NOTE

ANTITRUST AND TECH GIANTS: LEARNING FROM *UNITED STATES V. GOOGLE LLC*

Marcus D'Agostino[*]

This Note addresses the evolution of antitrust regulation and enforcement in the United States, with a focus on the recent case of United States v. Google LLC. That case is used to frame the broader problem of insufficient remedies being implemented against large technology firms. The mild remedies granted to the government in Google reinforce the findings of the 2020 Congressional Report on Digital Competition. The Report recommended changes to the antitrust laws that would revive structural separation as a remedy. This Note argues that the body of evidence presented compels structural separation to be used more frequently as the remedy against the technology giants that predominate the United States economy.

* J.D. Candidate, 2026, Fordham University School of Law.

INTRODUCTION

The corporation, in one form or another, has played a dominant role throughout the history of the United States. However, the nature of the corporation has changed significantly since the Founding Era. Some early corporations were products of the British monarchy or state government.[1] Many were set up for narrow purposes or with preset expiration dates.[2] Beginning in the late nineteenth century, large publicly traded corporations became the dominant corporate form, and these companies quickly gained monopolies in their respective industries.[3] Monopolies and similar anticompetitive business practices can lead to a slew of harms such as higher prices, worse quality products, fewer choices, barriers to entry, and unfair power dynamics.[4] In 1890, the United States began regulating corporations to prevent unfair monopolies and encourage competition.[5] The practice of antitrust enforcement has endured

1. *See, e.g.*, Trs. of Dartmouth Coll. v. Woodward, 17 U.S. (4 Wheat.) 518 (1819); *see also* Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. (11 Pet.) 420 (1837).

2. *See* Elizabeth Pollman, *The History and Revival of the Corporate Purpose*, 99 TEX. L. REV. 1423 (2021).

3. *See* Margaret M. Blair, *Locking in Capital: What Corporate Law Achieved for Business Organizers in the Nineteenth Century*, 51 UCLA L. REV. 387, 389 (2003).

4. *See* Jilayne Jordan, *6 Reasons Monopolies Are Bad for Consumers and the Economy*, CAMOIN ASSOCIATES (Sep. 3, 2025), https://camoinassociates.com/resources/6-reasons-monopolies-are-bad-for-the-economy/ [https://perma.cc/M7Q4-Z6JB].

5. *See* Sherman Antitrust Act of 1890, ch. 647, 26 Stat. 209 (codified at 15 U.S.C. §§ 1-7 (2018)). Every state in the U.S. also has some level of antitrust or antimonopoly legislation, of varying degrees of effectiveness. While such laws offer potentially powerful remedies, they are outside the scope of this research and discussion.

to modern day, though it has taken a variety of forms over time. The issue has become a bipartisan one in recent years - members of both major political parties support some level of antitrust regulation by the government.[6] Even the most free-market capitalists will concede that there is some level of refereeing needed by the federal government to foster healthy competition between firms.[7]

The origins of antitrust legislation were to bring to heel behemoth corporations that were stifling competition in their respective industries.[8] At that time, industries such as steel, oil, and railroads were the focus of the regulation, where monopoly power was rampant.[9] These industries were collectively a significant portion of the economy, and control over them was concentrated in the hands of a few individuals and companies.[10] Today, the technology ("tech") sector has become the dominant piece of the United States' economy. Amazon, Apple, Microsoft, Alphabet, Nvidia, Broadcom, and Meta Platforms compose twenty-eight percent of the S&P 500.[11] These seven companies have a total of almost $22 trillion in market capitalization.[12] Amazon, Apple, Meta, and Google have collectively purchased over 500 companies in the past 30 years.[13] These tech giants have remarkably similar attributes to the companies run by the "Robber-Barons" of the nineteenth century that precipitated the

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6. *See* Roger P. Alford, *The Bipartisan Consensus on Big Tech*, 71 EMORY L.J. 893, 894 (2022).

7. *See* Mark R. Meador, *Antitrust Policy for the Conservative*, FED. TRADE COMM'N (May 1, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/antitrust-policy-for-the-conservative-meador.pdf [https://perma.cc/2CED-PG2A].

8. *See* George J. Stigler, *The Origin of the Sherman Act*, 14 CHI. J. LEGAL STUD. (1985) (discussing the economic landscape that prompted Congress to pass the Sherman Act).

9. *See id.* at 4.

10. *See id.*

11. *See* APPLIED FIN. CAP. MGMT., VALUING GIANTS: THE MAG 7 THROUGH INTRINSIC VALUE AND FUNDAMENTAL ANALYSIS (2024), https://www.appliedfinance.com/wp-content/uploads/2024/02/MAG7-Jan-2024.pdf [https://perma.cc/26BV-S8RS].

12. *See* Cedric Thompson, *Magnificent 7 Stocks: What You Need to Know*, Investopedia (Dec. 12, 2025), https://www.investopedia.com/magnificent-seven-stocks-8402262 [https://perma.cc/5PTK-KJYE].

13. *See* MAJORITY STAFF OF H. SUBCOMM. ON ANTITRUST, COM. & ADMIN L., H. COMM. ON THE JUDICIARY, 116TH CONG., INVESTIGATION OF COMPETITION IN DIGITAL MARKETS 391 (2020) [hereinafter INVESTIGATION OF COMPETITION IN DIGITAL MARKETS].

initial antitrust reforms.[14] These similarities are not incidental; both the late 1800s and early 2000s can be characterized by rapid advancements in technology accompanied by the explosive growth of new companies.[15] While the large monopolies of the nineteenth century were regulated to combat their anticompetitive tendencies, there are relatively few instances of modern new technology corporations being subject to antitrust enforcement on the same scale.

There has been some recent activity from the government concerning the new monopolies in the technology sector. In 2020, the House of Representatives Antitrust Subcommittee published a report investigating competition in the digital markets.[16] This report explored the business practices of Amazon, Apple, Meta (Facebook at the time), and Google, to determine whether and to what extent market abuses were occurring.[17] All four corporations were found to be engaging in anticompetitive behaviors and business practices. The conclusion of the report was an unequivocal call for antitrust reform to fix extreme monopolistic power.[18] Numerous options for changes to the antitrust legislation were proposed, including adding funding and available punishments for violators, overriding Supreme Court decisions, and imposing restrictions on FTC employees from flipping between government and private sector work.[19] Despite the findings of this report, the suggested changes have not been implemented to antitrust laws.

