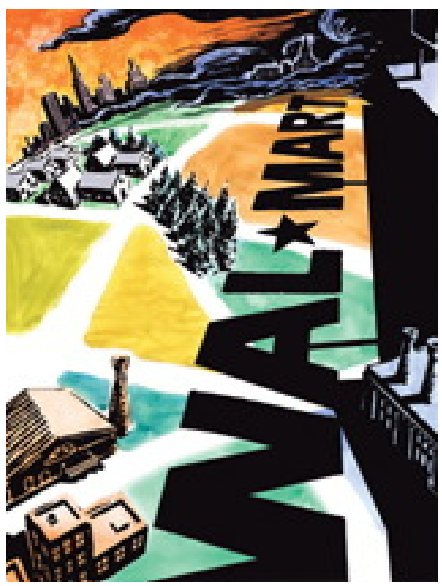
BREAKING THE CHAIN

The antitrust case against Wal-Mart

By Barry C. Lynn



There is an undeniable beauty to laissez-faire theory, with its promise that by struggling against one another, by grasping and elbowing and shouting and shoving, we create efficiency and satisfaction and progress for all. This concept has shaped, at the most fundamental levels, how we understand and engineer our basic freedoms—economic, political, and moral. Until recently, however, most politicians and economists accepted that freedom within the marketplace had to be limited, at least to some degree, by rules designed to ensure general economic and social outcomes. From Adam Smith onward, almost all the great preachers of laissez-faire were tempered by a strain of deep realism. Most accepted that a national economy ultimately served a nation that had to survive in an often brutal world. So, too, did most accept that all economies are characterized by struggles for power and precedence among men and institutions run by men; in other words, that all economies are fundamentally political in nature. And so most accepted the need to use the power of the state—most dramatically in the form of antitrust law—to prevent any one man or firm from consolidating so much power as to throw off basic balances. The invisible hand of the marketplace, and all that derives from it, had to be protected by the visible hand of government.

It is now twenty-five years since the Reagan Administration eviscerated America's century-long tradition of antitrust enforcement. For a generation, big firms have enjoyed almost complete license to use brute economic force to grow only bigger. And so today we find ourselves in a world dominated by immense global oligopolies that every day further limit the flexibility of our economy and our personal freedom within it. There are still many instances of intense competition—just ask General Motors. But since the great opening of global markets in the early 1990s, the tendency within most of the systems we rely on for manufactured goods, processed commodities, and basic services has been toward ever more extreme consolidation. Consider raw materials: three firms control almost 75 percent of the global market in iron ore. Consider manufacturing services: Owens Illinois has rolled up roughly half the global capacity to supply glass containers. We see extreme consolidation in heavy equipment;

Barry C. Lynn is a senior fellow at the New America Foundation and the author of End of the Line: The Rise and Coming Fall of the Global Corporation.

General Electric builds 60 percent of large gas turbines as well as 60 percent of large wind turbines. In processed materials; Corning produces 60 percent of the glass for flat-screen televisions. Even in sneakers; Nike and Adidas split a 60-percent share of the global market. Consolidation reigns in banking, meatpacking, oil refining, and grains. It holds even in eyeglasses, a field in which the Italian firm Luxottica has captured control over five of the six national outlets in the U.S. market.

The stakes could not be higher. In systems where oligopolies rule unchecked by the state, competition itself is transformed from a free-for-all into a kind of private-property right, a license to the powerful to fence off entire marketplaces, there to pit supplier against supplier, community against community, and worker against worker, for their own private gain. When oligopolies rule unchecked by the state, what is perverted is the free market itself, and our freedom as individuals within the economy and ultimately within our political system as well.

