The central question America faces today is this: who does our government work for? Does it work only for giant corporations, for the rich and the powerful? Or does it work for everyone?

This isn’t hard to understand. Americans don’t need to review the complexities of the Herfindahl-Hirschman Index to get what’s going on in this country: Folks at the top are getting more and more and everyone else is left to fight over the scraps. Powerful interests have invested eye-popping amounts of cash into making sure it stays that way—tilting the playing field against small businesses, against entrepreneurs, against innovators, against workers, and against just about everyone else.

To keep us distracted, those in power tell lies built on fear—fear of people who look different than we do or worship differently than we do or come from a different nationality. All the while, those powerful interests have been locking down their control over our economic system.

Strong, healthy markets are the key to a strong, healthy America. But today, in every corner of our economy, big, powerful corporations are killing off competition. Airlines, banking, health care, pharma, agriculture, telecom and tech—in industry after industry, monopolies, duopolies, and oligopolies are calling all of the shots—exerting alarming control over markets.

The results are devastating. When those giants kill off competition, prices go up, quality goes down, and jobs are eliminated. But that’s not all. Massive consolidation means the big guys can lock out smaller, newer competitors. It means the big guys can crush innovation. It means the big guys can muzzle ideas they don’t like and voices they don’t like. Studies show that consolidation even contributes to driving down wages and driving up income inequality.

Concentrated market power also translates into concentrated political power— the kind of power that can capture our government. And that’s exactly what’s happening, as President Trump and the Republicans in Congress bow to the power and influence of these industrial giants and financial titans.

Donald Trump used to talk about the danger of monopoly. But that talk has pretty much disappeared now that he is President. Once he took the oath, he began stacking his Administration with Who’s Who of former lobbyists, Wall Street insiders, and corporate executives committed to tilting the scales even further in favor of their powerful friends and against everybody else. And just days ago, the GOP Congress handed out a giant tax giveaway to
Wall Street corporations and the superrich, leaving working families and college students to pick up the tab.

To rebuild an economy that works for everyone, not just the big guys, it is critical to reduce concentrated power in our markets. The federal government has the tools to do it; Congress handed antitrust enforcers those tools over a century ago. But those tools have been sitting on the shelf for decades, gathering dust. Antitrust enforcers placed those tools on the shelf when they adopted Chicago School principles that narrowed the scope of antitrust laws, they moved away from the goal of protecting competition. It’s time to demand that antitrust enforcers pick up those tools, dust them off, and start enforcing the law again. Let’s talk about how.

Step One: Block mergers that choke off competition. This begins with leadership. The individuals who lead the FTC and DOJ determine the federal government’s competition priorities. They decide when to open and close investigations, when to take cases to court or settle, or, as we saw in the FTC’s investigation of Google in 2012, when to overrule the recommendations of lower-level staff when they disagree.

If those enforcers use the tools at their disposal, they can begin to loosen corporate power’s chokehold on our economy. And one of the best tools that they have is the ability to block anti-competitive mergers.

With the growth of Chicago School economics in the 1970s and 1980s, however, antitrust enforcers opted for a different approach, convincing themselves that they could have their cake and eat it too. Often, instead of blocking mergers that posed significant threats to competition, they signed off on settlement agreements that allowed bad mergers if the companies promised to take actions later on that were supposedly designed to protect competition.

The problem is many of those expertly-crafted provisions have been epic failures. Studies show that those settlement conditions often fail to bring about the cost savings and other benefits giant corporations promised. Instead, they just meant more concentration and less competition.

We need to demand antitrust enforcers who understand that fair and open markets cannot coexist with concentrated power. And we need to oppose macaroni-spined nominees who have spent their careers defending the status quo.

If we’re going to begin a new era of antitrust enforcement, we need to demand a new breed of antitrust enforcers. We need enforcers with steel spines who will stand up to companies with the best-dressed lobbyists, the craftiest lawyers, and the highest-paid economists. Enforcers who will turn down papier-mache settlement agreements and actually take cases to court. Enforcers who
will say no to bad merger after bad merger until giant corporations get the point: in America, we believe that everyone should have a shot at the American dream, not just the biggest and most powerful. That’s our starting point.

But getting good enforcers to block bad mergers should just be the beginning. The sad truth is, the FTC and DOJ’s record on large mergers between direct competitors is leaps and bounds better than their record on vertical mergers—mergers of companies that are not direct competitors but operate within the same sector, such as computer manufacturers and software developers.

The Chicago School party line is that vertical mergers don’t harm competition. In fact, Chicago School disciples will even tell you that those mergers generally improve competition by making companies more efficient. That’s the theory, but, when powerful companies are involved, not often the reality.