Also in 2020, the Department of Justice brought an antitrust action against Google for maintaining certain illegal monopolies.[20] The case came to a conclusion in September of 2025. The government successfully proved Google liable for illegal anticompetitive behavior.[21] Despite these findings, the court stopped short of forcing divestment or requiring other structural

14. *See Robber Barons and Silicon Sultans*, THE ECONOMIST (Jan. 3, 2015), https://www.economist.com/briefing/2015/01/03/robber-barons-and-silicon-sultans [https://perma.cc/H65X-BUWF].
15. *See id.*
16. *See supra* note 13.
17. *See id.*
18. *See id.* at 20.
19. *See id.*
20. United States v. Google LLC, 747 F. Supp. 3d 1 (D.D.C. 2024).
21. *See id.*

separations.[22] While remedies were imposed on Google, the change was not significant and the case has been described as a win for the corporation.[23] Google's antitrust case exemplifies how tech giants are essentially impervious to meaningful threats of regulation. A central takeaway from *United States v. Google LLC* is that Congress should update the antitrust laws to better regulate the tech industry.[24] *Google* shows that the federal government is still attempting to play referee and enforcing the laws as they exist, but the underlying legislation is insufficient to yield systemic change for the technology giants. Specifically, the structural separation remedies outlined in the House Report are needed to revive competition in the tech industry.

I. ANTITRUST LANDSCAPE IN THE UNITED STATES

A. The First Regulations

Antitrust law at the federal level began in 1890 with the Sherman Antitrust Act ("the Act").[25] The purpose of the Act as described by the Supreme Court is "not to protect businesses from the working of the market; it is to protect the public from the failure of the market. The law directs itself . . . against conduct which unfairly tends to destroy competition itself."[26] The Act bars anticompetitive agreements as well as conduct that monopolizes or attempts to monopolize the relevant market.[27] These broad powers enabled the federal government to force divestment of corporations in violation of the Act.[28] The Sherman Act has been used to break up companies like American Tobacco and Standard Oil.[29] While the Sherman Act was successful at preventing

22. United States v. Google LLC, 803 F. Supp. 3d 18, 33–37 (D.D.C. 2025).
23. *See* Reinhardt Krause, *Google Stock Surges to Record High on Favorable Antitrust Ruling. How AI Swayed Judge*, MSN (Sept. 3, 2025), https://www.msn.com/en-us/money/companies/google-stock-climbs-on-judges-ruling-in-search-antitrust-case-how-ai-played-a-role/ar-AA1LJGFT [https://perma.cc/E54Z-TAR8].
24. *See id.*
25. *See* Sherman Antitrust Act of 1890, ch. 647, 26 Stat. 209 (codified at 15 U.S.C. §§ 1-7 (2018)).
26. *See* Spectrum Sports, Inc. v. McQuillan, 506 U.S. 458 (1993).
27. *See* 15 U.S.C. §§ 1-7.
28. *See, e.g.*, U.S. v. Am. Tobacco Co., 221 U.S. 106 (1911).
29. *See id.*; Standard Oil Co. of N.J. v. United States, 221 U.S. 1 (1911).

colluding business cartels, some industries were able to sidestep it by merging into a single large company instead.[30] A wave of mergers followed the passage of the Sherman Act, signaling that it was insufficient alone to regulate the large corporations.[31] The root issue persisted, and further congressional action was still needed.

In 1914, both the Clayton Act and Federal Trade Commission ("FTC") Act were passed.[32] These acts were passed by Congress in response to perceived shortcomings of the Sherman Act, evidenced in early enforcement actions such as that against Standard Oil.[33] The Clayton Act made many additions to the Sherman Act, including prohibitions on price discrimination, exclusive dealings, tying, and mergers and acquisitions.[34] The Clayton Act also included a restriction on any person being the director of two or more competing corporations if their merger would be an antitrust violation.[35] The FTC Act created the Federal Trade Commission in addition to adding to antitrust regulation. The FTC's purpose is enforcement of the Clayton and FTC Acts.[36] The FTC cannot technically enforce the Sherman Act, however, the Supreme Court has noted that anything that constitutes a Sherman Act violation is also a violation of the FTC Act.[37] Since 1914, the Sherman, Clayton, and FTC Acts have remained the core pillars of antitrust law. While there have been a few amendments

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30. Prior to the Clayton Act, business cartels would form from several companies, running joint monopolies in a given market. *See* Debra A. Valentine, Former Gen. Couns., Fed. Trade Comm'n, Remarks at the INDECOPI Conference: The Evolution of U.S. Merger Law (Aug. 13, 1996), https://www.ftc.gov/news-events/news/speeches/evolution-us-merger-law [https://perma.cc/Z9MH-EGBT].

31. *See id.*

32. *See* 15 U.S.C. §§ 12-27; *see also* 15 U.S.C. § 41 (providing for the creation and composition of the Federal Trade Commission).

33. *See* William E. Kovacic & Carl Shapiro, *Antitrust Policy: A Century of Economic and Legal Thinking,* J. OF ECON. PERSPS. 46 (2000).

34. *See* 15 U.S.C. §§ 12-27.

35. *See id.*

36. *See* 15 U.S.C. § 41.

37. *See The Antitrust Laws,* FED. TRADE COMM'N (June 11, 2013), https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws [https://perma.cc/8H8B-W8M7].

and updates, legislation has built on the foundation of these three acts.[38]

B. The Supreme Court

The foundational antitrust legislation was vague and broadly worded, leaving the exact contours of its scope open to interpretation.[39] Because of this, the Supreme Court has played a critical role in defining and specifying many of the features of the Acts.[40] In addition to the influence of the Court, legal scholars of the University of Chicago School of Law played a significant role in shaping the contours of the antitrust acts.[41] The federal government was initially successful at antitrust rulemaking and enforcement, reaching a high water mark of winning enforcement actions in the 1960s.[42] However, its effectiveness has eroded over time to result in the current environment where enforcement resulting in meaningful change is extremely difficult to achieve.

The Court first began to mold antitrust law in *Standard Oil Co. v. United States*.[43] Through a series of acquisitions of smaller refineries, Standard Oil controlled over ninety percent of the oil refining market.[44] The company engaged in anticompetitive behaviors such as underpricing to drive competitors out of business, and threatening other companies to not do business with any of Standard Oil's competition.[45] The government's case was a victory, resulting in Standard Oil being broken up into thirty-four smaller companies.[46] However, the Court added a gloss to the Sherman Act: the 'rule of reason.'[47] The 'rule of reason'

38. *See id*. Amendments include the Robinson-Patman Act of 1936, the Celler-Kefauver Act of 1950, the Tunney Act 1974, and the 1976 Hart-Scott-Rodino Antitrust Improvements Act. *Id.*

39. *See* Laura Phillips Sawyer, *US Antitrust Law and Policy in Historical Perspective* 1 (Harvard Bus. Sch, Working Paper 19-110, 2019).