Popular notions of oligopoly and monopoly tend to focus on the danger that firms, having gained control over a marketplace, will then be able to dictate an unfairly high price, extracting a sort of tax from society as a whole. But what should concern us today even more is a mirror image of monopoly called "monopsony." Monopsony arises when a firm captures the ability to dictate price to its suppliers, because the suppliers have no real choice other than to deal with that buyer. Not all oligopolists rely on the exercise of monopsony, but a large and growing contingent of today's largest firms are built to do just that. The ultimate danger of monopsony is that it deprives the firms that actually manufacture products from obtaining an adequate return on their investment. In other words, the ultimate danger of monopsony is that, over time, it tends to destroy the machines and skills on which we all rely.

Examples of monopsony can be difficult to pin down, but we are in luck in that today we have one of the best illustrations of monopsony pricing power in economic history: Wal-Mart. There is little need to recount at any length the retailer's power over America's marketplace. For our purposes, a few facts will suffice—that one in every five retail sales in America is recorded at Wal-Mart's cash registers; that the firm's revenue nearly equals that of the next six retailers combined; that for many goods, Wal-Mart accounts for upward of 30 percent of U.S. sales, and plans to more than double its sales within the next five years.

The effects of monopsony also can be difficult to pin down. But again we have easy illustrations ready to hand, in the surprising recent tribulations of two iconic American firms—Coca-Cola and Kraft. Coca-Cola is the quintessential seller of a product based on a "secret formula." Recently, though, Wal-Mart decided that it did not approve of the artificial sweetener Coca-Cola planned to use in a new line of diet colas. In a response that would have been unthinkable just a few years ago, Coca-Cola yielded to the will of an outside firm and designed a second product to meet Wal-Mart's decree. Kraft, meanwhile, is a producer that only four years ago was celebrated by *Forbes* for "leading the charge" in a "brutal industry." Yet since 2004, Kraft has announced plans to shut thirty-nine plants, to let go 13,500 workers, and to eliminate a quarter of its products. Most reports blame soaring prices of energy and raw materials, but in a truly free market Kraft could have pushed at least some of these higher costs on to the consumer. This, however, is no longer possible. Even as costs rise, Wal-Mart and other discounters continue to demand that Kraft lower its prices further. Kraft has found itself with no other choice than to swallow the costs, and hence to tear itself to pieces.

The idea that Wal-Mart's power actually subverts the functioning of the free market will seem shocking to some. After all, the firm rose to dominance in the same way that many thousands of other companies before it did—through smart innovation, a unique culture, and a focus on serving the customer. Even a decade ago, Americans could fairly conclude that, in most respects, Wal-Mart's rise had been good for the nation. But the issue before us is not how Wal-Mart grew to scale but how Wal-Mart uses its power today and will use it tomorrow. The problem is that Wal-Mart, like other monopsonists, does not participate in the market so much as use its power to micromanage the market, carefully coordinating the actions of thousands of firms from a position above the market.

One of the basic premises of the free-market system is that actors are free to buy from or sell to a variety of other actors. In the case of Wal-Mart, no one can deny that every single firm that supplies the retailer is, technically, free not to do so. But is this true in the real world? After all, once a firm comes to depend on selling through Wal-Mart's system, just how conceivable is the idea of walking away? Producers own and maintain machines, employ skilled workers, lease land and buildings. Even with careful planning, most would find the sudden surrender of 20 percent or more of their revenue to be extremely disruptive, if not suicidal.

Another basic premise of the free-market system is that the price of a commodity or good carries vital information from actor to actor within an economy—say, that cherries are scarce, or vinyl floor tiles abundant, or the latest iPod includes a new technology. Again, no one can deny that, technically, every firm that supplies Wal-Mart is free to ask whatever price it wants. But again, we must ask whether this holds true in the real world. Every producer knows that Wal-Mart is, as one of its executives told the *New York Times*, a "no-nonsense negotiator," which means the firm sets take-it-or-leave-it prices, which as we know from the previous paragraph are far harder to leave than to take. Every so often Wal-Mart will accept a higher price, but then the retailer's managers may opt to punish the offending supplier, perhaps by ratcheting up competition with its own in-house brands. Price, within the consumer economy, increasingly carries but one bit of information—that Wal-Mart is powerful enough to bend everyone else to its will.

