

The Big Tech Debate, Neo-Brandeisians, and Competition

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Economics Colloquium

4 December 2020

Introduction

On October 6, 2020, the U.S. House Judiciary Committee's Subcommittee on Antitrust released a 449 page report that is the culmination of the several hearings and investigations into anti-competitive behavior on the part of big-tech firms such as Apple, Amazon, Google, and Facebook (Nadler et al. 2020). One of the primary rising justifications for intervention into digital markets is Neo-Brandeisian legal thinking. These scholars harken back to Louis Brandeis, the progressive 19th century US Supreme Court justice, to critique the consumer welfare standard in antitrust. The Neo-Brandeisians argue that the original intent of the Sherman Act was not solely to protect the consumer; rather, it was to limit corporate "bigness" itself. In this paper, I outline the ways that Neo-Brandeisian antitrust theory is the rising intellectual justification for interference in the operation of big-tech companies. I will then argue that the application of this theory incorrectly diagnoses digital markets due to an incorrect view of competition.

Research Questions

Neo-Brandeisian theory has been critiqued on both historical and theoretical grounds. Richard Langlois (2018), in a paper *Hunting the Big Five: 21st century Antitrust in Historical Perspective* provides a convincing and helpful critique of Neo-Brandeisian thought on historical grounds. Douglas Melamed and Nicolas Petit (2019), in an article entitled *The Misguided Assault on the Consumer Welfare Standard in the Age of Platform Markets* provide a significant theoretical critique of Neo-Brandeisian thought. With the rising influence of this group in politics there is a unique opportunity to examine the way

that Neo-Brandeisian thought is being applied in the current environment. In this paper, I attempt to do just that in order to build on the economic literature critiquing the Neo-Brandeisians.

There are three separate research questions that this paper will explore: (1) How is Neo-Brandeisian thought being applied in the current environment? (2) Does Neo-Brandeisian theory accurately describe the real world? And (3) What are the consequences, if any, of Neo-Brandeisian policy recommendations?

This paper is divided into five sections. The first section outlines Neo-Brandeisian theory and summarizes the literature on the topic. Section II demonstrates the influence Neo-Brandeisian thinking has had in the current big tech debate as seen in the House Subcommittee report. Section III then compares the divergence between the actual, real-world landscape of digital markets and the landscape described by the House Subcommittee report. Section IV discusses the mistaken view of economic competition that leads to the divergence seen in Section II. The final section provides a broad overview of the overarching consequences of policies based on Neo-Brandeisian thought.

I. Who Are the Neo-Brandeisians?

Neo-Brandeisians take their name from Louis Brandeis a lawyer and associate justice on the US Supreme Court from 1916-1939. Brandeis was dedicated to multiple progressive social causes, most notably his campaign against trusts. Rather than attempt to differentiate between “good” and “bad” trusts (which became the dominant method employed by the courts even though a strict understanding of the Sherman Act would

make all monopoly illegal), Brandeis believed that antitrust should be employed against any firm with significant market power. Rather than employing antitrust to prevent some narrow and specific harm to consumers or to certain industries, Brandeis believed that government ought to be suspicious of *every* corporation with substantial market power for a variety of reasons, including maintenance of democratic political control and the promotion of innovation (Yale Law Journal 1956).

The Neo-Brandeisians hearken back to Louis Brandeis and his fear of “bigness” to critique the Chicago consumer welfare standard which they believe severely limits the scope of antitrust enforcement by only focusing on one specific harm that could be caused by large corporations. Lina Khan, a legal scholar who specializes in antitrust and competition law as an associate professor at Columbia, has become one of the primary figureheads of the Neo-Brandeisian movement. In her work, *Amazon’s Antitrust Paradox*, Khan (2016) explores the competitive dynamics of Amazon as a case in which a single-minded focus on consumer welfare severely limits the scope and efficacy of antitrust law. Amazon had no net income for the longest time, which allowed them to dramatically lower costs and boost consumer welfare; therefore, under the consumer welfare standard, there is no reason to consider enacting antitrust against Amazon. However, Khan (2016) argues that it is clear that Amazon has gained significant and dominant share of the market and that under the original intent of the Sherman Act, Amazon should be prosecuted as a trust.