40. *See id.*

41. *See id.*

42. *See* Kovacic & Shapiro, *supra* note 33, at 49–52.

43. 221 U.S. 1 (1911).

44. *See* Elizabeth Granitz & Benjamin Klein, *Monopolization by "Raising Rivals' Costs": The* Standard Oil *Case*, 39 J.L. & ECON. 1, 1–2 (1996).

45. *See id.*

46. *See Standard Oil Co.*, 221 U.S. at 46.

47. *See id.* at 62.

means that only unreasonable restraints on trade are violations of the Sherman Act, despite the text of the Act banning every restraint on trade without mention of reasonableness.[48] This meant in effect that the Court would evaluate corporate practice on an individualized basis with few behaviors being per se illegal.[49] Despite the success in the case against Standard Oil, the Court's decision suggested that future cases might be difficult to win under this new rule. Congress was troubled by the Supreme Court's decision and responded by passing the Clayton and FTC Acts to strengthen antitrust laws.[50]

The fears of Congress that prompted the passing of the Clayton and FTC Acts were somewhat abated in the decades that followed. The Court declined to use the 'rule of reason' in many subsequent cases and held a variety of anticompetitive practices to be per se illegal.[51] The new legislation and the new enforcement agency were able to effectively bring monopolies to heel. This change was also in part due to the Franklin Delano Roosevelt Administration's more aggressive enforcement of antitrust laws, and a broadly held suspicion of the large and ever-growing corporations.[52] The turn of the Court against large corporations is most succinctly observed by Justice Potter Stewart in *United States v. Von's Grocery Co.* where he remarked that the only consistency in antitrust actions was that "the [g]overnment always wins."[53]

The tides began to turn back towards the 'rule of reason' in the 1970s.[54] The rise of the Chicago School of Economics led to a perspective shift regarding what types of business practices should be prevented.[55] This new philosophy, which favors minimal government intervention in the free market and views aggressive antitrust actions as disrupting market efficiencies, took hold with many legal scholars and judges.[56] The Supreme Court embraced these ideas in deciding *Continental Television, Inc. v. GTE*

48. *See* Kovacic & Shapiro, *supra* note 33, at 44–46.
49. *See id.*
50. *See id.*
51. *See id.* at 49–52. These practices included tying, group boycotts, market allocation agreements, exclusive territory agreements for sales, and vertical restraints limiting retailers to geographic areas. *Id.*
52. *See id.*
53. *See* 384 U.S. 270, 302 (1966) (Stewart, J., dissenting).
54. *See* Kovacic & Shapiro, *supra* note 33, at 52–55.
55. *See id.*
56. *See id.*

Sylvania, Inc.[57] The Court made frequent reference to the Chicago School in its holding that all nonprice vertical restrictions are subject to the rule of reason from *Standard Oil.*[58] After this case, the federal government began losing some anti-monopoly cases and failing to achieve structural separation remedies, with the notable exception of *United States v. AT&T*.[59] This swing back against the federal government's success in enforcement persists to today.

These shifts in the Court's jurisprudence reveal the scale of their influence on antitrust actions. The current antitrust legislation leaves the Court a lot of discretion as to how strictly different elements are interpreted or enforced.[60] This has given way to extremes on both ends of the enforcement spectrum, from the federal government once "always winning" to now being unable to win a divestment remedy since 1982.[61] Therefore, an important consideration of any proposed antitrust reforms is how much discretion is left to the Court and how much is codified as a bright-line rule. Congress cannot account for every possible permutation of anticompetitive behavior, but the legislation as is currently written allows the judiciary what seems like unfettered discretion to decide the exact contours on the law. In tandem with the enforcement discretion inherent to any executive branch agency, the joint effect is that antitrust laws are only strictly enforced if the executive and judicial branches both decide that they should be. Congress can reset this balance by changing the laws to remove the wide latitude that currently exists. The FTC and Clayton Acts are evidence that they have made such changes before when needed.

II. THE MODERN CASES OF TECHNOLOGY GIANTS

Antitrust enforcement went through many developments both from Congress and the Courts leading up to the current era. The effects of these changes can be seen in examining the two

57. 433 U.S. 36 (1977).
58. *See* Kovacic & Shapiro, *supra* note 33, at 52–55; 433 U.S. at 49.
59. 552 F. Supp. 131 (1982); *see also* Kovacic & Shapiro, *supra* note 33, at 54–58.
60. *See* Sawyer, *supra* note 39, at 1.
61. *See* United States v. Von's Grocery Co., 384 U.S. 270, 310 (1966); *AT&T*, 552 F. Supp. at 131.

landmark cases *United States v. AT&T* and *United States v. Microsoft*.[62] The case against AT&T successfully resulted in the breakup of the company,[63] but the case against Microsoft failed to achieve divestment remedies.[64] The differences between AT&T's and Microsoft's cases highlight a turning point in antitrust law. AT&T's breakup emphasizes that even the most powerful monopoly can be brought to heel. The rise of the twenty-first century's technology oligopolies directly follows the decision that allowed Microsoft to engage in anticompetitive behavior with little-to-no consequences. Up until *United States v. Google LLC*,[65] few enforcement actions were even brought against the technology firms after Microsoft's outcome.

A. United States v. AT&T

One of the most significant antitrust cases is *United States v. AT&T*.[66] From 1913 to 1974, the federal government allowed AT&T (originally the American Telephone and Telegraph Company) to have a natural monopoly over telephone service.[67] The rationale behind this decision was that AT&T's commitment to provide universal service and access to all American consumers justified its monopoly.[68] While this may look unusual in the twenty-first century, historically it was not unusual for the government to grant corporations monopolies that it deemed useful.[69] AT&T engaged in a variety of antitrust violations, including overcharging for long distance telephone calls, restricting connections from other companies to its landline network, and unfairly prioritizing equipment manufactured by its own subsidiary.[70] The Department of Justice in 1974 filed suit against

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62. *See id.*; 253 F.3d 34 (D.C. Cir. 2001).
63. *See AT&T*, 552 F. Supp at 226.
64. *See Microsoft*, 253 F.3d at 107.
65. 747 F. Supp. 3d 1 (D.C. Cir. 2024) (finding liability under the Sherman Act); 803 F. Supp. 3d 18 (D.C. Cir. 2025) (fashioning a remedy for finding of liability under the Sherman Act).
66. 552 F. Supp. 131 (1982).
67. *See* Adam Thierer, *Unnatural Monopoly: Critical Moments in the Development of the Bell System Monopoly*, 14 CATO J. Vo. 267, 269–271 (1994).
68. *See id.* at 268.
69. *See, e.g.*, Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837).
70. *See AT&T*, 552 F. Supp. at 135–36.

