

Economic Power and
Antitrust Agencies' Duty to
Curtail It

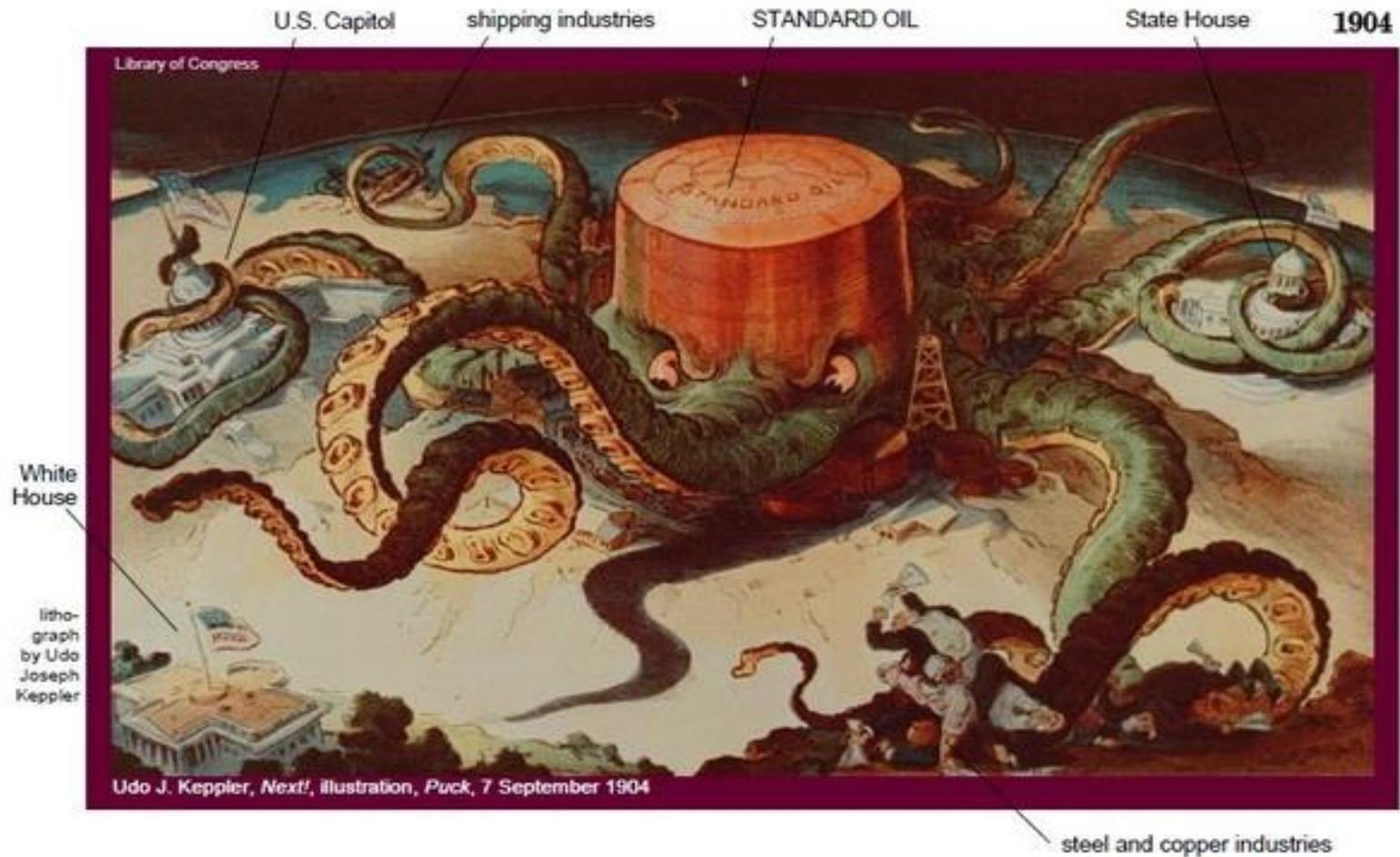
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Antitrust History



Economic vs. Market Power

The Trusts: economic power with some market power

Initial focus on the cross-market components

Market power gaining prominence in antitrust analysis, requiring market definition, price and output analysis

Mathematic convenience and quest for objective and scientific assessment



Risks of Economic Power

Political Effects: the market for influence

- Economies of scale
- Economies of scope
- Contagion and cascade effects
- Collective cognitive dissonance and norm-shifting
- Regulated and regulation-intensive industries



Risks of Economic Power

Economic Effects: Interdependent Markets

Oligopoly of conglomerates: fear of trespassing

Networks of complements: advertising, services,
credit

Multi-market contact: tacit collusion



Competition as Democracy in Action

“Antitrust is founded on a theory of *hostility toward private concentration* of power so great, that even a democratic government can be entrusted with it only in exceptional circumstances” (Adams and Brock)

Trader freedom and the “feel” of competition

Competition as a protected process, rather than proxy.

Adi Ayal, *Fairness in Antitrust: Protecting the Strong from the Weak* (forthcoming, Hart Publishing, Oxford)



Stability and “Too Big to Fail”

"what was good for our country was good for General Motors and vice versa. The difference did not exist. Our company is too big. It goes with the welfare of the country." (Wilson)

Conglomerates as families: internal support and short-to-medium term stability

Long term risk: systemic (in oligopoly) and specific (in size)



Stability and “Too Big to Fail”

The main problem: TBTF firms during their lifetimes, not in their death throes. Bailouts are not the problem

Size and economic centrality as proxies for political influence

Shared reputation and credible threats: supporting exchange as well as intimidation



Antitrust Enforcement: Should We Get Involved?

Risk to professionalism and risk of politicization

Love of technocracy, and the illusion of objectivity

But...

Protection of competition: both within and across markets

‘Last man standing’: prevention of accumulated power and political influence

Expertise in balancing efficiencies and understanding market effects



Antitrust Enforcement: Should We Get Involved?

If yes, then how?

- Applying stricter scrutiny to conglomerate mergers
- Contextual privatization: spreading the wealth (and power)
- Examining business alliances and trans-nationals
- In the extreme, dissolution and separation of at-risk industries (financial/real; regulated monopolies; infrastructure and privatized industries)

And always with care! Conglomerates are not evil!