In her piece, *The New Brandeis Movement: America’s Antimonopoly Debate*, Khan (2018) critiques the mainstream approach of economics toward antitrust as follows:

“The fixation on efficiency¹...has largely blinded enforcers to many of the harms caused by undue market power, including on workers, suppliers, innovators, and independent entrepreneurs—all harms Congress intended for the antitrust laws to prevent” (132). In sum, the Neo-Brandeisians are attempting to uproot the consumer welfare standard and radically broaden the scope of antitrust with the specific target of big-tech companies in mind.

II. The Rising Influence of the Neo-Brandeisians

The reason for a close examination of Neo-Brandeisian thought in particular is the fact that their thinking is front and center in the current big-tech antitrust debate. In this section, I will briefly outline the influence of the Neo-Brandeisians as seen in the report on big-tech issued by the Subcommittee on Antitrust.

The first primary indicator of the extent of Neo-Brandeisian thinking is that Lina Khan, the figurehead of the Neo-Brandeisians is one of the two counsels on the Subcommittee. The report itself, and much of the rhetoric in the big-tech debate, is decidedly Brandeisian. The most striking examples of Neo-Brandeisian thought in the piece is in the very first policy recommendation the report makes. Found on page 391, the authors of the report state that the foremost goal with respect to the influence of big-tech is to “Restore the Antimonopoly Goals of the Antitrust Laws” (Nadler et al. 2020, 391). The report continues to explicitly call

¹ Khan notes that this fixation on efficiency is caused by the Chicago consumer welfare standard on the grounds that efficiency lowers prices for consumers.

out the FTC and Justice Department for “taking a narrow view of their legal authorities and issuing guidelines that are highly permissive of market power and its abuse” (Nadler et al. 2020, 391). The authors here nearly explicitly call out the consumer welfare standard and argue that concentration itself is harmful.

They go on to point out, along Neo-Brandeisian lines, that the consumer welfare standard neglects and ignores the original intent of the Sherman and Clayton Acts. The report notes that unlike the current schema for enforcement, the original “antitrust laws that Congress enacted...reflected a recognition that unchecked monopoly power poses a threat to our economy as well as to our democracy” (Nadler et al. 2020, 391). Just to seal the deal with a nice rhetorical flourish, the report even begins by quoting Brandeis himself: “We must make our choice. We may have democracy, or we may have wealth concentrated in the hands of a few, but we cannot have both” (Nadler et al. 2020, 7).

All the focus on democracy, equality, and other social ills associated with concentrated market power within the document and in popular discourse raises interesting questions about the scope and intent of Neo-Brandeisian thought. In fact, due to the many perceived problems such as inequality, lack of privacy, etc. as a result of concentrated digital markets, there is a burgeoning literature on the exact topic of the social ills that antitrust can and cannot address. Most economists, even those in favor of stringent antitrust enforcement such as Carl Shapiro (2019), argue that antitrust is solely a means to correct lack of competition in the market and the harm that this concentration imposes upon the

consumer through inefficiency. Other issues, such as privacy concerns, inequality, and threats to democracy, are believed by most economists to be best solved through regulation rather than antitrust.

Despite the many rhetorical flourishes described above in the Subcommittee report, it seems that Lina Khan is, to some extent, on board with the economists on this point. In her paper, *The New Brandeis Movement*, Khan clarifies key Neo-Brandeisian points and is careful to deny that the group is seeking any particular social goal such as equality” (Khan 2018). She argues that “doing so would replicate a key mistake of the Chicago School: overriding a structural inquiry about process and power with one that focuses on a narrow set of outcomes” (Khan 2018, 132). She then argues that the Neo-Brandeisian school advocates “refocusing antitrust on structures and a broader set of measures to assess market power” in order to “return the law to focusing on the competitive process” (Khan 2018, 132). Because of this, it seems that the crux of the intellectual debate revolves around the competitive process and market power.

