Cornered – The New Monopoly Capitalism and the Economics of Destruction
By Barry C. Lynn
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Review by Diana Moss*

If the state of the U.S. economy, the suffering in Haiti, or your own job woes aren't enough to keep you up at night, Barry Lynn's new book—*Cornered - The New Monopoly Capitalism and the Economics of Destruction*--just might be. In his expose on the smashing of American industry by monopolies, Lynn treats us to a sobering account of how key industries have become dominated by single, monolithic firms that control large chunks of critical markets or supply chains. Monopolies in agriculture, retailing, healthcare, automobiles, and other sectors strike at the very foundations of our social and economic system. While that system has held up under a number of assaults thus far, Lynn says that without significant political and economic reforms, we are on the road to ruin.

In his review of *Cornered*, Don Resnikoff brings us inside Lynn's thought process on the forces that have so transformed our economy into a cabal of destructive monopolies. There is no need to replicate Resnikoff's excellent review and insights that are thought-provoking in themselves. Here, I will try to add to the conversation Resnikoff has started about what Lynn has created in *Cornered*. My focus is on three major take-aways for those that are inclined to leverage Lynn's analysis to build productive policy reforms.

Perhaps one of the biggest utilities in Lynn's book is a description of what the modern-day trust actually looks like. Propelled by the driving need of financiers to realize profits, corporations have outsourced major parts of their supply chains to just a few suppliers, thus creating dangerously fragile systems. Monopolists have also seized control of key parts of the chain and dismantled the actual business of manufacturing on American soil. These top-down monopolies display vast vertical integration and, in many cases, horizontal concentration—all in the name of efficiency. They are so large that they encompass a self-sustaining set of resources and relationships necessary to take product from the uppermost recesses of the supply chain, all the way downstream to the consumer.

Lynn tees up multiple examples and descriptions of monopolistic systems throughout the book. While his list of ten types of monopolies (from the "home-base monopoly" to the "perfect your own monopoly") makes our heads spin, his in-depth assessment of the structure and evolution of corporations that dominate critical supply chains is an eye-opener. This is perhaps one of the best ways to educate his ultimate audience—the should-be-outraged American consumer and worker. But even Lynn cannot claim that the entirety of the American economy has been monopolized by hydra-like structures that swallow the entire supply chains. Some infrastructure industries such as electric utilities and transportation are horizontally concentrated but remain vertically compartmentalized. Lynn would assert that the reason for this is that regulatory systems have held

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certain types of consolidation out of the reach of the financiers. Even so, Lynn's descriptions of existing monopolistic systems prompt us to ask how proposed mergers such as Comcast/NBC could create a system that locks out rival and independent programming, and potentially compromise the media diversity that is fundamental to our democratic society.

A second take-away from Lynn's analysis is the observation that *Cornered* is deep on analyzing how and why we have gotten to a bad place but light on prescriptions or suggestions for reform. Viewed through the legal lens, Lynn has made a convincing case for liability but has punted on damages or remedy. This is not necessarily a downside of the book, as Resnikoff also points out. Just as different teams of experts suit up in litigation to take on these two parts of the whole, the same may apply in concept here. Lynn has done the heavy lifting of piecing together arguments for how and why our economy has come to be dominated by large monopolies. Perhaps it is up to antitrust advocates and enforcers to take the implications of his warnings to heart and reform our competition policy.

Let's use what Lynn has worked hard to provide in *Cornered* to think about what reform of our competition enforcement system might look like. To do that, we need to acknowledge one clear implication in Lynn's plea for Americans to sit up and notice the destruction of their economy. That is: the speed with which models of business organization have morphed into complex "hydra-like" structures has *far outstripped* the ability of enforcement to adapt and adjust. There are two possible explanations for this lag effect. Lynn tells us about one of them repeatedly in *Cornered*. Namely, the legal-economic establishment drank the Chicago School "operators" kool-aid on the supreme importance of efficiency as the driving force behind consolidation and anticompetitive conduct. We are just waking up from this near-fatal stupor to see that vast swaths of consolidation have ripped through our economy. A second reason is that our antitrust toolkit may not be up to the job of tackling the competitive issues raised by these monopolies. Perhaps we need better, more sophisticated tools.

