

## Antitrust: A Cornerstone Principle

by Henry J. Hyde

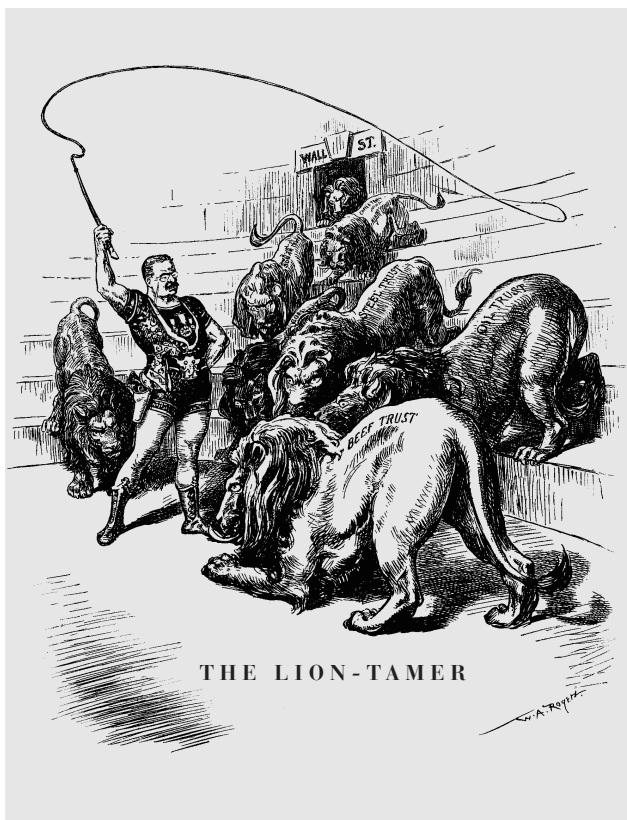
**O**NE BELIEF UNITES REPUBLICANS on economics: the freer the markets, the greater the prosperity. We believe that government efforts to regulate markets diminish prosperity and should be avoided except in compelling circumstances. Antitrust law sustains free markets and dissipates political pressure for government regulation. For that reason, Republicans, and indeed all citizens, should support it wholeheartedly.

Unfortunately, some Republicans have criticized enforcement of the antitrust laws, claiming that it allows government to regulate the economy and stifle innovation. On the contrary, antitrust law is the antithesis of government regulation, aimed at achieving some perceived social good, compels competitors to run their businesses in ways that they would not otherwise. Antitrust comes into play when one competitor, or a group of competitors working together, attains monopoly power and tries to use it to regulate markets for selfish ends.

Efforts to prevent private market regulation by those with monopoly power date back to the Magna Carta—one of the first great statements of individual freedoms. Because of our core belief in individual economic freedom, our modern antitrust law rightfully comes from Republicans. John Sherman, author of the Sherman Act and the father of antitrust law, was a Republican Senator from Ohio. Theodore Roosevelt, the first President to enforce the Sherman Act effectively, was a Republican. They understood the economic fundamentals that made antitrust essential.

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Resources are scarce. Because of that, we need some method of allocating them to their best uses. Free markets do that. When competitors are free to offer their best possible deal and consumers are free to choose among those deals without restriction, the invisible hand of the market allocates resources efficiently. But when a competitor, or a group of competitors working together, attains monopoly power, misuse of that power may force consumers to make choices that they would not otherwise, and thereby allocate resources less efficiently. It is that loss of efficiency that antitrust law seeks to eliminate.



Intuitively, we all know that as consumers we are likely to get a better deal if we have ten suppliers of any good or service to choose among rather than just one. However, the behavior at issue in antitrust cases—market division, predatory pricing, exclusionary contracts, and the like—can be difficult to understand. It is not always obvious how control of a computer operating system, an airport, a cable television system, or a credit card brand name may stifle competition. But ultimately the principle at stake is simple: competitors ought to be free to offer their best deal and consumers ought to be free to choose among

the offers of all competitors.

Some have argued that these economic fundamentals do not apply to new technologies like computer software. We hear these arguments frequently as new technologies emerge. However, these fundamentals remain the same over time and across industries. New technology does not change them. Forcing consumers to choose options they would not otherwise choose still leads to inefficiency and waste, regardless of the technology.

Some have criticized me for defending our antitrust enforcers and their ability to bring in criminal fines that far exceed their budget.

The government brings criminal antitrust cases only in the most egregious circumstances, like price fixing and bid rigging. These practices cause severe consumer harm. For example, in the recent vitamin price-fixing case, the consumer harm was estimated to be in the hundreds of millions of dollars. I wish that no one fixed prices and that there were no criminal antitrust cases to generate revenue for the government. But when companies are shown to have fixed prices, they deserve criminal fines—fines which go to compensate victims of all kinds of crimes and do not go to the Antitrust Division budget.

Vigorous and intelligent antitrust enforcement is a cornerstone Republican principle. Those who disagree with current enforcement actions should have faith in the court system to reach the correct result—attacking antitrust law, its enforcers, or their budgets is not the way to go. The private regulation of markets through the misuse of monopoly power provokes political pressure for the government regulation of the market that we dislike. Private monopoly power threatens freedom just as much as excessive government power.

Antitrust remains the preeminent defender of economic freedom for the individual consumer against private concentrations of power. Republicans want to defend that freedom and prevent government regulation of the market. We must support the use of more government resources for antitrust enforcement and less for government regulation of markets. When we do that, a thousand innovations will bloom. ●