Although some of the leading arguments for interference into digital markets (even from Neo-Brandeisians themselves) lie along normative grounds such as a desire for equality, a desire to preserve democracy, or privacy, this paper will deal exclusively with what seems to be the crux of the matter: competition in digital markets. The rest of this paper will be solely devoted to showing how the core Neo-Brandeisian argument rests on a faulty view of competition that would lead to policy with severe consequences.

III. The Real and Fictionalized Digital Market

The first step in evaluating the claims made by the Neo-Brandeisians concerning the big-tech debate is to look at the specific portrait that they have developed of big-tech and big-tech markets. In this section, I will outline the view of digital markets presented by the Neo-Brandeisians in the House Subcommittee report and provide an alternate picture of the facts to show the wide gap between the digital market as it really exists and the market portrayed in the Subcommittee report.

The primary thing to note about the Subcommittee report is that it is filled with fearful rhetoric concerning the power, dominance, and monopoly status of big-tech firms such as Apple, Amazon, Google, and Facebook. To bolster this rhetorical image the report cites several incorrect or misinterpreted statistics that have been helpfully broken down by Alec Stapp in a piece for the MIT Technology Review (Stapp 2020). Stapp points out one striking example of this that is illustrative. In the report, the subcommittee claims that “a decade into the future, 30% of the world’s gross economic output may lie with Amazon, Apple, Facebook, and Google and just a handful of others” (Nadler et al. 2020, 11). But, as Stapp points out, the source for this statistic is actually a projection for 2025 and, most importantly, it is a projection for all digital commerce (rather than just big tech and a few others) (Stapp 2020). To put in perspective the ridiculous nature of the claim made in the report, Stapp notes that the combined annual revenue last year of Amazon, Apple, Facebook, and Google only accounted for about half a percent of global economic revenues (Stapp 2020). There are several other examples of gross exaggerations and skewed statistics throughout the report that Stapp has documented;

however, I want to move on to question the popular image of the dominant, powerful, big-tech firm by examining the current real markets that big-tech firms actually operate in.

The term monopoly gets thrown around a lot. I want to start by quickly summarizing what the standard actually is for a monopoly under current U.S. law. The Fifth Circuit observed that “monopolization is rarely found when the defendant’s share of the relevant market is below 70%. The Tenth Circuit has also noted that to establish “monopoly power, lower courts generally require a minimum market share of between 70% and 80%” (US Department of Justice 2015). Despite the overwhelming claims of rampant monopoly and dominant market power, no big tech firm has anywhere near 70% of their relevant market.

Amazon has 38% of the U.S. e-commerce market (eMarketer Editors, 2020). Apple sells less than half of all phones sold in the U.S. (Statista 2020). Google and Facebook may seem, at first glance, to dominate their primary market of providing search and social media services. However, Google and Facebook generate the vast majority of their revenue not from selling to the users of their search or social media services; rather, they earn their revenue by selling users data to third party advertisers. In the digital ad market, the appropriate market for Google and Facebook (rather than the misleading “search” or “social media”), Google is estimated to have roughly 36.3% while Facebook garners roughly 19.3% of the market (Liberto 2019). While each of these firms is clearly wildly successful and a dominant competitor in their markets, they are nowhere near the standard set for a monopoly.

However, even if we grant for the sake of argument that each firm is a monopoly under the standards set by the court, on an even more fundamental level, the court's very definition of monopoly misses the point. The primary differentiator between the Subcommittee report and the real market is that of dynamic competition. In the report, the tech giants are portrayed as dominant, immovable trusts that can only be replaced through regulation or antitrust. The statistics cited in the report scream of inevitability. The market shares and figures presented in the report are all static. (In fact, several are wildly outdated from over half a decade ago) (Nadler et al. 2020, 138). There is no consideration or attempt to examine the vibrant, and dynamic competition that does exist in digital markets.

