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More than a century ago – with manufacturing conglomerates engaged in widespread anti-competitive behavior, hundreds of short-line railroads consolidating into omnipotent transport concerns, and Standard Oil building a monopoly – America decided it was time to take action.

As Senator John Sherman said, "If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of the necessities of life."

A country whose most cherished values include the principle of responsive democracy must have a political system in which elected officials are accountable to the people. And a country committed to a free market economy must have laws ensuring that corporations remain accountable to the market.

Antitrust law isn't about protecting competing businesses from each other, it's about protecting competition itself on behalf of the public.

That's a simple idea in theory. But over the last century, we've seen that it isn't so simple in practice. Changing technologies, changing marketplaces, and even changing trends in anti-competitive practices have all presented challenges to antitrust enforcement.

Now, I'm not a lawyer. But neither are most Minnesotans – the people I represent. And my interest in antitrust law isn't academic in nature, because the effect of antitrust enforcement on the lives of Americans isn't academic in nature, either.

Whether or not those responsible for protecting the free market from unfair competition are able to rise to these challenges has a direct impact on the economic security of working families. And I've come here today to urge you all to treat antitrust enforcement the same way I urge my colleagues to treat the tax code or the budget: with a keen understanding of what your work will mean for the middle class.

The complications involved in enforcing antitrust laws, the dangers posed to consumers when we fail to do so effectively, and the roadmap for how to better serve the antitrust mission in the years ahead can all be seen in the case of AT&T.

A century ago, AT&T and the other Bell Companies began to build a monopoly over telephone service in America, buying up as many small, independent phone companies as they could. Their best weapon was AT&T's technologically superior long distance network – access to which they denied to any remaining local independent carriers.

This was exactly the sort of anti-competitive behavior the government had begun to take seriously at that time – but universal telephone service was an important national priority, and AT&T convinced the Wilson administration that a monopoly could best achieve that goal. Besides, it argued, if that monopoly were effectively regulated, it would be just like if we had a competitive marketplace. What could go wrong?

Over the next 70 years, we found out.

Exploiting the lenient terms and lax enforcement of its agreement with the federal government, AT&T continued to build its monopoly, acquiring hundreds more independent phone companies and establishing control not only over long distance telephone service, but over a majority of local service, as well. Ma Bell was even allowed to prohibit third parties from connecting telephones to its network, requiring customers to lease standard telephones from AT&T.

Unsurprisingly, consumers paid the price – exorbitant rates for long-distance service. And soon after our leaders realized that the American people were getting a bad deal, they realized something else: It's a lot easier to preserve competition than it is to restore it once it's been destroyed.

It wasn't until 1984 that AT&T was forced to split off its local service operations into seven separate companies – and since that time, it has managed to reacquire four of them, all the while continuing to purchase other companies and maintain a dominant position in the wired telephone service market.

That's why AT&T's growing control over the wireless market – fueled by large purchases of spectrum – should have been cause for concern. And that's why, for many of us, the announcement of AT&T's intention to acquire T-Mobile, one of its largest competitors in the wireless market, set off all sorts of alarm bells.

Some of AT&T's arguments were the same ones the company had made a century earlier. Just like it had promised better deployment of new technology then, now it argued that the merger would enable the company to provide faster LTE broadband service to more Americans.

AT&T claimed that the wireless marketplace would remain "fiercely competitive." But the truth of that claim depended on your definition of the wireless marketplace. AT&T tried to define it such that it could claim to be competing against small, regional wireless companies that offered completely different services.

In the marketplace that AT&T pretended it was competing in, here's the sort of choice consumers often find themselves struggling to make: Do I want to go with AT&T, and get the two-year contract, the iPhone, and the unlimited data plan? Or do I want to go with the regional carrier like Metro PCS or Leap Wireless and get the pre-paid plan and the crappy phone that only makes and receives calls?

Back on Planet Earth, however, AT&T actually competes in a national market for customers seeking postpaid plans with wireless data. And, in fact, the very fact that the service is national is a major selling point, as anyone who's ever seen an ad for AT&T or Verizon can tell you.

No wonder that, by the definition of a metric employed by both the DOJ and the FCC, the wireless market was already correctly identified to be "highly concentrated."

The merger would have given two companies – AT&T and Verizon – control over an estimated 82 percent of the national wireless subscriber base.

And that's just to start. It wouldn't have been long before Sprint, unable to compete with the two behemoths at the top of the heap, met a fate similar to T-Mobile's. The only question would be which half of the AT&T/Verizon duopoly would be the largest.

What we didn't need to question was what this merger would mean for consumers. Just like AT&T's monopoly jacked up rates for a nation of telephone customers, an independent analysis of the merger estimated that it would raise wireless prices by 12 to 25 percent for T-Mobile customers and 5 to 11 percent for AT&T customers.

And by eliminating T-Mobile, AT&T would have reduced its need to respond to complaints about usurious early termination penalties and terrible customer service, not to mention its incentive to innovate.