AT&T under the Sherman Antitrust Act to break up the company.[71] After almost ten years of litigation, the case ultimately resolved in a consent decree where AT&T agreed to voluntarily divest of its local operating companies, control of which was transferred to seven independent Regional Bell Operating Companies.[72] While some of these smaller companies, nicknamed 'Baby Bells,' were allowed to re-merge with each other over time, a singular telephone service monopoly has not re-emerged in the more than forty years since the breakup.[73]

The outcome in *AT&T* has significance for many reasons. The case is a rare success in the era where the Court has returned to the 'rule of reason' and disfavored extreme antitrust outcomes. It shows that an unfair monopoly that persists for over 60 years can still be reined in. But it also marks 1982 as the last year when the federal government was able to achieve structural separation as an antitrust penalty against a corporation. This case predates the emergence of the new tech corporations and the advancements that accompanied them. AT&T's dominance in its industry meant the effects of the case were felt by the millions of Americans who until then had no choice but to be AT&T customers.[74] By 1982, telephones were not a technological marvel. Therefore, in some ways, it was easier to demonstrate the problems with the anticompetitive behavior. As is seen with antitrust actions concerning contemporary technology, the pace of advancement is faster than the judiciary's capacity. As a result, companies are given more leeway.

B. United States v. Microsoft

Until *United States v. Google LLC*, the most notable antitrust decision concerning tech giants was *United States v. Microsoft*.[75] Microsoft was sued by the federal government for maintaining a monopoly in the operating system market through anticompetitive conduct, such as exclusive dealing arrangements

71. *See id.* at 135.

72. *See id.*

73. *See* Andrew Pollack, *AT&T Move Is a Reversal Of Course Set in 1980's*, N.Y. TIMES (Sep. 22, 1995), https://www.nytimes.com/1995/09/22/business/at-t-move-is-a-reversal-of-course-set-in-1980-s.html [https://perma.cc/H4GF-QWQ7].

74. *See id.*

75. 253 F.3d 34 (D.C. Cir. 2001).

and actions to suppress middleware threats.[76] The trial was contentious, with Microsoft's CEO Bill Gates engaging in evasive litigation tactics and Microsoft being accused of falsifying or tampering with some of its evidence.[77] The district court found that the company had violated the Sherman Act and ordered forced divestment of Microsoft into two companies; one to make software components and the other to make the operating system.[78] On appeal, the D.C. Circuit Court reversed the trial court, preventing the breakup of Microsoft.[79] This reversal was not strictly on the merits. The trial judge in the case had spoken to the press about the case and expressed concern over Microsoft's monopoly status.[80] The Court of Appeals found the trial court judge's statements to the press were unethical and revealed a bias against Microsoft.[81] After the reversal, the Department of Justice ultimately resolved the case in a settlement with Microsoft, with remedies consisting largely of monitoring and behavioral restrictions.[82]

What could have been the guidepost for antitrust actions in the twenty-first century ultimately culminated in very little change. Concerns about judicial ethics and proper behavior overrode the evidence of an illegal monopoly. While the trial judge may have legitimately been in the wrong for speaking to the press, that external factor should not have changed the penalties imposed on Microsoft. While fines, restrictions, and a monitoring system were imposed, Microsoft by and large escaped unscathed. Today, Microsoft is one of the largest companies in the world with the same monopolies that were a cause for concern in 2001, in addition to market dominance in even more fields.[83] This set a

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76. *See id.*
77. *See* Stan Crock, *Buggy Video and More, Microsoft Is Going Backward*, BUS. WEEK (Feb. 3, 1999), https://web.archive.org/web/19991103171910/http://www.businessweek.com/microsoft/updates/up90203a.htm [https://perma.cc/4UMV-MRNL].
78. *See Microsoft*, 253 F.3d at 48.
79. *See* 253 F.3d at 46.
80. *See id.* at 108–10.
81. *See id.*
82. *See U.S. v. Microsoft Corporation Information on the Settlement*, U.S. DEP'T OF JUST. (Nov. 20, 2015), https://www.justice.gov/atr/usdoj-antitrust-division-us-v-microsoft-corporation-information-settlement [https://perma.cc/7JGW-HU2N].
83. *See* INVESTIGATION OF COMPETITION IN DIGITAL MARKETS, *supra* note 13, at 1.

dangerous precedent, allowing Microsoft to escape severe remedies despite the findings of liability. Scholars criticize *Microsoft* as an inciting incident; the twenty years that have followed the decision have seen a rise of technology oligopolies essentially undisturbed by the federal government.[84]

III. CONGRESSIONAL REPORT ON DIGITAL COMPETITION

In 2020, the House of Representatives Antitrust Subcommittee published the Investigation of Competition in Digital Markets (hereinafter "the House Report").[85] This report focused on the anticompetitive business practices of Amazon, Meta, Apple, and Google.[86] While each corporation differs in their business practices, all four of them were found to have market power that negatively affected competition and innovation in their respective industries.[87] The report additionally included many recommendations for reforms to remedy the anticompetitive behaviors each company is engaged in.[88] For the purposes of this note, the focus will be on the Report's analysis of Google's practices: abuses in search, digital advertisements, the Android system, Google Play Store, and Google Chrome.[89] The House Report found that Google engaged in further anticompetitive practices with regard to its Google Maps and Cloud services.[90] The recommendations to address these problems have not been adopted by Congress, nor were they used as remedies in the recent case against Google.

84. *See* Andrew Chin, *Decoding* Microsoft*: A First Principles Approach*, 40 WAKE FOREST L. REV. 1 (2005), at 2-4.
85. *See* INVESTIGATION OF COMPETITION IN DIGITAL MARKETS, *supra* note 13, at 1.
86. *See id.* at 6.
87. *See id.* at 10–11.
88. *See id.* at 375.
89. *See id.* at 14–15.
90. *See id.* at 15.