I want to quickly outline several examples of this. The first is the rise of Shipt, Instacart, and e-commerce as a whole to compete with Amazon. In response to the wild success of Amazon's e-commerce business, firms across the nation have begun, years ago pivoting to online models of business. This shift to e-commerce has been wildly accelerated by the COVID-19 lockdowns in 2020. For example, in 2020, The retail e-commerce sales of Best Buy, Costco, and Home Depot all grew above 35% year over year (Cindy Liu, 2020). Amazon, in contrast grew 21.1%. Target's ecommerce sales grew a staggering 52% while Walmart's grew 44.2% (Cindy Liu, 2020). Although none of these companies is likely to replace Amazon anytime soon, it is important to note that the e-commerce industry that Amazon operates in is a rapidly changing and dynamic industry that will only get more, rather than less, competitive over time.

Another example of dynamic competition overlooked in the report is the generational gap in social media usage. In the Subcommittee report, the authors look simply at the total number of users of social media platforms and often use this as a proxy for market share and market power. However, as explained earlier, this is a largely irrelevant number because Facebook, Twitter, and others generate revenue through advertising. They do not gain revenue by adding users but by capturing their user's attention. If this metric of attention rather than number of users is used as the benchmark of market power, the portrait changes dramatically.

The final example of the true dynamic and competitive market created by digital companies is the rapid, exponential rise of new competitors. One example is the rise of Facebook itself. MySpace was founded in 2003. Over the next five years, the company ascended to become "the no. 1 website in 2006 and was valued at \$12 billion in 2007" (CBS News). Commentators such as Victor Keegan advanced the typical arguments about network effects to argue that it is unlikely that MySpace could ever lose its monopoly position (Keegan 2007). As he notes, "Users have invested so much social capital in putting up data about themselves it is not worth their changing sites, especially since every new user that MySpace attracts adds to its value as a network of interacting people" (Keegan 2007). In a manner similar to the fearmongering rhetoric of the Subcommittee report, Keegan notes that if the company were a country "MySpace would be the seventh biggest, ahead of Russia and Bangladesh" (Keegan, 2007) by the number of their users. However, despite these network effects and the vast scope of its users, MySpace, only a year after Keegan's article, (and only two years after the founding of

Facebook) was surpassed by Facebook who, in 2008, (their first year reporting their monthly active user count) reported 100 million users, above MySpace's 72.4 million monthly active users (Ortiz-Ospina 2019).

Another, more recent example of the dynamic and competitive digital market is that of TikTok. ByteDance, the Chinese parent company of TikTok, was founded in 2012. By 2018, TikTok boasted an impressive 500 million users (Ortiz-Ospina 2019). In 2020, according to Oberlo, TikTok has “over 800 million monthly active users worldwide (Datareportal, 2020)” (Mohsin 2020). Although TikTok's number of users has yet to come close to Facebook's ~2 billion monthly active users (MAU), the fact that a company could get close to half of Facebook's MAU's over the span of a few years demonstrates the vibrant, dynamic, and competitive nature of digital markets.

Although the examples provided above are by no means comprehensive, hopefully they serve as valuable examples of the discrepancy between the dynamic competition of real markets and the static and incomplete notion of competition described in the Subcommittee report. This gap between the real dynamic competition of digital markets and the static analysis that informs the Neo-Brandeisian thought found in the House Subcommittee report is driven by a much deeper misunderstanding of competition that will be examined in the following paragraphs.

A Critique of Neo-Brandeisian Competition

Because Neo-Brandeisian thought is largely a legal theory, it lacks a formalized economic account of competition. However, to understand where their analysis of big-

tech markets goes astray, it is imperative to understand what exactly they mean when they advocate for “competitive” markets.