Those who would use the word "free" to describe the market over which Wal-Mart presides should first consult with Coca-Cola's product-design department; or with Kraft managers, or Kraft shareholders, or the Kraft employees who lost their jobs. These results were decided not within the scrum of the marketplace but by a single firm. Free-market utopians have long decried government industrial policy because it puts into the hands of bureaucrats and politicians the power to determine which firms "win" and which "lose." Wal-Mart picks winners and losers every day, and the losers have no recourse to any court or any political representative anywhere.

Antimonopoly sentiment in America dates to the nation's founding. We see it in the acceptance by the thirteen newly independent states of English common law, with its rich antimonopoly tradition. We see it in the most vital statement on industry in American history, Alexander Hamilton's *Report on Manufactures*, itself deeply influenced by Adam Smith's antimonopoly writings in *The Wealth of Nations*. We see its citizen-centered nature in a 1792 essay by James Madison, in which he condemns monopolies for denying Americans "that free use of their faculties, and free choice of their occupations, which not only constitute their property in the general sense of the word; but are the means of acquiring property strictly so called." We see it dominating many of the great political battles of the nineteenth century, from Andrew Jackson's war on the Second Bank of the United States to William Jennings Bryan's populist campaign of 1896.

WAL-MART DOES NOT PARTICIPATE IN THE MARKET SO MUCH AS USE ITS POWER TO MICROMANAGE THE MARKET

It would be wrong, however, to regard America's powerful antitrust law of the twentieth century as especially populist in nature. By the time Congress passed the Sherman Antitrust Act in 1890, the industrial explosion that began during the Civil War had resulted in the rise of hundreds of big firms, which often proved far more efficient than their older, smaller competitors. The phenomenal productivity of these newcomers tempered support for more radical antimonopoly proposals. The result was a sort of compromise, engineered mainly by the progressive wing of the Republican Party. The Sherman Act came to be seen not as a license to destroy all big firms simply because they were big but as a very big stick with which to convince the average firm not to overreach, and on rare occasions to break companies like Standard Oil, which had developed reputations for grossly abusing power. Most big firms were allowed to remain big as long as they avoided outright collusion with competitors, or extreme abuse of their consumers, or overly rapid predation against smaller property holders.

Thus did antitrust power come to serve as a sort of constitutional law within America's political economy. The goal was to enforce a balance of power among economic actors of all sizes, to maintain some degree of liberty at all levels within the economy. In recent years it has become a truism that antitrust law is designed to protect only the consumer. But the fact that Congress intended these laws also to preserve both competition per se and to shelter entire classes of entrepreneurs (among whom is the individual worker) was clear at the beginning and has been made clearer many times since. The text of the Sherman Act itself is famously vague, but the Supreme Court's decision in the 1911 Standard Oil case was based flatly on the assumption that the need to ensure robust competition sometimes outweighs the benefits of near-term efficiency. Standard's roll-up of the oil industry cut the cost of kerosene by nearly 70 percent, and yet the justices shattered the firm into thirty-four pieces. For many legislators, this was not nearly enough. Three years later, Congress greatly strengthened the rules against interfirm price discrimination, in the Clayton Antitrust Act. Then in 1936, Congress did so again, even more resoundingly, by passing the Robinson-Patman Act. Wright Patman, the Texas Democrat who was the main force behind the bill, made sure everyone understood Congress's intent. "The expressed purpose of the Act is to protect the independent merchant," he wrote on the first page of a book he published to explain the law, "and the manufacturer from whom he buys."

