itself evidence of anti competitive behavior. If Apple or Microsoft has 90 percent of the market, it is per se a monopoly
- **Neo-conservative** -- (80s – 2020s) The market tends to be self correcting. If companies get too big they will divest.
  - Ex: IBM lost to small computer companies like Microsoft when it was essentially a monopoly.



# Vertical vs Horizontal monopoly

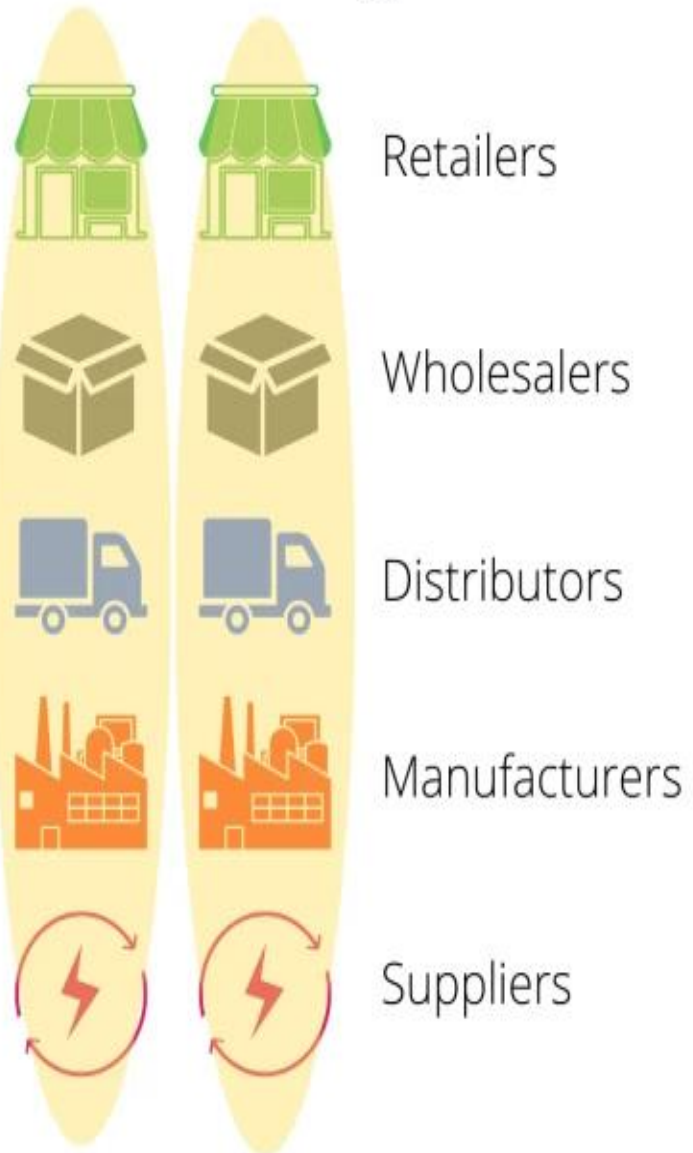
- Vertical – From oil field to the refinery to the consumer.
- Horizontal – Owns one key part of an industry = (ex: all oil refineries)
- Oligopoly - limited competition, in which a market is shared by a small number of producers or sellers.



# Vertical integration

# Horizontal integration

Supply chain



# Anti-Trust - Refusal to deal

- **Loraine Journal Co. v. US 1951** — An Ohio newspaper refused to accept advertising from anyone who bought ads on a new radio station. This is a classic “refusal to deal”
- **US v. Microsoft, 1998**, refusal to program for Netscape browser was anti-competitive “refusal to deal.” Settled by consent decree.