From her paper *Amazon’s Antitrust Paradox*, Lina Khan provides the closest thing available to a comprehensive account of her view of competition. She notes that the Neo-Brandesian schools refocus on “process and structure...would promote actual competition—unlike the present framework, which is overseeing concentrations of power that risk precluding real competition” (Khan 2017, 737). At its core, it seems that Khan and other Neo-Brandesians define competition strictly and exclusively in terms of market concentration. The more concentration, the less competition and vice versa. At root, it seems that the school is rooted in an idealistic notion of a small shopkeeper capitalism in which every firm is equally situated within the market and that this, and this alone, is a truly competitive market. Because of this, the Neo-Brandesians advocate using the power of the state to forbid any behavior that could threaten this decentralized shopkeeper ideal. The primary problem with this idea of competition as merely a deconcentrated industry is that competition and deconcentration do not always go hand in hand; in fact, in many industries, especially those with high innovation, rivalrous competition often results in concentration.

In the history of economic thought, there have been various theories of competition: the model of perfect competition, which has been the dominate account given by the mainstream economist in nearly every microeconomics textbook, aligns nicely with the decentralized vision of the Neo-Brandesians. Both models believe that markets, left on their own, will begin to deviate grossly from either perfect competition or

deconcentration. For both groups, it is the task of the state to dismantle the harmful pockets of concentration as they arise. However, despite the similarities of these two groups, there are important differences. The primary difference is that the Neoclassical model grew out of the discipline of economics and is grounded in economic analysis itself, whereas the Neo-Brandeisians seem to willfully ignore economic theory. As summarized by Langlois, “Khan’s principal objective is not to fix economic analysis but to throw it out” (Langlois 2018, 16). Despite this rejection of economic analysis, it is still valuable to clearly articulate the faults, from an economic point of view, of the Neo-Brandisian picture of competition.

To do this I will use the views of competition expressed by Hayek and Schumpeter. Although significant differences exist between these thinkers on the matter of competition, both conceive of it as, primarily, a dynamic process of active rivalry. In addition, they are both uniquely positioned to rebut the two primary faults of Neo-Brandisian views of competition. Hayek provides forceful argument against the view that true competition is static. Schumpeter provides the theoretical framework to understand how, especially in highly innovative industries, concentration and competition may, in fact, go hand in hand.

Hayek begins his critique of perfect competition by stating that his goal is to “show that what the theory of perfect competition discusses has little claim to be called “competition” at all, and that its conclusions are of little use as guides to policy” (Hayek 2010). Hayek notes that the “the starting point of the theory of competitive equilibrium assumes away the main task which only the process of competition can solve” (Hayek

2010). Hayek's main point is that the notion of perfect competition is a static end-state competition that fails to explain the process of active rivalrous competition as it exists in the real world. Hayek poignantly notes that, ironically, ""perfect" competition means indeed the absence of all competitive activities" (Hayek 2010). Therefore, unlike the Neoclassicals who view competition as a static equilibrium state, Hayek offers the argument that competition is in fact a dynamic process of active rivalry.

While Hayek's theory is particularly apt to critique the static picture of competition implied by the Neo-Brandeisians and used throughout the Subcommittee's report on Big-Tech, Schumpeter is the perfect candidate to dispatch the fundamental Neo-Brandisian idea that deconcentration is synonymous with competition.

According to Schumpeter, real competition, rather than being an ideal state of equally deconcentrated firms is "the new commodity, the new technology, the new source of supply...competition which commands a decisive cost or quality advantage and which strikes not at the margins of the profits and the outputs of the existing firms but at their foundations and their very lives" (Schumpeter 1976, 84). According to Schumpeter, it is the profit motive that encourages firms to outcompete rivals for market power. It is precisely this fuel of concentrated monopoly profits that allows for innovation and the creative destruction of the capitalist system to prosper.

Katz and Shelanski summarize Schumpeterian notions of competition and the way that it relates to digital markets as follows:

At the heart of the Schumpeterian argument is the assertion that, in important instances, competition primarily occurs through cycles of innovation, rather than through static price or output competition. Firms in such markets compete for temporary dominance of the market through the introduction of new generations of relevant technology. That is, firms do not compete simultaneously for a share of the market, but rather sequentially for the market as a whole (Katz & Shelanski 2006, 4).