WAL-MART HAS GROWN SO POWERFUL THAT IT CAN TURN EVEN ITS LARGEST SUPPLIERS INTO EXTENSIONS OF ITSELF

During the twentieth century, antitrust law shaped the American economy more than did any other government power. Over the years, many thousands of antitrust cases were filed, by federal and state governments against particular firms and by one firm against another. Antitrust law determined not merely how big a firm could grow but where it could do business, how it was managed, how it could compete, even what lines of business it could enter. As the industrial scholar Alfred D. Chandler has noted, the vertically integrated firm—which dominated the American economy for most of the last century—was to a great degree the product of antitrust enforcement. When Theodore Roosevelt began to limit the ability of large companies to grow horizontally, many responded by buying outside suppliers and integrating their operations into vertical lines of production. Many also set up internal research labs to improve existing products and develop new ones. Antitrust law later played a huge role in launching the information revolution. During the Cold War, the Justice Department routinely used antitrust suits to force high-tech firms to share the technologies they had developed. Targeted firms like IBM, RCA, AT&T, and Xerox spilled many thousands of patents onto the market, where they were available to any American competitor for free.

When Ronald Reagan took power in 1981, one of his first targets was antitrust law. The new administration put forth a variety of arguments—not least that international competition, especially with Japan, had rendered moot the old fears of monopoly. Yet the driving motive clearly was the philosophical antipathy of the Reaganites to the idea that the American people, acting through their representatives, had any business whatsoever telling business what to do. And the practical effect was to harness the institution of the corporation to that administration's larger project of shifting power and profit from the working, middle, and entrepreneurial classes to the powerful and rich. The radical nature of Reagan's attack on antitrust law is, in retrospect, astounding. Early in the administration, Attorney General William French Smith declared that "bigness is not necessarily badness." Antitrust enforcer William Baxter held that big firms were more efficient than smaller and said he had the "science" to prove it. When the Reagan team published its new Merger Guidelines in 1982, the document formalized two revolutionary changes: it redefined the American marketplace as global in nature, and it severely restricted who could be regarded as a victim of monopoly. From this point on, only one action could be regarded as truly unacceptable—to gouge the consumer. Any firm that avoided such a clumsy act was, for all intents, free to gouge any other class of citizen, not least through predatory pricing and the blatant exercise of power over suppliers and workers.

If a single business deal illuminates the degree to which Wal-Mart has centralized control over America's consumer economy, it was last year's takeover of Gillette by Procter & Gamble. Gillette would seem one of the last firms likely to find itself unable to protect its pricing power; its 70 percent share of global razor sales gives it some weight at the negotiating table. Yet the Boston-based firm discovered that it could no longer keep its profit margins safely out of the grasp of the Arkansas retailer. And so was conceived the largest in a long list of buyouts due at least in part to Wal-Mart's power, including Newell's takeover of Rubbermaid, Kellogg's purchase of Keebler, and Kraft's buyout of Nabisco. And of course there is the long list of firms that have ended up dead or in Chapter 11 reorganization at least partly because of their dealings with Wal-Mart. Some are small fry, like Vlasic Foods. Others were once powers, like Pillowtex. Some were beloved brands, like Schwinn. Others were family enterprises, like Lovable Garments.

Even with Gillette in hand, Procter & Gamble itself is anything but safe. For decades, P&G was regarded by retailers as the "800-pound gorilla" among suppliers of home products. It was one of two firms that most spurred Sam Walton as he built Wal-Mart—the competitor to beat was K-Mart; the supplier to tame, P&G. By the time Walton died in the early 1990s, he was able to brag of how he had forced P&G to accept a "win-win partnership" based on the sharing of information. Had he lived a few years longer, though, Walton would have witnessed what amounts to the outright capture of his foe. And for a man who spent much of his life scrounging for deals on lingerie and hawking hula-hoop knockoffs, he would surely have relished how this struggle for the heights of the consumer economy was decided by the power to price toilet paper and detergent. In recent years, Wal-Mart beat P&G into submission by mercilessly pitting its in-house brands against top P&G brands; the retailer, for instance, introduced not one but two detergents to compete with Tide and, in a particularly audacious move, grabbed outright the copyright for the White Cloud line of toilet paper, after P&G unwisely forgot to protect its own brand's name.