# Regulating media structure

- **NBC v US, 1942**
  - Originally two networks – blue and red
  - Blue network becomes ABC following anti trust decision by US Supreme Court
- **Associated Press v. U.S. 1945** — AP membership presented “barriers to entry”

# NBC red and blue 1926



# Anti-Trust & newspapers

- In a 1969 case, US v Citizen Publishing, the Supreme Court struck down “joint operating agreements” of morning & afternoon papers
- **Newspaper Preservation Act of 1970** Congress legalized JOAs.
- Most city newspapers merged, so you had double names on the banner: Richmond Times-Dispatch; Roanoke Times-World; etc.
- Monopoly status was one reason newspapers missed the digital curve in the road



# Structure of broadcasting

- Broadcasting is highly structured in 1980
- Rule of sevens (AM, FM, TV) limits ownership
- Cross ownership not allowed  
(phone-cable-newspapers-tv)
- Community radio local ownership
- Ends with Telecomm act 1996



# Telecommunications Act 1996

- Primary goal -- "to let anyone enter any comm business – and to let any comm business compete in any market against any other." (Ex: Verizon can offer cable and Shentel can offer broadband).
- All radio consolidated; TV ownership limited to 25% to 35% of households nationwide; ends rule of 7s.
- Often criticized for accelerating media market concentration
- Historian Howard Zinn said the act was a major factor in the loss of alternative and community media

# Cable TV – a declining monopoly

- Franchising was required via city or county government – But usually only one bid.
- Costs were sky high, service low.
- In 2023 streaming surpassed traditional cable
- Cable companies switched to broadband and beat telco DSLs when fiber wasn't available.
- Telcos (Verizon) had no incentive to serve small markets. Still, they fought municipal broadband legislation



# Media mergers



















- Anti-trust (anti-monopoly) law means US Justice Dept. blocks some mergers
- The Justice Department and Federal Trade Commission examine proposed mergers for "any reasonably available and reliable evidence to address the central question of whether a ... merger may substantially lessen competition."
- Still arguing over merger of DirecTV and Dish Network

# Media mergers

- **Warner Media and Discovery** - Feb., 2022, \$43 billion, combines HBO, Warner Bros. television and film studios and the sports-heavy TNT and TBS networks with Discovery's library of nonfiction programming, which includes Oprah Winfrey's OWN, HGTV, the Food Network and Animal Planet.
- **Microsoft acquires Activision** (Blizzard /World of Warcraft) in a \$68.7 billion deal proposed Jan 18, 2022.
- **AT&T Inc. acquires Time Warner Inc.** Oct. 22, 2016, \$101 billion (including debt)
- **Charter Communications Inc. acquires Time Warner Cable Inc.**, May 26, 2015, \$87.4 billion (including debt)
- **AT&T Inc. acquires DirecTV.** May 18, 2014, \$66.5 billion.

# Market concentration

## The Big 3 rule the market

	 	 	 
US MARKET SHARE (%)			
E-Commerce Sales	—	—	37.7% 
Digital Ad Spending	37.2% 	22.1% 	8.8% 
Social Ad Spending	—	83.3% 	—
Mobile Ad Spending	33.0% 	30.8% 	5.2% 
USER SHARE (%)			
Connected TV Users	16.8% 	—	26.6% 
Over-the-Top Users	96.2% (YouTube) 	—	47.1% 



# Big Tech monopolies

- Amazon, Apple, Facebook, Google, and Microsoft have become powerful online gatekeepers that control a growing share of our commerce, news, and information.
- Some 2,000 counties now lack daily newspapers, a trend that is in part a result of Google and Facebook's appropriation of digital ad dollars.
- Thousands of small businesses have been hurt by Amazon's marketing practices



# Big Tech monopolies

- Google has an 88 percent market share in search advertising, Facebook owns 77 percent of mobile social traffic and Amazon has a 74 percent share in the e-book market.
- “In classic economic terms, all three are monopolies,” Jonathan Taplin says.

# Recent US antitrust suits

- **US v Apple**, April 2024 for “monopolizing smartphones.”
- **US v Amazon**, 2023 for using “anticompetitive and unfair strategies to illegally maintain its monopoly power.”
- **US v Google**, 2023, for monopolizing advertising market
- **FTC v Facebook**, 2022 over mergers
- EU competition lawsuits against all of big tech companies

# Mergers

In late January, the Justice Department sued to block the business software company Hewlett Packard Enterprise from buying Juniper Networks, a networking firm, for \$14 billion. It was the first lawsuit to challenge a tech deal in Mr. Trump's second term.