A. Google's Practices

1. Search and Digital Advertisements

The House Report found that Google's market dominance has allowed it to engage in anticompetitive behavior.[91] One of the ways Google maintains its monopoly is by leveraging third-party content, essentially corporate theft.[92] Google has engaged in a repeat pattern of using content of third parties in its own services to the detriment of the third parties.[93] Examples of third parties affected by this are Yelp, Celebrity Net Worth, and Genius.[94] Each third-party website had its content lifted by Google for use on Google's own services.[95] When Yelp complained about these practices, Google threatened to delist them entirely from Google's search results.[96] Google receives 87% of online search queries in the United States.[97] Google also happens to be the default search engine on 87% of desktop computers.[98] This dominance enables Google to leverage third-party content to prefer its own content to the detriment of competitors.[99] Because of Google's search query dominance, smaller websites and companies have little or no recourse to fight back when Google steals from them or threatens their business. To delist from Google would be to lose access to 87% of the American search market.[100]

Another anticompetitive practice Google engages in is demoting competitor sites in preference to its own content.[101] Google raises its own products, like Google Maps or YouTube, over similar competitors.[102] Google uses certain metrics to push "low-quality" websites lower in search results.[103] The company's stated position is that pushing down "low-quality" websites is a part of

91. *See id.*
92. *See id.* at 14.
93. *See id.* at 177–81.
94. *See id.* at 185–92.
95. *See id.*
96. *See id.*
97. *See id.* at 174–77.
98. *See id.* at 178.
99. *See id.*
100. *See id.* at 174–77.
101. *See id.* at 187–89.
102. *See id.*
103. *See id.* at 189–91.

the service they provide to ensure that users get the best results.[104] However, multiple people who work at Google acknowledge that if these standards were applied fairly to its own properties, those properties would not rank first as they are currently shown in search results.[105] This means that while users may believe they are getting the "best results," Google is putting a finger on the scale to make sure that its own content always comes first. Google is the gatekeeper, controlling search results. But they also create the content that is yielded by many searches, putting themselves in competition with the websites and companies dependent upon them for success.

2. Android, Google Play, and Google Chrome

The House Report also found that Google engaged in anticompetitive practices related to its ownership of Android, Google Play, and Google Chrome.[106] Google purchased Android in 2005.[107] In exchange for a license to use Android on a smartphone, manufacturers must pre-install and prominently place Google's apps on the smartphone.[108] The mandated apps include Gmail, YouTube, Google Chrome, Google Maps, and Google Play Store.[109] Google also requires a signed licensing agreement for phone manufacturers using the Android system to access any of Google's apps.[110] A European Commission on antitrust has already found this arrangement to confer an illegal benefit to Google by preventing competing operating systems and apps from gaining traction.[111] Additionally, Google monitors the activity of rival applications on Android devices, including downloads, uninstalls, how long a user is on an application, and how frequently the app is used.[112] This monitoring gives Google an immense amount of data on its competitors, who have no means of getting the same

104. *See id.*
105. *See id.*
106. *See id.* at 213. While colloquially used to reference non-iPhone's, in this context Android specifically refers to the operating system, not the physical piece of hardware.
107. *See id.*
108. *See id.* at 214.
109. *See id.* at 213.
110. *See id.* at 213–15.
111. *See id.* at 217.
112. *See id.* at 217–20.

information on Google's apps.[113] Google is uniquely positioned to make more informed decisions than its competitors. A rival to Gmail, YouTube, Google Chrome, Google Maps, and Google Play Store must overcome this inequitable data access hurdle to be able to compete.

B. The Recommendation for Change

The House Report proposes a myriad of measures to reinvigorate competition and prevent Google and the other tech giants from engaging in unfair monopolistic acts.[114] The recommended changes notably include structural separation and line of business restrictions.[115] The House Report also recommends strengthening both antitrust laws and antitrust enforcement.[116]

1. Restoring Competition

The House Report provides many recommendations to restore a competitive market that has eroded as the large technology firms have expanded. These include implementing rules to prevent discrimination, favoritism and self-preferencing, and reducing market power through merger presumptions.[117] Most notable is the recommendation for reducing conflicts of interest through structural separations and line of business restrictions.[118] These changes would prevent companies like Google from competing with dependent businesses. As detailed above, Google places itself in competition with dependent businesses, which inherently makes the competition unfair. The Report emphasizes the value of new structural rules over conduct rules for ease of enforcement.[119] The current conduct-focused antitrust system requires continual monitoring, as well as

113. *See id.* at 219–22.
114. *See id.* at 375–77. This section does not describe in full the recommendations of the House Report but focuses on the changes pertinent to Google's anticompetitive behavior.
115. *See id.*
116. *See id.*
117. *See id.* at 380–82.
118. *See id.*
119. *See id.* at 383–89.

enforcement "on an ad hoc basis."[120] System-wide changes are easier to enforce and can make change to the market more effectively.[121]

2. Strengthening Antitrust Laws

The House Report frames the needed changes to the antitrust laws as a change in priorities. The Supreme Court has shifted the lens of antitrust to "consumer welfare."[122] The House Report calls for a return to a broader goal of antimonopoly generally.[123] Changes to reach that end include overriding certain Supreme Court decisions and adding protections for potential rivals, nascent competitors, and startups.[124] To address the issue of large technology companies skirting regulation, the Report recommends bright-line rules to be added by Congress to make certain anticompetitive behavior expressly illegal.[125] One such change would be to 'monopoly leveraging.' Google's behavior, specifically its use of its horizontal search monopoly to improve its vertical search offerings, is a type of monopoly leveraging.[126] The Report recommends overriding the legal requirement that a company engaging in monopoly leveraging "actually monopolize" the second market, a current requirement that prevents enforcement against Google for their described behavior.[127]

3. Strengthening Antitrust Enforcement

The House Report laments how Congress has shifted from being a dominant force in antitrust enforcement to largely abdicating its responsibility to the FTC.[128] The House Report specifically calls on Congress to do the following: (1) increase the penalties and relief for "unfair methods of competition," (2) require the FTC to regularly collect data and report on economic

120. *See id.*
121. *See id.*
122. *See id.* at 390–95.
123. *See id.*
124. *See id.*
125. *See id.*
126. *See id.* at 396–98.
127. *See id.*
128. *See id.* at 398–400.

concentration and competition in sectors across the economy, (3) require the FTC and Department of Justice ("DOJ") to solicit and respond to public comments for merger reviews, (4) require the FTC and DOJ to publish written explanations for all enforcement decisions, (5) require the agencies to conduct and make publicly available merger retrospectives on significant transactions consummated over the last three decades; (6) codify stricter prohibitions on revolving door between the agencies and the companies that they investigate, especially with regards to senior officials, and (7) increase the budgets of the FTC and the Antitrust Division of the DOJ.[129] The Report also recommends changes in private enforcement to lower procedural hurdles.[130] These reforms include lowering the pleading requirements, eliminating judicially created injury and standing requirements, eliminating forced arbitration clauses as well as removing limits on class action formation.[131] All of these reforms would enable the government to more aggressively enforce the antitrust laws. The added requirements for the FTC and DOJ Antitrust Division would rein in their discretion and prevent bad actors from stymying enforcement actions. Larger budgets and additional remedies would make actions easier to bring and successful ones more consequential.