The bottom line for consumers would have been worse service for more money. And that was the bottom line for me when it came to my decision to become a vocal opponent of the merger.

It's important not to underestimate what decisions like these mean for the people I represent, and people like them across the country.

John Sherman himself said that the purpose of his landmark antitrust legislation was to protect consumers by preventing arrangements designed to increase the price they paid for goods.

The FCC consistently finds that competition leads to lower prices – for instance, cable rates are higher in communities where people really only have one meaningful option.

At a time when even people who have stable jobs find their budgets stretched to the limit, the dramatic increases in cable, Internet, and cell phone bills that result from anti-competitive practices can be back-breaking.

These aren't wild extravagances – they're part of the daily lives of most people. This stuff matters.

I'm proud of the fight we waged to urge DOJ and the FCC to treat this merger as the threat to competition and antitrust problem it really was. And I'm relieved that regulators blocked it.

Not every danger posed to consumers by anti-competitive practices is purely financial. And not every anti-competitive practice is as easy to spot – or to stop – as AT&T's attempt to buy out its competition. I learned this first-hand in my old career.

In TV, we used to have rules called “Fin-Syn,” or “Financial Interest in Syndication.” They prevented corporations that owned the pipelines over which content was distributed on TV – broadcast networks – from owning that content.

Then the networks came to Congress and said that these rules were unnecessary, swearing under oath that they wouldn’t give their own programming preferred access to the airwaves.

I was working at NBC back then. I didn’t buy that line – not one bit. But Congress did. And so the “Fin-Syn” rules were allowed to expire.

Well, within a couple of years, NBC was the largest supplier of its own prime-time programming. And then the dominoes began to fall. Disney bought ABC. Viacom – the parent company of Paramount – bought CBS. NBC merged with Universal.

Today, if you're an independent producer, it is virtually impossible to get a show on network television without giving them creative control and a hefty chunk of the valuable syndication rights.

Antitrust enforcement has always been more effective at stopping horizontal integration – purchasing your nearest competitor – than it has at this kind of vertical integration. And that's allowed these media conglomerates not only to expand within their own markets, but to extend their dominance over a whole universe of products and services.

Telecom companies that own the physical infrastructure that makes the Internet work now want to join forces with companies that produce content. Comcast's purchase of NBC – over the loud objections of people like me – was just the tip of the spear. It won't be long before Verizon or AT&T starts thinking about buying ABC or Direct TV, creating fewer and bigger media conglomerates with more and more control over the delivery of content.

This will mean that ordinary Americans' cable, Internet, and phone bills go up. If these huge companies are able to implement what they call "managed services," you might have to buy both broadband access and a cable package to get either.

And just as you pay extra to get HBO or Showtime on your cable package, we've seen reports that telecom companies might consider dividing the Internet into tiers the same way – you'd pay a base fee for a few sites, and more if you want to be able to get to others.

This isn't just about paying more. It's about getting less. Control of the Internet would allow companies that produce content to limit Americans' access to content that those companies don't own.

This is a serious threat to consumers, and a big challenge for the antitrust community. These anti-competitive practices don't just endanger the economic security of working Americans, they threaten the free flow of information that is at the heart of our democracy.

We must find a way to bring back effective antitrust enforcement in cases of vertical integration.

Another challenge – not just for the antitrust community, but for anyone concerned with making and enforcing laws – has been the explosion of new technologies. As the chair of a new Judiciary subcommittee on privacy and technology, I've seen these challenges grow every day.

In recent years, tech companies have developed an incredible array of great products. We can search the web, keep in touch with friends around the world, and more – all for free.

But if you use Gmail – as I do – Google has a copy of every single email you've written on that service – as well as your friends' replies. If you use Facebook – as I do – Facebook in all likelihood has a unique digital file of your face, one that can be as accurate as a fingerprint and that can be used to identify you in a photo of a large crowd.

For instance, this one. [TAKE PICTURE.] Now you'll all be getting fundraising emails from me in the morning. Or maybe even tonight. You can do these things real fast these days.

And if you use a cell phone – as I do – your wireless carrier likely has records about your physical movements going back months, if not years.

Anyone who interacts with these corporations is out on a limb when it comes to legal protections for this very personal information: your words, your likeness, your whereabouts. That's kind of, like, everything.

And the institutions that we've built up over the years to protect our individual privacy rights from the government don't apply to the private sector.

The Fourth Amendment doesn't apply to corporations. The Freedom of Information Act doesn't apply to Silicon Valley. And you can't impeach Google if it breaks its "Don't be evil" campaign pledge.

So we rely on the market to hold these corporations accountable. If people don't like what's happening to the personal information that's collected when they use a service, they'll switch to a competing service with a better privacy policy – and thus, the market will pressure companies to protect privacy. At least, that's the idea.

But what if the market fails to do so – what if a company is able to establish a dominant market share and insulate itself from that pressure?