With the purchase of Gillette, P&G has achieved a new scope and scale, vaulting past Unilever to become the world's biggest maker of consumer goods. Yet the new balance of power is unlikely to last. Wal-Mart has become so strong, so sure of the invulnerability of its position, that not only does it not fear consolidation among its suppliers; it actually forces many of them to form fully self-conscious, collusive oligopolies with their rivals. Not that these relationships are advertised as such. The key here is the innocuous-sounding term "category management," and it describes a practice that is now common to all large retailers. But it is a practice that grew out of Wal-Mart's original "partnership" with P&G, and it is a practice that has been pushed especially hard by Wal-Mart.

Until recently, every retailer would draw up its own merchandising plan, detailing which brands to promote, how much shelf space to grant each, which products to place at eye level. These days, Wal-Mart and a growing number of other retailers ask a single supplier to serve as its "Category Captain" and to manage the shelving and marketing decisions for an entire family of products, say, dental care. Wal-Mart then requires all other producers of this class of products to cooperate with the new "Captain." One obvious result is that a producer like Colgate-Palmolive will end up working intensely with firms it formerly competed with, such as Crest manufacturer P&G, to find the mix of products that will allow Wal-Mart to earn the most it can from its shelf space. If Wal-Mart discovers that a supplier promotes its own product at the expense of Wal-Mart's revenue, the retailer may name a new captain in its stead.* Not surprisingly, one common result is that many producers simply stop competing head to head. In many instances, a single firm ends up controlling 70 percent or more of U.S. sales in an entire product line, such as canned soups or chips. In exchange, its competitor will expect that firm to yield 70 percent or more of some other product line, say, snacks or spices. Such

sharing out of markets by oligopolies is taking place throughout the non-branded economy—in grains, meats, medical devices, chemicals, electronic components. But nowhere is it more visible than in the aisles of Wal-Mart.

In essence, Wal-Mart has grown so powerful that it can turn even its largest suppliers, and entire oligopolized industries, into extensions of itself. The effects of this practice are most obvious in Wal-Mart's horizontal competition against other retailers. Retail experts sometimes talk of a

* *Such blatantly enforced collusion has not gone entirely unnoticed in Washington. Toward the end of its time in office, even the merger-happy Clinton Administration allowed the Federal Trade Commission to launch an investigation of these practices, and an FTC report in early 2001 identified four ways that Category Management may violate even the remarkably loose antitrust guidelines of the last generation. All four of these violations cut right to the core of the free-market system. As the FTC put it, a category captain might "(1) learn confidential information about rivals' plans; (2) hinder the expansion of rivals, (3) promote collusion among retailers; or (4) facilitate collusion among manufacturers." In Wal-Mart's world, all four violations are present to at least some extent.*

"waterbed effect," which takes place when a supplier insists on collecting from weaker retailers at least some of the rent a more powerful firm refuses to pay. One recent study of how such power plays out within an entire system shows that a small retailer can expect to pay upward of 10 percent more than a powerful firm for the same basket of items. The effect also explains what takes place economically between communities served by Wal-Mart and those served by less powerful firms—the more power Wal-Mart accrues, the more it is able to shift costs from, say, suburb to city. And so every day the competitive landscape tilts just that much more in Wal-Mart's favor. And so, every year, the landscape is littered with that many more dead or half-dead retailers—including such once-big names as Winn Dixie, Albertsons, K-Mart, Toys R Us, and Sears.