According to this economic analysis stemming from Schumpeter, it is entirely unwarranted to assume (especially in markets of high innovation), that deconcentration is competitive. In fact, it is precisely to gain a position of monopoly that impels firms to innovate and compete.

Although the Neo-Brandesian view suffers from all the problems exposed by Hayek and Schumpeter, there is a more fundamental and primary problem involved in the Neo-Brandesian upholding an abstract ideal of deconcentrated markets. This problem is that of the Nirvana fallacy.

In 1969, Harrold Demsetz published *Information and Efficiency: Another Viewpoint*, in which he critiques the Welfare economists such as Arrow for committing what has subsequently been termed a nirvana fallacy. Demsetz, begins his work by noting that:

“The view that now pervades much public policy economics implicitly presents the relevant choice as between an ideal norm and an existing “imperfect” institutional arrangement. This *nirvana* approach differs considerably from a *comparable institution* approach in which the relevant choice is between alternative real institutional arrangements” (Demsetz 1969, 1).

Demsetz's paper implies that although abstract models such as that of perfect competition may be valuable for ascertaining theoretical knowledge, it is entirely fallacious to uphold them as the benchmark for the real economy. Noticing, for example, that digital markets do not conform to the small-shopkeeper ideal of the Neo-Brandeisians, is not, in and of itself, a critique of the market. It certainly does not imply the industry should be regulated. I could think up countless ideal states and then notice that the real world does not live up to them. This, in and of itself, is no argument for regulation.

As forcefully stated by Langlois in his critique of Neo-Brandeisian thought, *Hunting the Big Five*, "A persuasive analysis must be a comparative-institutional one. An argument that merely criticizes the (alleged) limitations of the market process as we observe it is no argument at all" (Langlois 2018, 16). All things are subject to scarcity. As such, it could be the case, given the constraints and opportunity costs involved, that the real world result of attempting to achieve some abstract nirvana of deconcentrated digital markets would not be preferable compared to the current system of firms with market power. The Neo-Brandeisians have not even considered this in their arguments.

This position is hinted at in an insightful piece by Daniel Crane entitled *How Much Brandeis do the Neo-Brandeisians Want?* (Crane 2019). In the piece, Crane points out that although the Neo-Brandeisians claim to be returning to the thought of Brandeis, Brandeis himself was fearful not only of big business, but also big government. It is clear that the Neo-Brandeisians would not like to follow Brandeis along that path. Additionally, Craig poses the following question to the Neo-Brandeisians, "will they

break cleanly with welfarism and adhere to a moral, social, and political theory of anti-bigness, even at the cost of efficiency?” (Craig 2019). Though Craig comes at the question from the perspective of welfare economics, the question is directly pertinent to the discussion of the Nirvana fallacy implicit in the Neo-Brandeisian argument.

If, it turns out that, according to the majority of people, that deconcentration results in reduced material prosperity, lower innovation, and reduced consumer welfare as typically defined, will the Brandeisians stick to their rhetoric concerning the ideal nature of deconcentrated digital markets? The question does much to point out the nirvana fallacy at the heart of the Neo-Brandeisian advocacy for a return to a “broader” notion of competition in which it is identified, not with consumer welfare, but with a lack of market concentration.

In addition to the critiques levied against Neo-Brandeisians on the grounds of a mistaken view of competition, there is also strong evidence that the interests of those the Neo-Brandeisians claim to promote (the worker, the small shopkeeper, and society as a whole) will actually be harmed by an across-the-board attempt at the deconcentration of American industry. As Langlois comments, there are strong historical reasons to believe that the interests of “workers, producers, entrepreneurs, and citizens” “will actually be ill served by the attempt to maintain a potted decentralization in place of active rivalry” (Langlois 2018, 17). Although it would be beyond the scope of my paper to thoroughly advance this point, it is important to note that the latter half of Langlois’s paper powerfully demonstrates this. In addition, Dominick Armentano brilliantly outlines in his books *Antitrust and Monopoly: Anatomy of a Policy Failure* (1996) as well as in his work

Antitrust: The Case for Repeal (1999) the ways that antitrust policies have harmed, rather than helped, those they are supposedly enacted on behalf of.