In reality, billionaire investors and wealthy shareholders in powerful companies often have exactly three goals: maximize profits, maximize profits, maximize profits. They may start with buying smaller companies, squeezing their workers, and raising prices on their consumers, but after a while even those moves won’t bring in the ever-higher profits that their billionaire owners demand. So once competition has shrunk to a handful of survivors left standing, those powerful companies search out new prey, moving up and down their own food chain. And once one large company does it, other powerful players follow suit. It’s a vicious cycle.

Just look at the wave of mega mergers in the agricultural sector. In the last year, antitrust agencies have given the green light to mergers between (China National Chemical Corp. and Syngenta) and (Dow Chemical Co. and DuPont)—giants merging with giants. Now the chemical company and pesticide producer Bayer is seeking antitrust approval to acquire the seed giant Monsanto—the world’s largest producer of genetically modified seeds. Think about that. If approved, one gigantic company would supply one-quarter of the entire world’s seeds and pesticides. It’s no wonder that small growers and family farms have been urging the Justice Department to reject the merger. Despite the existential threat that these mergers pose to small, rural, and family farms, and to the U.S. food supply, two of the three proposed mergers have already received the blessing of antitrust enforcers, and the jury is still out on the third.

To revive competition in our economy, vertical mergers, particularly mergers in already concentrated industries, should be viewed with the same critical eye that’s needed for mergers between direct competitors.
That’s why I’m glad that the Justice Department has filed suit to stop the AT&T and Time Warner deal. By bringing together one of the nation’s leading content distributors and one of the world’s largest TV and entertainment companies, this merger invites higher prices, fewer choices, and worse service for consumers.

At the same time, the Justice Department’s move rings alarm bells. The President’s attacks on our free press have cast a cloud of suspicion over the decision to block the merger. It’s essential that the courts and the public approach this case as they would any other – based on the law and the facts, and not on President Trump’s repeated efforts to punish his enemies.

I’ll be honest; I’m deeply worried about the Antitrust Division under President Trump. That’s why I took a very close look at Makan Delrahim, President Trump’s choice to lead the division, and what I found only increased my concern. It turns out that Delrahim has a long record of convincing the FTC and DOJ to green light bad mergers. His background as a loyal supporter and counsel for President Trump was also troubling. The president has not been shy about his willingness to use his power against individuals or companies he doesn’t like. President Trump has made it clear that he expects his agency heads to carry out his orders—and Delrahim is no exception.

While DOJ’s action on the AT&T-Time Warner merger is a good step, one case alone does not prove that DOJ will be the strong antitrust enforcer that America needs. There will be many more tests in this Administration. Just days ago, CVS and Aetna announced that they plan to merge, less than a year after the DOJ blocked Aetna’s proposed merger with Humana. There is already increasing concentration and decreasing competition in the health care sector, which has left Americans with higher medical bills and a lower quality of care. It’s critical that DOJ scrutinize the proposal and stand ready to take the necessary action to defend competition. We need more—a lot more—antitrust enforcement so that giants get the message that they can’t use mergers to stamp out competition.

The failure of public officials to prevent anti-competitive mergers has been a big part of the problem, but it’s not the only problem. We also need Step Two: It’s time to crack down on anti-competitive conduct. If there’s one thing that giant corporations are good at, it’s finding ways to duck and dodge rules that they don’t like—including illegal practices that harm workers and entrepreneurs.

A prime example of this is anti-poaching agreements. Consider the agreement between the late Apple co-founder Steve Jobs and then-CEO of Google, Eric Schmidt, along with Intel and Adobe. According to email exchanges reviewed by DOJ, top executives at these four big companies agreed not to hire away each other’s engineers. Company recruiters could be fired for
breaking with this protocol. Shoot, they could be fired just for approaching an engineer at a competitor company. And with no other job prospects in sight, a lot of engineers stayed put and the companies were spared paying higher salaries. In fact, the CEOs also shared confidential salary information so they could drive down wages.

Federal regulators settled that case several years ago, but these kinds of collusive, no-hire agreements are still hiding in plain sight in companies all across America. According to a new study out of Princeton, 58% of the 156 largest franchisors used some form of anti-competitive “no-poach” agreements. As of last year, NONE—not one—of the nearly 2,000 Jiffy Lube franchisees could hire an individual who has worked in the last six months at any other Jiffy Lube franchise. The same kind of agreements are in place at companies like Burger King, Massage Envy, Baskin Robbins, ACE Hardware, GNC, Kumon, and H&R Block. These agreements, which affected workers in 340,000 franchise units, were especially common in low-wage and high-turnover industries, such as fast food.