- During the first Trump administration, the Justice Department unsuccessfully challenged AT&T's purchase of Time Warner



# Break up the monopolies?

- The Electronic Frontier Foundation argues that ongoing regulation is needed, and “breaking up” monopolies is just the first step in achieving a pluralistic, diverse Internet.
- Advocates of big-tech breakup often point to precedent set by the antitrust cases of the twentieth century. Standard Oil. NBC.
- One focus is the Google (Alphabet) advertising agency that should not be tied to the search engine

# Break up the monopolies?

- But not all of them broke up. Microsoft and IBM didn't
- AT&T's partly broke up in 1983 because they wanted the freedom to enter new markets.
- Thus, antitrust action had a positive influence through consent decrees resulting from antitrust action.
- Consent decrees in the mid-1950s required both IBM and AT&T **to license key technologies for free or nearly free.** Transistor technology started the microchip industry

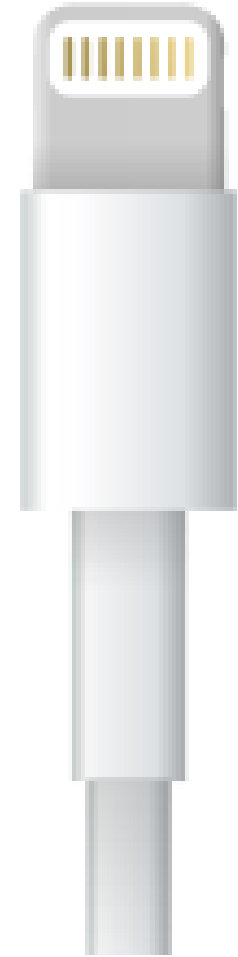


# European Digital Markets Act

- March 7, 2024 new law in force
- Google and Apple must open their mobile operating systems to downloads and payments outside their app stores.
- No more default browsers like Safari on iPhone or default search engines like Bing on Windows.
- Users can now de-link Instagram and FB
- Messaging apps — we're talking iMessage, WhatsApp and Signal — have to be interoperable.

# Apple lightning connector in EU

- After 2024, all smart phones in EU – including Apple – must use the USB C connector
- The old lightning connector isn't illegal, but new phones won't have it
- Savings of 250 m Euros
- Breaks up some of Apple monopoly



# US v Meta

- Federal Trade Commission
- 3 month courtroom trial
- claims that the social media giant snuffed out competitors when it bought Instagram and WhatsApp.

# US v Meta 2025



Standout moment from Mark Zuckerberg's testimony in Meta's antitrust trial

# Google, Amazon, Apple

- Antitrust suits ongoing in 2025
- April 10 -- federal court ruled Google acted illegally to maintain a monopoly in some online advertising technology.
- New era of antitrust scrutiny actually started in the first Trump administration
- “It’s now a bipartisan issue, and there’s a consensus around the need for robust antitrust enforcement,” Gail Slater head of antitrust division at Justice Dept.

# Amazon

- F.T.C. accused Amazon in a 2023 lawsuit of squeezing small merchants that use its marketplace to sell to consumers. A federal judge rejected Amazon's attempt to dismiss the case last year. It is scheduled to go to trial next year.

# Apple

- Justice Department sued Apple 2024 over claims that the company's interwoven ecosystem of technology makes it hard for consumers to ditch their iPhones and iPads. Apple has asked a federal judge to dismiss the lawsuit.



August 6, 2024 - Court rules Google =  
illegal monopoly on search

Ruling paves way for breakup of Alphabet  
Case currently on appeal

April 17, 2025 - Court rules Google must  
sell publisher ad tools

- Publisher ad services
- Market for ad exchanges between  
buyers and sellers



- **Google Ads for businesses wishing to advertise:**

- Advertisers create ads (text, image, video, etc.) and **bid** on relevant keywords or targeting options to have their ads appear on search results, display network websites, or YouTube.
- **Tools & features:** Keyword Planner, Manager Accounts, and the Google Ads Mobile App.

- **Google Ad Manager for publishers who accept advertising:**

Ad Manager helps publishers create and manage ad slots on their websites or apps, and sell that inventory to advertisers through various ad formats.

- **Used for:** Display ads, video ads, and native ads on a publisher's website or app.