IV. *UNITED STATES V. GOOGLE LLC*

The same year as the House Report was published, the Department of Justice Antitrust Division along with other plaintiff states brought action against Google in *United States v. Google LLC*.[132] Plaintiffs alleged three violations of Section 2 of the Sherman Act, related to Google's activity in the general search services, search advertising, and general search text advertising

129. *See id.* at 401–02.
130. *See id.* at 402.
131. *See id.* at 402–03.
132. No. 20-cv-3010 (APM), 2025 U.S. Dist. LEXIS 170459 (D.D.C. Sep. 2, 2025). The United States Department of Justice was joined by the attorneys general of eleven states: Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, South Carolina, and Texas, hereafter "Plaintiffs." The court also consolidated the case with *State of Colorado v. Google*, with 38 states and territories composing the plaintiffs.

markets.[133] The liability and remedies sections of the trial were bifurcated.[134] In 2024, liability was determined.[135] The court ruled that Google violated Section Two of the Sherman Act by acting to maintain its monopoly in the general search services and general search text advertising market.[136] The Court did not find that Google had monopoly power in search advertising market.[137] The conclusion of the case in 2025 concerned the appropriate remedies for Google's violations.[138] Plaintiffs and Defendant each made proposals for appropriate remedies.[139] Despite the finding of liability on the part of Google, most of Plaintiff's remedy requests were rejected.[140] The new developments in generative artificial intelligence technology between 2020 and 2025 appear to have played an outsized effect on the remedies verdict.[141]

A. *Antitrust Liability*

1. General Search Services

The Court found that Google had monopoly power in the general search services product market resulting from exclusive distribution agreements.[142] Critically, this had anticompetitive effects by way of 1) barring competitors from the opportunity to compete, 2) denying rivals access to data needed to compete effectively, and 3) disincentivizing investment or innovation in search by others.[143] Google's distribution agreements were found to cover fifty percent of all searches in the United States.[144] Google and Microsoft are the only firms to have made the investment to

133. *See id.* at *29–30.
134. *See id.*
135. *See id.*
136. *See id.* at *41–45.
137. *See id.*
138. *See id.* at *45–46
139. *See id.* at *47–51.
140. *See id.*
141. *See id.* at *31 ("The emergence of GenAI changed the course of this case").
142. *See id.* at *43. "General Search Services" refers to the Google Search engine which allow users to filter the internet for desired content.
143. *See id.* at *147.
144. *See id.* at *148.

create their own search engines.[145] As part of an agreement with Google, Apple will not create its own search engine and Apple products default to Google as the search engine for all Apple browsers.[146] Google's search engine is also the default on Android phones.[147] Google's position as the default search engine on all Apple products and all Android products has given it unique access to a scale of data that prevents any meaningful competition.[148] Phones using Apple's operating system (iOS) and phones using the Android system jointly compose over 99% of the market share for smartphones worldwide.[149] This means that Google is the default general search engine on virtually all smartphones. Google is so dominant in search services that the potential for new competitors to emerge seems dubious at best.

2. General Search Text Advertising

The Court made similar findings with regards to the general search text advertising market.[150] General search text advertisements are often listed among the first results by general search engines, labeled with an indication that they are advertisements, and include a hyperlink and brief description.[151] Google's anticompetitive behavior in this area had the effect of 1) foreclosing a large share of search text advertising market, 2) preventing competition to challenge their raising prices on text ads, 3) allowing Google to degrade its text ad offerings quality, and 4) place a ceiling limit on competitor's ad revenue.[152] Google's distribution agreements were found to bar forty-five percent of the text ad market.[153] Google acknowledged that other rival's

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145. *See id.* at *146–49. While smaller search engines exist, Microsoft is the only one of scale that could financially compete with Google. The court does not acknowledge Microsoft's 'Bing' search engine as a meaningful competitor to Google.
146. *See id.* at *150–51, 155.
147. *See id.* at *154–55.
148. *See id.* at *149–53.
149. *See iPhone vs Android Statistics*, BACKLINKO (Dec. 23, 2025), https://backlinko.com/iphone-vs-android-statistics [https://perma.cc/EW7J-4SQ7].
150. *Google*, 2025 U.S. Dist. LEXIS 170459, at *44.
151. *See* Information on Text Ads, GOOGLE ADS HELP, https://support.google.com/google-ads/answer/14093?hl=en [https://perma.cc/NXW4-6E3V] (last visited Jan. 31, 2026).
152. *Google LLC*, 2025 U.S. Dist. LEXIS 170459, at *44.
153. *See id.*

pricing does not affect their own, and the court found their price increases "unconstrained."[154] The lack of competition has allowed Google to approach pricing in a way it would be unable to in a competitive market.[155] Google provides advertisers less information regarding what are low-volume searches and now does not allow advertisers to opt out of keyword matching.[156] Advertisers lose autonomy because Google does not operate in a competitive text ad market.[157] As detailed in the House Report, Google's level of control in this area is difficult to compete with.

B. Proposed Remedies

In light of the findings of liability, the litigants each proposed remedies to the Court. There was marked variation between Plaintiffs' proposals and Defendant's. Plaintiffs' proposed remedies included both structural and behavioral changes.[158] Plaintiffs sought forced divestment of Google's Chrome browser.[159] They also sought divestment of the Android operating system, contingent on other remedies failing.[160] Plaintiffs also requested both affirmative and prohibitive behavioral remedies.[161] The behavior restrictions requested were (1) prohibiting Google from making any search-related payments to distribution partners (with limited exception), and (2) forbidding Google from using proprietary assets like YouTube, Android, and Gemini to self-preference its own search or advertising products.[162] The affirmative behavioral remedies included (1) requiring Google to provide advance notice of certain acquisitions and investments, (2) requiring Google to grant licenses to "Qualified Competitors" to syndicate search results and general search text ads from Google (3) mandating choice screens on Google products that would allow users to select the GSE they wish to use, and permitting Google to pay device distributors (other

154. *See id.* at *175–77.
155. *See id.*
156. *See id.* at *333–35.
157. *See id.* at *337.
158. *See id.* at *47–49.
159. *See id.* at *48–50.
160. *See id.*
161. *See id.*
162. *See id.*

than Apple) for offering choice screens on existing devices (4) launching a nationwide public education campaign, underwritten by Google, that would inform consumers about different GSE options and how to switch GSEs. (requested only by plaintiff states), (5) compelling Google to provide advertisers enhanced performance data and a bidding-control feature known as "exact match," as well as disclose material changes to its ad auctions (6) ordering Google to allow website publishers and content creators to opt out of Google crawling their web pages and domains for inclusion in Google's search index and for training its GenAI models and products, (7) compelling Google to share search index data and certain user and advertising data with "Qualified Competitors."[163] These remedies include many of the foundational ideas proposed by the House Report, but tailored to the specific behavior Google is liable for in this case.