Conclusion

With the rise of the Neo-Brandeisians into the upper echelons of the government, the questions of who they are, how they're significant, and what they believe will only become greater over time. In this paper, I have attempted to provide answers to these questions while also critiquing the core of their theory. I have examined the primary evidence of their influence: the lengthy report recently produced by the House's Subcommittee on Antitrust. I have demonstrated the discrepancy between the market landscape described by that report and the true, competitive, dynamic, and rivalrous environment seen in the real world. I then proceeded to explain the source of this divide by examining the faulty view of competition that lies at the heart of Neo-Brandeisian theory.

The most important aspect of their theory is that, in the eyes of economics, it is no theory at all. The Neo-Brandeisians merely assert, rather than prove, that deconcentrated industries are equivalent to competitive industries and that deconcentration and "competition" are to be desired above concentration. Economics can critique their definitional mistake that equates deconcentration and competition (which is one of the large goals of this paper). It can also point out the nirvana fallacy involved in advocating for policy solely on the basis of an unwarranted comparison of the real world and its present institutions to an unrealistic ideal; however, economics cannot critique the end of deconcentrated industries itself.

As Lionel Robbins notes in his *Essay on the Nature and Significance of Economic Science*, economics “is incapable of deciding as between the desirability of different ends” (Robbins 1932, 135). According to Robbins, economics allows for the rational choice between means in that it allows the full consequences of a given policy to be exposed. According to Robbins, “without economic analysis it is not possible rationally to choose between alternative *systems* of society” (Robbins 1932, 138). The primary fault of the Neo-Brandeisians is not that they desire deconcentration, economics proper can say nothing to fault them on these grounds. However, their unwillingness to heed the economists or even entertain or examine what actual effects their policy proposals would have is paramount to an abdication of reason. As Robbins closes his work on the methodology and significance of the discipline of economics, he notes that:

“Economics does depend, if not for its existence, at least for its significance, on an ultimate valuation—the affirmation that rationality and ability to choose with knowledge is desirable. If irrationality, if the surrender to the blind force of external stimuli and uncoordinated impulse at every moment is a good to be preferred above all others, then it is true the *raison d’être* of Economics disappears. And it is the tragedy of our generation...that there have arisen those who would uphold this ultimate negation” (Robbins 1932, 141).

The Neo-Brandeisians, though they may have the highest of intentions, the loftiest ambitions, and the purest ideals, without a proper knowledge or grasp of the unseen economic ramifications of their actions are upholding “this ultimate negation” and are merely groping about in the dark.