Ad Manager offers features for inventory management, ad serving, reporting, and analytics;



# Not everyone is against big tech

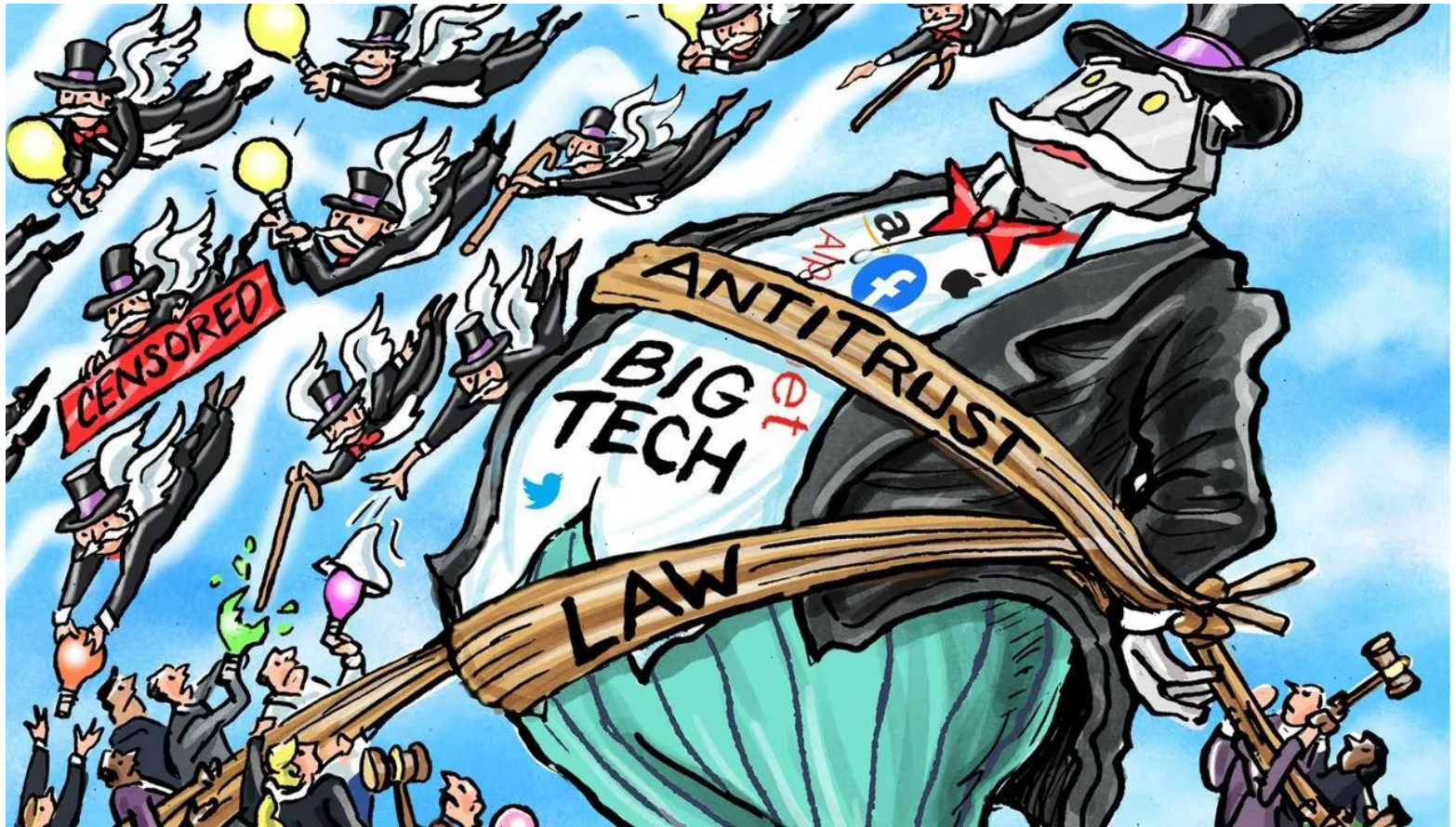
- Owners of “Within” didn’t like it when the Justice Dept. objected to Meta’s purchase of their company. Investors who back small companies often hope to cash out by being acquired by a tech giant.
- In an anti-competitive environment, it is the best way, sometimes only way, to generate wealth



# Live Nation / Ticketmaster

- Merged in 2010 & agreed to avoid anti-competitive behaviors
- Investigated 2012 - 2022
- Antitrust suit filed 2023 / Biden admin
- In court Feb-March 2026
- Settled without knowledge of federal trial attorneys in March 2026
- Three lead DOJ attorneys quit