RELATIVE TO WAL-MART, THE A&P WAS A FAR LESS AWESOME FORCE—BUT IT WAS REPEATEDLY HAULED INTO COURT FOR ITS ABUSES

This advantage is simply what can be quantified in price. Many of the benefits Wal-Mart extracts from its suppliers lie in a realm far beyond the market economy. If Wal-Mart's aim were simply to dictate the price it will pay for a product, then leave up to its suppliers all decisions as to how to get to that price, it would cause far less economic damage than it does now. But that is not Wal-Mart's way. Instead, the firm is also one of the world's most intrusive, jealous, fastidious micromanagers, and its aim is nothing less than to remake entirely how its suppliers do business, not least so that it can shift many of its own costs of doing business onto them. In addition to dictating what price its suppliers must accept, Wal-Mart also dictates how they package their products, how they ship those products, and how they gather and process information on the movement of those products. Take, for instance, Levi Strauss & Co. Wal-Mart dictates that its suppliers tell it what price they charge Wal-Mart's competitors, that they accept payment entirely on Wal-Mart's terms, and that they share information all the way back to the purchase of raw materials. Take, for instance, Newell Rubbermaid. Wal-Mart controls with whom its suppliers speak, how and where they can sell their goods, and even encourages them to support Wal-Mart in its political fights. Take, for instance, Disney. Wal-Mart all but dictates to suppliers where to manufacture their products, as well as how to design those products and what materials and ingredients to use in those products. Take, for instance, Coca-Cola.

We should be most disturbed by the fact that Wal-Mart has gathered the power to dictate content, even to the most powerful of its suppliers. Because no longer is the retailer's attention focused only on firms that produce T-shirts, electrical cords, and breakfast cereal. Every day Wal-Mart expands its share of the U.S. markets for magazines, recorded music, films on DVD, and books. This means that every day its tastes, interests, and peculiarities weigh that much more on decisions made in Hollywood studios, in Manhattan publishing houses, and in the editorial offices of newspapers and network news shows. Americans who favor abortion have much to worry about these days, between South Dakota's recent ban and the appointment to the Supreme Court of Justice Joseph Alito. But at least these battles are taking place entirely in the public eye, and the decisions are being made by democratically elected representatives. Such was not the case when Wal-Mart recently decided to allow each individual pharmacist in the company to choose whether or not to stock the "morning after" pill. Given the degree to which Wal-Mart has rolled up the pharmaceutical business in many towns and regions across the country, this act amounted, for all intents, to a de facto ban on these pills in many communities. This political decision was made and enforced by a private monopoly.

To appreciate just how blatantly Wal-Mart defies America's antitrust tradition, consider how our grandparents handled the last retailer to gather extreme power: the Great Atlantic & Pacific Tea Company. Better known as the A&P, the grocer at its height operated more than 4,000 supermarkets in nearly forty states and wielded immense influence over the entire food economy. The A&P was famous for its innovations in discount retailing, in distribution, in advertising. And it was infamous for its use of monopsony power, not least its perfection of the art of setting in-house brands against producers who resisted its will. Relative to Wal-Mart today, the A&P a half century ago was a far less awesome force. The firm sold only groceries; it was only double the size of its nearest competitor; and its total workforce was, as a percentage of the U.S. population, only a fifth as large as Wal-Mart's is now. Even so, the A&P was widely and vociferously denounced by local communities, state governments, newspapers, and labor unions as a threat to the American way of life.

Over the years, the federal government repeatedly hauled the A&P into court for abusing its market power. The government first began to scrutinize the firm in 1915, when Cream of Wheat refused to sell to the A&P because of its pricing policy. Then in 1936 came the Robinson-Patman law, which was popularly known as the "Anti-A&P Act." A year later, the Federal Trade

Commission filed suit against the A&P, charging that the company had forced a Maryland vegetable packer to grant it a special 4 percent discount. In November 1942, the Antitrust Division filed a Sherman Act case against the retailer, one section of which detailed how the A&P had used "several turns of the screw" to coerce Ralston Purina into granting it a discount three and a half times what the cereal packer offered any other firm. Three years after winning that case, the Justice Department was back in court in September 1949 with another Sherman Act suit, this time asking for the dismemberment of the A&P. Filed at a time when the grocer was already clearly in decline—not least because of antitrust enforcement—the 1949 case was dropped five years later. But this was only after the A&P admitted guilt, agreed to dissolve an internal company that traded in agricultural products, and signed an outright prohibition against "dictating systematically" to suppliers. The final antitrust case against the A&P was not resolved until February 1979, a month after a West German grocery mogul bought control over the remnants of the once-huge firm.