References

- Armentano, Dominick T. *Antitrust: The Case for Repeal*. Auburn: Ludwig von Mises Institute, 1999.
- Armentano, Dominick T. *Antitrust and Monopoly: Anatomy of a Policy Failure*. Oakland: The Independent Institute, 1996.
- CBS News. “Then and Now: A History of Social Networking Sites.” Accessed December 4, 2020, <https://www.cbsnews.com/pictures/then-and-now-a-history-of-social-networking-sites/7/>.
- Crane, Daniel. “How Much Brandeis Do the Neo-Brandeisians Want?” *The Antitrust Bulletin* 64, no. 4, (2019): 531-539.
- Demsetz, Harold. “Information and Efficiency: Another Viewpoint.” *The Journal of Law & Economics* 12, no. 1, (Apr., 1969): 1-22.
- eMarketers. “Amazon Remains the Undisputed No. 1.” (11 March 2020), accessed December 4, 2020, <https://www.emarketer.com/content/amazon-remains-the-undisputed-no-1>.
- Hayek, Friedrich. “The Meaning of Competition.” *Mises Institute*. (15 March 2010), <https://mises.org/library/meaning-competition>.
- Katz, Michael and Howard Shelanski. “Schumpeterian' Competition and Antitrust Policy in High-Tech Markets.” *Competition* 14, (2005).
- Keegan, Victor. “Will MySpace ever lose its monopoly?” *The Guardian*. (8 February 2007). <https://www.theguardian.com/technology/2007/feb/08/business.comment>.
- Khan, Lina. “New Brandeis Movement: America’s Antimonopoly Debate.” *Journal of European Competition Law & Practice* 9, no. 3, (March 2018): 131–132.
- Khan, Lina. “Amazon's Antitrust Paradox.” *The Yale Law Journal* 126, no. 710 (2017): 710-805.
- Langlois, Richard. “Hunting the Big Five: Twenty-First Century Antitrust in Historical Perspective.” *University of Connecticut*. (2018).
- Liberto, Daniel. “Facebook, Google Digital Ad Market Share Drops as Amazon Climbs.” *Investopedia*. (25 June 2019), accessed 4 December 2020,

- <https://www.investopedia.com/news/facebook-google-digital-ad-market-share-drops-amazon-climbs/#:~:text=eMarketer%20forecasts%20that%20the%20combined,1.7%20percentage%20points%20to%2056.8%25.&text=Those%20projections%20give%20Google%20and,2019.9%25%20the%20prior%20year.>
- Liu, Cindy. "Top 10 Ecommerce Retailers Will Grow Their Market Share to 60.1% in 2020." *EMarketer*. (14 July 2020), accessed 4 December 2020, <https://www.emarketer.com/content/top-10-ecommerce-retailers-will-grow-their-share-60-2020>.
- Melamed, Douglas and Nicolas Petit. "The Misguided Assault on the Consumer Welfare Standard in the Age of Platform Markets." *Review of Industrial Organization* 54, (2019): 741-774.
- Mohsin, Maryam. "10 TikTok Statistics That You Need To Know." *Oberlo*. (3 September 2020), <https://www.oberlo.com/blog/tiktok-statistics>.
- Nadler, Jerrold et al. "Investigation of Competition in Digital Markets: Majority Staff Report and Recommendations." *Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary*. (2020), https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf.
- Ortiz-Ospina, Esteban. "The Rise of Social Media." *Our World in Data*. (18 September 2019), <https://ourworldindata.org/rise-of-social-media>.
- Pleatsikas, Christopher and David Teece. "The analysis of market definition and market power in the context of rapid innovation." *International Journal of Industrial Organization* 19, no. 5, (2001): 665-693.
- Robbins, Lionel. *An Essay on the Nature and Significance of Economic Science*. London: MacMillan & Co., 1932.
- Shapiro, Carl. "Protecting Competition in the American Economy: Merger Control, Tech Titans, and Labor Markets." *Journal of Economic Perspectives* 33, no. 3, (2019): 69-93.
- Stapp, Alec. "Congress made a lousy case for breaking up Big Tech." *MIT Technology Review*. (9 October 2020), accessed 4 December 2020, <https://www.technologyreview.com/2020/10/09/1009999/congress-antitrust-report-big-tech-policy-opinion/>

Statista. "Manufacturers' market share of smartphone sales in the United States from 2016 to 2020." (2020). <https://www.statista.com/statistics/620805/smartphone-sales-market-share-in-the-us-by-vendor/>.

United States Department of Justice. "Competition and Monopoly: Single-Firm Conduct Under Section 2 of the Sherman Act: Chapter 2." (2015), accessed 4 December 2020, <https://www.justice.gov/atr/competition-and-monopoly-single-firm-conduct-under-section-2-sherman-act-chapter-2>.

Yale Law Journal. "Mr. Justice Brandeis, Competition and Smallness: A Dilemma Re-Examined." *The Yale Law Journal* 66, no. 1, (1956): 69-96.