Google's proposed remedies starkly differed from Plaintiffs' proposal.[164] They sought an injunction to bar themselves from having any unlawful exclusive distribution agreement for the term of the judgment.[165] This was the core proposed remedy, including specifically (1) a prohibition on Google from bundling Google Search, Chrome, Google Assistant, or the Gemini app with Google Play or other Google apps in their OEM agreements, (2) a bar on Google from entering any contract with an OEM or wireless carrier that prevents the partner from preloading or otherwise promoting alternative GSEs, browsers, AI assistants, (3) preventing Google from conditioning payments to OEMs and wireless carriers on the required installation of Google Search, Chrome, Google Assistant, or Gemini on more than one search access point or device, and (4) allowing browser developers like Apple and Mozilla to set different GSEs as defaults across various modes and platforms and to promote other search services, and granting them the option to change default search settings annually.[166] While these proposed changes would be improvements relative to the anticompetitive behavior Google is engaged in, they do not remedy the core issues detailed in the finding of liability. Most notably, none of these changes directly

163. *See id.*
164. *See id.* at *50–52.
165. *See id.*
166. *See id.*

address the text ad market dominance Google exerts over competitors.

C. Actual Remedies

Neither party was wholly successful in achieving their desired remedies. The Court stopped short of granting Plaintiff's structural remedies but acknowledged that Google's proposed remedies "do not go far enough."[167] In rejecting structural changes, the court held that "the record also contains ample evidence that lawful conduct played an important role in Google's maintenance of its monopoly."[168] The contingent Android divestiture was rejected in part for lack of evidence supporting its feasibility or market effects.[169] A ban on Google making payments to distribution partners was also rejected for fear of potential harm to markets and consumers.[170] Choice screen remedies were rejected because the court claimed they would improperly compel product design changes and are unlikely to significantly change the competitive landscape.[171]

The Court did impose some behavioral remedies on Google.[172] Google must share Search Index data and User-side Data with Qualified Competitors, because this will deny Google the fruits of its anticompetitive conduct.[173] Google must also provide search syndication and search text ads syndication services to Qualified Competitors on terms consistent with its current commercial practices.[174] The Court gave Google one year to implement the remedies, which must be adopted for a six year term.[175] The remedies also affect generative artificial intelligence companies because the court found that their functions are similar to general search engines and represent potential competitive threats.[176] While the court did not fully adopt or reject the remedies

167. *See id.* at *194–96, *211–12.
168. *See id.* at *206.
169. *See id.* at *212.
170. *See id*. at *214–18, *223–25.
171. *See id*. at * 321–26.
172. *See id*. at *33–37.
173. *See id*. at *34–35.
174. *See id*. at *35
175. *See id*. at *372.
176. *See id*. at *193.

proposed by either party, the actual remedies imposed are not significant changes to Google, and will do little to open up the market for meaningful competitors to emerge.

V. LESSONS FROM *UNITED STATES V. GOOGLE LLC*

A. Artificial Intelligence and a Hesitant Court

The emergence of artificial intelligence resulted in Google gaining an edge in their case. The court notes that "[f]or the first time in over a decade, there is a genuine prospect that a product could emerge that will present a meaningful challenge to Google's market dominance."[177] This statement is a generous concession to Google's argument, and not a certainty by any stretch of the imagination. Artificial intelligence in its current form can provide information, which is sometimes the goal of those using a general search engine. There are many features of a search engine that artificial intelligence cannot (at least currently) perform, and conversely, many of the common uses of artificial intelligence are not in the range of uses of a search engine. Moreover, Google has its own artificial intelligence it has integrated into its search engine.[178]

Even assuming arguendo that artificial intelligence poses a legitimate competitive threat to Google in the search engine marketplace, Google is a behemoth corporation with its fingers in many pies. Google is essentially being permitted to get away with monopolies in other spaces, such as with Android and the Google Play Store, because their monopoly on search might face competition. This determination by the court steeply favors Google and ignores the full scope of its anticompetitive practices. It also sets a dangerous precedent that the possibility of competition from new technology is a proper justification for imposing less extreme remedies on large companies.

177. *See id.* at *374.

178. *See Find Information in Faster & Easier Ways with AI Overviews in Google Search*, GOOGLE SEARCH HELP, https://support.google.com/websearch/answer/14901683?hl=en [https://perma.cc/KM2Z-Q3LN] (last visited Mar. 30, 2026). Users are currently unable to opt out of Google's artificial intelligence results. *Id.*

In addition to allowing artificial intelligence to have an outsize effect on the verdict, the court also is resistant to taking any sweeping action that would result in significant change to Google's business practices. The court describes its role in exactly the manner criticized by the House Report, saying "that markets are often more effective than the heavy hand of judicial power when it comes to enhancing consumer welfare."[179] Such a statement seems wholly disconnected from the evidence presented thus far. The market has allowed Google to engage in many anticompetitive behaviors and face no consequences. The opportunity for capitalism and the natural forces of the market to course-correct has been gone for years. This deference to the market by the court signals that the current body of law does not compel the regulation needed to legitimately protect both consumers and emerging competitors.

B. Structural Separations

Despite the fact-finding of the antitrust action and the findings of the House Report, Google was not required to divest of the Chrome browser or Android operating system.[180] The outcome of Google's case mirrors *United States v. Microsoft*.[181] In both instances, the government sought structural change, successfully showed violations of antitrust law, but was ultimately unsuccessful in breaking up the company. Additionally, both cases were influenced by factors outside the scope of the anticompetitive conduct. In *Microsoft*, concerns over the trial judge's ethics led to a less extreme outcome.[182] In *Google*, uncertainty over artificial intelligence allowed Google to also avoid divestment. Despite the penalties imposed on Google, it is hard to see the case as anything other than a win for them. Google's parent company, Alphabet, saw its shares rise eight percent after the ruling in Google's favor.[183] President Donald Trump congratulated the CEO of Google on the outcome of the

179. *See Google*, 2025 U.S. Dist. LEXIS 336295, at *374 (quoting NCAA v. Alston, 594 U.S. 69, 106 (2021)).
180. *See id.* at *34.
181. 253 F.3d 34 (D.C. Cir. 2001).
182. *See id.*
183. *See* Krause, *supra* note 23.

case.[184] The divestment proposed by plaintiffs could have meaningfully shaken up the marketplace and allowed other competitors the opportunity to emerge. Instead, Google will almost certainly continue to grow and dominate the marketplace, and competitors will continue to be prevented from waging a fair fight against Google. Americans will continue to be stuck with the binary choice between Google's Android and Apple's iOS for operating systems on their phones. Given the described collusion between the two giant corporations, it is unlikely they will meaningfully compete with each other or allow for third parties to emerge.