Any suggestion that antitrust doesn't have the tools to address the modern-day trusts is not compelling, as Lynn himself proves. He draws distinct parallels between the destructive trusts of Rockefeller and J.P. Morgan a century ago and the current-day monopolies of Wal-Mart, Monsanto, Intel, and Microsoft. If our antitrust laws could deal with the old trusts, than surely shouldn't they be able to handle the new? The more likely explanation is that current-day antitrust enforcement *must be more creative* in addressing the competitive issues raised by modern business models.

We can see the glimmerings already. Take Monsanto's 2007 acquisition of cotton giant Delta and PineLand, which pieced together a monopolist in agricultural genetic traits technology with a major cottonseed company. The Department of Justice (DOJ) Antitrust Division wouldn't expressly call it anything but a horizontal merger (because Monsanto brought a small cottonseed asset to the merger). But the remedies sought were clearly targeted at keeping the system "open" or creating a smaller, rival system. This was achieved in part by requiring Monsanto to provide rivals with access to critical technology. Also consider the recent TicketMaster/LiveNation merger (which occurred after *Cornered* went to press). This deal paired up the largest online ticket seller with the larger concert promoter in the U.S. There again, the DOJ recognized that the merger would create a large system, and took steps to force it open by giving a rival concert promoter access to Ticketmaster's online ticketing platform. In this case, one could argue that the DOJ had the express intent to create a rival (albeit smaller) competing system.

If we take Lynn's warnings to heart, these deals should probably have been stopped altogether. Short of that, DOJ's actions should give us some small confidence that such remedies will create the "compartmentalization" that Lynn heralds in *Cornered*. That compartmentalization, he stresses, is necessary for competition, for lessening the fragility of supply chains that now suffer from "too big to fail," and for ensuring the safety of important products. The question is when enforcers and courts will muster both the confidence and political will to call a system a "system." For now, they appear to be quietly fixing modern competitive problems with existing antitrust tools. This short review can only scratch the surface of what the scope of a more creative antitrust enforcement approach to modern-day monopoly problems would look like. And the brief, foregoing examples are a reminder that there is a lot of work still needed.

Lynn tells us up front in *Cornered* that he won't address the "arcana of contemporary antimonopoly law." But without some lip service to the few bright spots that we do see on the enforcement front, we finish *Cornered* feeling like it is too late to save our industries from becoming modern-day clones of the trusts that spurred the passage of our antitrust laws a century ago. Admittedly, if Lynn had opined on antitrust's potential for creative coping, he might say it should be tempered by the recognition that the courts are not likely to go along, given their current personnel and leanings. Moreover, Congress is not likely to pass new laws that will compel the courts to take a different view. The reform process is likely to be slow but one place it might start is with a proactive administration, via guidelines, rulemakings, hearings, speeches, and risk-taking in important cases.

Finally, Lynn leaves us reconsidering the meaning of some accepted truths regarding our political-economic system. This includes some head-scratching about what "free market capitalism" really is and, more important, whether we really need "ever lower prices." Let's focus on the second. Lynn's premise is that we are obsessively focused on efficiency and price. For example, he claims the Carl Icahn-type financiers have used the consumer welfare-efficiency-price paradigm as the major justification for the vast systemization of major industries. He also attacks Wal-Mart's act of squeezing their suppliers to death--to pass on part of the price decrease to consumers—to grab market share. But with all the destruction wrought, we are left thinking that perhaps this paradigm doesn't fit. Maybe it should be a different paradigm--centered on genuine consumer choice--that should be a major focus of antitrust.

There would be no argument from some leaders in the antitrust community over the importance of choice as a goal of competition policy. Robert Lande and Neil Averitt have expanded compellingly on this subject. The choice model fits with Lynn's basic message to use our antitrust laws to "split and split again" through breakups. It also resonates with the importance of "compartmentalizing" parts of the supply chain to reduce fragility, improve product safety, and to reinstate the competition that is so badly needed.

Splitting and compartmentalizing achieves competition but it also injects choice at buying nodes along the supply chain. In other words, it is the consumer's right *to be able to* switch to alternative suppliers--whether it is the motherboard manufacturer, choosing between genuinely competing brands of microprocessors or you or me, choosing between rival brands of pet food. "Choice" may not immediately deliver the efficiencies of scale, scope, and coordination and the "ever low prices" that we have so worshipped while our economy has descended into a monopolistic morass. But it may be the necessary step toward resuscitating the patient. Indeed, perhaps paying slightly higher prices is, in fact, the price for re-achieving the competition that has vanished. In *Cornered*, Lynn gives us an excellent platform to reach for this, and other important discussions about our competition policy.