What we're seeing is that, just like Americans' pocketbooks and access to information, their right to privacy can be a casualty of anti-competitive practices.

Here's an example: Google's recent changes to its privacy policy.

Now, Google isn't just Google, the search engine. There's Gmail, Google Maps, and YouTube. And Google has always tracked your use of these services.

That was the basic deal. You got to use these amazing, innovative, helpful services – and, unless you knew where to find that opt-out link, Google got to use your use of these services to better target ads to you.

Over time, though, the deal changed. In September 2010, Google told people it might use data from the content of your Gmail messages to better target the ads you'd see on other Google sites. So, if you emailed your friend in Minneapolis to tell him you were coming to visit next weekend, you might see an ad for a hotel in Minneapolis next time you went to Google Maps.

And this month, the deal changed again. Google now says it will share user data from any Google site with any other Google site. Every word you put in an email, every video you look for and at on YouTube, everywhere you explore on Google Maps, and everything you Google – it can all be used to help Google target ads to you on any of its sites.

Now, you might be glad that, if you're going to see ads, they're better targeted to your interests. You might get a really great deal on that Minneapolis hotel.

But here's where privacy becomes an antitrust issue.

If you don't want your search results shared with other Google sites – if you don't want some kind of super-profile being created for you based on everything you search, every site you surf, and every video you watch on YouTube – you will have to find a search engine that's comparable to Google. Not easy.

If you want a free email service that doesn't use your words to target ads to you, you'll have to figure out how to port years and years of Gmail messages somewhere else, which is about as easy as developing your own free email service.

When a company is able to establish a dominant market position, consumers lose meaningful choices. You might not like that Facebook shares your political opinions with Politico, but are you really going to delete all the photos, all the posts, all the connections – the presence you've spent years establishing on the world's dominant social network?

The more dominant these companies become over the sectors in which they operate, the less incentive they have to respect your privacy.

But the problem doesn't stop there. Because accumulating data about you isn't just a strange hobby for these corporations. It's their whole business model. And you are not their client. You are their product.

Google and Facebook are, essentially, tremendously innovative and profitable advertising companies. Google, for instance, took in $37.9 billion in revenue last year – $36.5 billion of which was in advertising. These companies' profitability depends in large part on their ability to target ads to you, which in turn depends in large part on what they know about you.

And so when companies become so dominant that they can violate their users' privacy without worrying about market pressure, all that's left is the incentive to get more and more information about you. That's a big problem if you care about privacy, and it's a problem that the antitrust community should be talking about.

It isn't time for alarm bells just yet. There are still some lines Google and Facebook aren't planning to cross. Yet. Facebook isn't about to sell lists of your friends to the highest bidder. And I'm pretty sure Google knows that, if it published everyone's search history online, there would be some meaningful blowback.

But wouldn't we feel a lot more comfortable about that if we knew that market forces would act to stop such an egregious abuse of our privacy? And shouldn't we be concerned that, as these companies that trade in your personal information keep getting bigger and bigger, they become less and less accountable?

Most Americans don't think about antitrust law when they look at their cable bill, flip channels on TV, or worry about what their favorite website knows about them. But they should.

And if people responsible for making and enforcing antitrust laws aren't thinking about those Americans when they make decisions, they should.

That's how we're going to get to a place where big companies are held accountable for their actions, small competitors have a fighting chance, and consumers can enjoy the benefits of a truly competitive marketplace.

I know many folks are here from DOJ and the FTC – and I want to applaud the tremendous work you're doing to reinvigorate antitrust enforcement under this administration. The same goes for the many lawyers working for state Attorneys General who are here tonight.

But Congress didn't intend to leave the job of protecting the market solely in the hands of public antitrust enforcers. Private lawyers representing consumers and businesses must also serve as a check on undue corporate influence. Decisions like *Verizon v. Trinko* and *Credit Suisse v. Billing* are troubling because they've chipped away at our ability to enforce antitrust laws through both public and private antitrust actions.

You know, during the NBC/Comcast debate, I heard from smaller companies that opposed the merger but were afraid to do so publicly because they worried about the retribution they might face from Comcast. I heard the same thing during AT&T/T-Mobile, and I'm hearing it again now from companies concerned about Verizon's deals with the big cable companies.

What better proof could there be that too much consolidation in the market is going unchecked?

Perhaps the AT&T/T-Mobile case awakened a sleeping giant. Perhaps we're now at a point where we can have a new conversation about antitrust in America.

I hope so. Because antitrust enforcement can't just be about stopping the occasional big horizontal merger from going through. We need to remain constantly vigilant to ensure that big corporations aren't abusing their market positions – especially in dynamic markets where technology is changing the playing field at great speed and government regulators are struggling to keep up.

It's time for a national conversation about taking proactive steps to keep competition alive and well in America's markets. And I hope you'll all be part of that conversation.

Dynamic, aggressive antitrust enforcement means a lot to the American people, whether they know it or not. And I plan to keep fighting to make that case to them, and to you. Thank you.