Antitrust enforcement against the A&P and other big firms like Sears prevented any twentieth-century American retailer from ever growing nearly as powerful as Wal-Mart is today. But since the Reagan Administration, the only effective constraints on Wal-Mart have been set by investors and revenue flow. Even during the 1990s, when the Clinton Administration targeted a few companies for abusing their pricing power, the Arkansas-based retailer somehow managed to avoid any action. It is unclear whether this was in any way due to the close relationship between the Clinton family and Wal-Mart, on whose board Hillary Clinton served for many years. But even as Staples and McCormick & Co. were sued, a firm with vastly more power over the American economy was left entirely free to extend its domain in whatever direction and to whatever extent it wished. In fact, in one of the highest-profile antitrust cases of the 1990s, an FTC suit against Toys R Us for colluding with toy manufacturers, Wal-Mart emerged as one of the biggest winners.

The Reagan Administration's assault on antitrust enforcement had an even more dramatic effect on manufacturers. Complete license to expand horizontally resulted, in many industries, in the virtual collapse of the vertically integrated firm. Once they consolidated control over their marketplaces, scores of big manufacturers shut down or spun off most or even all of such naturally expensive and risky activities as production and research. These firms opted instead to purchase components and other manufacturing "services" from smaller companies whose main or only path to the final marketplace passed through their offices. This is true of corporations as diverse as Nike, Boeing, 3M, and Merck. Although it has become commonplace to trace the phenomenon of "outsourcing" to the emergence of new technologies and changes in the global "marketplace," it is much more accurate to trace it back to the disappearance of antitrust enforcement. The change in law that gave Wal-Mart license to grow to such a huge size also gave to many manufacturers the license to recast themselves in Wal-Mart's image and become retailers themselves. The result? More and more production systems are run by companies designed not to manufacture but to trade in components manufactured by other, smaller firms, over which they can exercise at least some degree of monopsony power.

Some of Wal-Mart's more sophisticated boosters will defend the company by defending the exercise of monopsony power itself. Wal-Mart, in their view, should be seen as a firm that aggregates our will and buying power as consumers in much the same way that unions once aggregated the interests of workers. One of the better known versions of the argument was put forth by Jason Furman, a former campaign adviser to Senator John Kerry, who last year published a strong defense of Wal-Mart. The huge retailer, Furman wrote, is "a progressive success story" that has brought "huge benefits" to the "American middle class." Sure, this argument goes, Wal-Mart may employ its power with a certain Stalinist flair; but it does so in our name, and the result is to make the production system on which we all rely more efficient. This efficiency is good for all society, and it is especially good for those poor folks who cling to the lower rungs of the economic ladder.

There are two great flaws in such thinking. The first and most obvious is that it ignores the effects of monopoly on our political system—the consolidation of vision and voice, the de facto merger of private and public spheres, the gathering of power unchecked and unaccountable. It is to view American society through an entirely materialistic prism, to measure "human progress" only in terms of how many calories or blouses can be stuffed into an individual's shopping cart. It is to view the American citizen not as someone who yearns to decide for himself or herself what to buy and where to work in a free market but to say, instead, "Let them eat Tastykake."

The second flaw is economic, and is of even more immediate concern. Even if the American people did choose to bear the extreme political costs of monopoly, the particular type of power wielded by Wal-Mart and its emulators makes no economic sense in the long run. On the surface, it may seem to matter little who wins the great battles between such goliaths as Wal-Mart and Kraft, or between Wal-Mart and P&G. Yet which fir m prevails can have a huge effect on the welfare of our society over time. The difference between a system dominated by firms built to produce and a system dominated by firms built to exercise monopsony power over producers is extreme. The producers that dominated the American economy for most of the twentieth century were geared to build more and to introduce new, to protect their capital investments against overly predatory investors, to raise price faster than cost, to show some degree of loyalty to workers and outside suppliers and communities. Wal-Mart and a growing number of today's dominant firms, by contrast, are programmed to cut cost faster than price, to slow the introduction of new technologies and techniques, to dictate downward the wages and profits of the millions of people and smaller firms who make and grow what they sell, to break down entire lines of production in the name of efficiency. The effects of this change are clear: We see them in the collapsing profit margins of the firms caught in Wal-Mart's system. We see them in the fact that of Wal-Mart's top ten suppliers in 1994, four have sought bankruptcy protection.