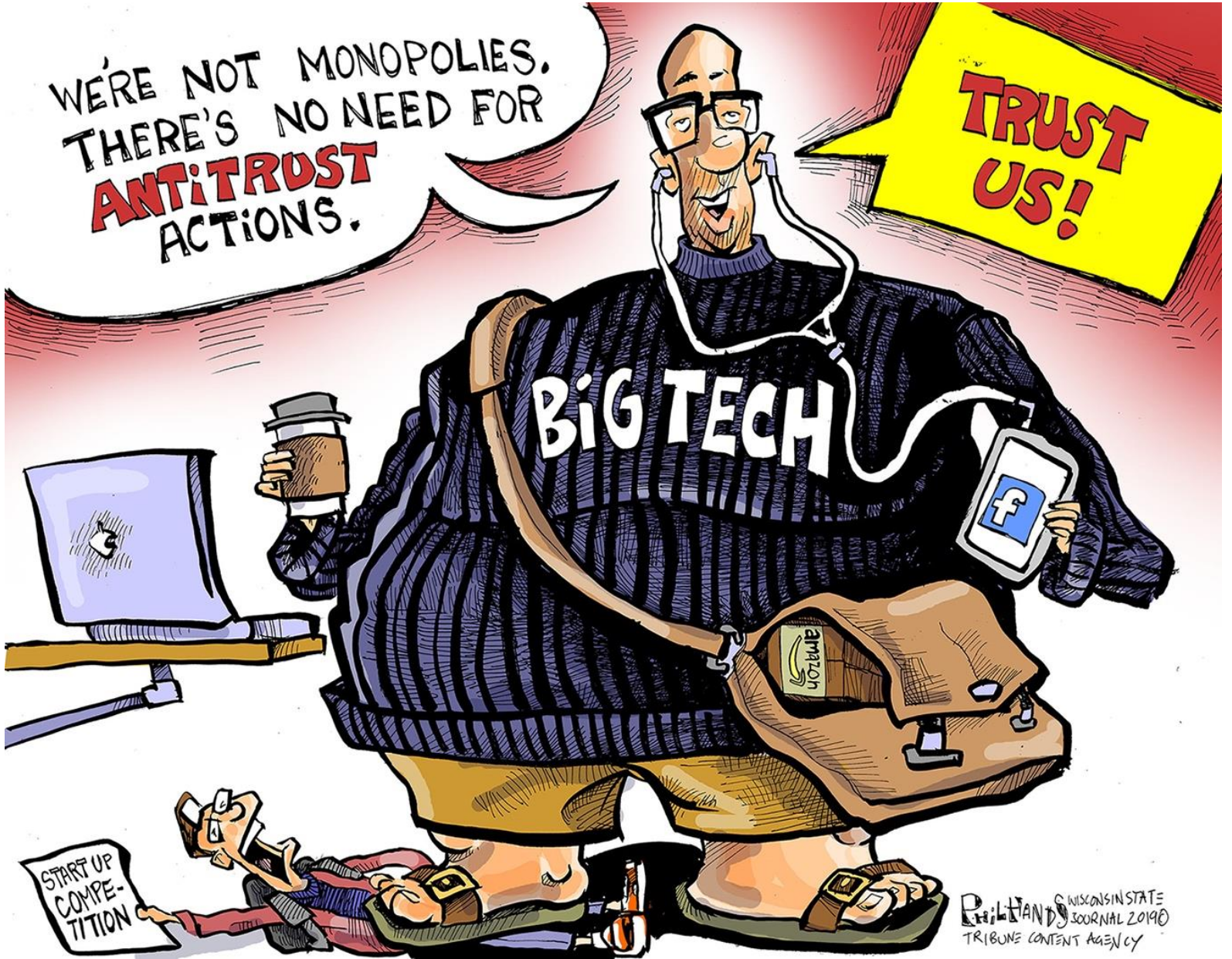
# Big Tech & Antitrust



WE'RE NOT MONOPOLIES,  
THERE'S NO NEED FOR  
**ANTI-TRUST**  
ACTIONS.

**TRUST  
US!**

**BIG TECH**



PHIL HANSEN WISCONSIN STATE  
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**Thank you**