Think about this for a second. Let’s say you are the best employee at the Jiffy Lube or the Burger King, but there is no opportunity for advancement at your store. You want to move up and make a little more money, so you apply for a manager’s position at a store on the other side of town. They never call you back. Not because you aren’t qualified. But because they can’t hire you. And worse, you may never know why, because these agreements are made between franchise owners and the giant, parent companies - not between the franchise owners and the employee. As a result, most employees are kept in the dark about these collusive arrangements.

In October of 2016, DOJ issued guidance making clear that these agreements are illegal, but franchisors are now trying to argue that because these agreements are intra-firm, the DOJ guidance doesn’t apply to them. DOJ should step up, making it clear that no-poach agreements are anti-competitive, even in franchises. Grow a spine and enforce the law.

No-poach agreements are a reminder that corporate concentration not only affects consumers by limiting choices and driving up prices. It also affects workers who can’t get the salary they would be able to get in a competitive economy.

It’s time to hold those corporations accountable for these competition-killing practices. And let’s be clear: Holding everyone accountable means everyone. The investigation into Russia’s influence in the 2016 election has exposed how influential giant tech platforms can be. There is no exception in antitrust laws for big tech. It’s time for antitrust enforcers to start looking critically at the ways in which massive amounts of data can be manipulated in ways that choke off competition.
OK, Step 1 is to push back on mergers, and Step 2 is to enforce the laws against anticompetitive activity. Step 3 is to get everyone in the game.

Sure, DOJ is law-enforcer-in-chief, but all government agencies should defend competition. The Defense Department provides big-dollar government contracts to private-sector companies that build planes and provide uniforms and for countless other supplies and materiel. The Food and Drug Administration designs rules that determine if, when, how, and which drugs can enter the market. The Fed and the FDIC oversee financial markets to make sure banks don’t grow too big to fail.

Each of these agencies has enormous power to influence competition. The FCC illustrates what happens when those agencies ignore their mission and misuse their power.

Giant telecom companies fought hard against many of the public-centered rules championed during the last Administration. Now they are trying to execute a corporate takeover of the FCC. Their point man is Ajit Pai, President Trump’s pick to chair the Commission. Since taking over as FCC Chair, Pai has worked to roll back rules to make it easier for giant telecom companies to become even bigger and even more powerful.

The FCC’s recent proposal to roll back net neutrality rules is another example of how the Trump Administration is tilting the playing field toward the big corporations. Next week the FCC will vote on a proposal introduced by Chairman Pai to repeal the net neutrality rules that were put in place in 2015, rules that had overwhelming public support. Ending net neutrality doesn’t serve the public interest or benefit American consumers. It benefits exactly one group: a handful of giant companies that want to block, filter, or charge more for what we do online. The decision also has the potential to make vertical media consolidation like the AT&T-Time Warner deal even more dangerous.

But that’s not the only problem at the FCC. Take the proposed merger of Sinclair Broadcast Group—the largest TV station owner in the U.S.—and Tribune Broadcasting—another large TV station owner. David Smith, Sinclair’s executive chairman, is a big-shot Republican donor who aggressively uses his local stations to promote his own political views. He threw in with Trump during the 2016 campaign and used local news stations to plant pro- Trump stories. Jared Kushner even bragged about reaching a deal with Sinclair to get more positive coverage of Trump.

That deal has paid off in spades. After the election, Smith met with Pai to discuss FCC rules that prevented Sinclair from acquiring Tribune, and Pai immediately got to work to help pave the way for a merger that, if completed, would give Sinclair access to over 70 percent of American
households—and a chance to quietly pump his own brand of right-wing politics into local news programs in nearly three out of every four homes in America.

This is downright scary. A free and independent media is powerfully important to the survival of democracy, and the FCC is on the verge of trashing the independence that we all rely on.

The way I see it, the fight for stronger competition is similar to the fights over health care or tax reform or the other big issues that are at stake. At their core, these fights are about what kind of country we’re building: one that works only for the wealthy and powerful, or one that works for all of us.

I believe that every American deserves a fighting chance. A fighting chance to launch an invention that can change the world. A fighting chance to open a small business that becomes a local institution. A fighting chance to work in a job that provides fair pay and basic benefits. A fighting chance to build something without seeing all the benefits snapped up by the rich and powerful who know how to twist every rule.

I believe that competition is worth fighting for and that competition makes markets—and this country—stronger, and that is why I’m glad to be here today at the Open Markets launch and to stand shoulder-to-shoulder with people committed to turning that vision into reality.

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