In a world of rising tensions within and among nations, of accelerating climate and environmental change, we would be wise to design the production systems on which we rely to be able to evolve as rapidly as the human and natural worlds around us evolve. Instead, we have programmed the dominant institutions within our economy to eliminate all the wonderful chaos of a free-market system. Rather than speed up the random motion and serendipitous collisions that have for so long propelled the American economy, Wal-Mart and other monopsonists are slowly freezing our economy into an ever more rigid crystal that holds each of us ever more tightly in place, and that every day is more liable to collapse from some sudden shock. To defend Wal-Mart for its low prices is to claim that the most perfect form of economic organization more closely resembles the Soviet Union in 1950 than twentieth-century America. It is to celebrate rationalization to the point of complete irrationality.

There are many ways to counterbalance the power of Wal-Mart and the other new goliaths. In the case of Wal-Mart, we could encourage yet more mergers among its suppliers and its competitors. Or we could make it easier for its workers to unionize. Or we could micromanage the firm through our state and municipal governments (e.g., requiring it, as Maryland recently did, to devote 8 percent of its payroll to health insurance). Yet every one of these approaches runs the risk of only further warping our economy and perhaps even reinforcing Wal-Mart's power by creating new allies for it. After all, super-consolidated suppliers already share many of Wal-Mart's political interests; labor unions now committed to Wal-Mart's destruction could overnight become equally as committed to the further extension of Wal-Mart's power; and new bureaucracies will generally tend to sympathize with the firms they regulate. We can also, of course, choose to do nothing, and surrender to the immense retailer all the decisions that in the past were made within the marketplace itself or by democratically elected legislators. In other words, we can cede to Wal-Mart the role it so relentlessly seeks for itself—to be dictator over the central functions of the U.S. consumer economy.

If, however, we choose the path of the free market, and of individual freedom within the market; if we choose to ensure the health and flexibility of our economy and our industrial systems and our society; if we choose to protect our republican way of government, which depends on the separation of powers within our economy just as in our political system—then we have only one choice. We must restore antitrust law to its central role in protecting the economic rights, properties, and liberties of the American citizen, and first of all use that power to break Wal-Mart into pieces. We can devise no magic formula or scientific plan for doing so—all antitrust decisions are inherently subjective in nature. But when we do so, we should be confident that we act squarely in the American tradition, as illuminated by the cases against Standard Oil and the A&P. We should act knowing that the ultimate fault lies not with Wal-Mart but with our last generation of representatives, who have abjectly failed to enforce laws refined over the course of two centuries. We should act knowing that much similar work lies ahead, against many other giant oligopolies, in many other sectors. We should act knowing that to falter is to guarantee political and perhaps economic disaster.

As we make our case, we should be sure to call one expert witness in particular. Last year, Wal-Mart CEO Lee Scott called on the British government to take antitrust action against the U.K. grocery chain Tesco. Whenever a firm nears a 30 percent share of any market, Scott said, "there is a point where government is compelled to intervene." Now, Wal-Mart has never been shy about using antitrust for its own purposes. In addition to the Toys R Us case, the firm was also the instigator of a Sherman Act suit against Visa and MasterCard. And so such a statement, by the CEO of a firm that already controls upward of 30 percent of many markets and has announced plans to more than double its sales, sets a new standard for hubris. It also sets a simple goal for us—elect representatives who will take Citizen Scott at his word. ■