Critics of structural separation disfavor the remedy in part because it is permanent.[185] The reasoning is that the economic marketplace is dynamic and sensitive to change, and today's corporation with a monopoly could be in bankruptcy tomorrow.[186] Additionally, reconstituting into separate entities is a much greater imposition on the corporation than other remedies. For these reasons, some antitrust scholars prefer modest remedies such as behavioral regulation or injunctions against certain practices.[187] These options certainly have their place in the antitrust toolkit. It is true that breaking up a company is not always the remedy to a lack of competition; it is one of the most extreme outcomes. However, the current economic landscape in the technology sector seems to call for extreme measures. This is confirmed by the House Report which calls for such changes to combat the anticompetitive practices it documented.[188] Moreover, the permanence of structural changes can also be a boon; other forms of remedy require continuous monitoring to ensure

184. *See* Jennifer Elias, *'I'm Glad It's Over.' Google CEO Thanks Trump for Antitrust 'Resolution'*, CNBC (Sep. 5, 2025, at 07:53 ET), https://www.cnbc.com/2025/09/04/google-ceo-thanks-trump-for-antitrust-resolution.html [https://perma.cc/4YKZ-UZGG].

185. *See, e.g.*, Christian M. Dippon & Matthew D. Hoelle, The Economic Costs of Structural Separation, Line of Business Restrictions, and Common Carrier Regulation of Online Platforms and Marketplaces (Mar. 18, 2022) at 55 (unpublished manuscript), https://ccianet.org/wpcontent/uploads/2022/06/platform_regulation_quantitative__03_18_23.pdf [https://perma.cc/TK59-JCLZ].

186. *See id.* at 55–58.

187. *See id.* at 1–2.

188. *See* INVESTIGATION OF COMPETITION IN DIGITAL MARKETS, *supra* note 13, at 377.

compliance.[189] Courts are often hesitant to impose structural changes due to their drastic nature. However, the consequences of their reluctance may be far worse for Americans. Obviously, courts cannot and should not take blatant policy goals into consideration. However, *Google* confirms what many critics of *Microsoft* already had suspected: the current antitrust laws are insufficient to effectively regulate the tech monopolies.

C. Speed of Advancement

One insight from looking at the antitrust technology cases is that the technology will persistently outpace the speed of the courts. When the case against Google began, artificial intelligence was not a discernable marketplace product the way it was when the decision was rendered.[190] The delay in the pace of the proceedings allowed Google to paint itself as a kind of underdog, struggling to compete in the nascent field of generative artificial intelligence. The decision of the court is littered with allusions to this effect; the specter of theoretical competition from OpenAI and similar companies was enough for Google to shield itself from the more extreme remedies.[191] The multi-year stages inevitable to federal court proceedings mean that technology can continue to outpace the speed of justice. By the time the courts catch up to the monopolists, the environment is wholly different than when the case was filed. Congress, as opposed to courts, can act more proactively to implement changes. The judge in *Google* is not alone in being unable to see where generative artificial intelligence and other new technologies will go. But this does not justify tolerating the existence of monopolies that stifle competition and innovation. Otherwise, corporations like Google will be able to use the time-delay of court and the speed of advancement as tools to further entrench their monopolies.

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189. *See id.*
190. *See* United States v. Google LLC, No. 20-cv-3010 (APM), 2025 U.S. Dist. LEXIS 336295, at *31–32 (D.D.C. Sep. 2, 2025).
191. *See id.* at *247.

CONCLUSION

There are a lot of positives that counsel against despair in the antitrust realm. Antitrust has been shown to be a bipartisan concern, which is significant given how polarized most issues have become.[192] That means there is uniquely more hope for political unity to redress this concern than many other contemporary problems. Additionally, *United States v. Google LLC* shows that the government will not shy away from bringing enforcement actions, and that corporations are facing some degree of consequence for antitrust violations. The FTC and Department of Justice, as well as many States, can continue to fight monopoly power and unfair anticompetitive practices. Additionally, the technology of artificial intelligence is still only a few years old. If the government acts swiftly, they can prevent artificial intelligence from going the same way as general search engines, social media, and consumer technology. The monopolies can be reined in before they grow unstoppable. Otherwise, advancements in technology will simply mean the consolidation of more money and more power in the hands of a few oligarchic firms.

The origins of antitrust legislation in the United States show a Congress that was reactive to court decisions. The Clayton and FTC acts were a direct response to the courts not reaching the outcomes Congress intended in antitrust cases.[193] These corrective measures were instrumental for enforcement actions in the decades to follow. More than 100 years later, Congress has only made modest amendments to the antitrust laws.[194] The decisions highlighted in this Note are only a few examples of how the teeth have been removed from the DOJ's Antitrust Division and the FTC. Beyond enforcement actions with limited success, the agencies have let hundreds of mergers and acquisitions proceed unchallenged.[195]

However, in light of the House Report, the outcome of *United States v. Google LLC,* and the extreme consolidation of technology

192. *See* Meador, *supra* note 7.
193. *See* Kovacic & Shapiro, *supra* note 33, at 46.
194. *See The Antitrust Laws, supra* note 37.
195. *See* INVESTIGATION OF COMPETITION IN DIGITAL MARKETS, *supra* note 13, at 391–92.

companies, it is clear that further reform is still needed. The breakup of AT&T now sits nearly forty years in the rearview mirror.[196] Congress needs to take legislative action to impose bright-line rules for structural separations and forced divestments. The enforcement of antitrust laws as they stand has been repeatedly shown insufficient. The tech giants have been allowed to merge with and buy up their competitors with virtually no interference. The few times the government has attempted to press for more lasting structural changes, they have been unsuccessful in achieving them. Requiring forced divestment can revitalize the technology industry and foster healthy competition. This will ultimately lead to innovation, lower prices, and more options for consumers. The conditions highlighted in the House Report have only been exacerbated over time and will grow untenable if the government does not intervene on behalf of the American people. This could lead to disastrous consequences if corporate consolidation goes truly unchecked. Monopolies of this scale will be able to exert control over the government if the government fails to rein them in. As astutely put by Justice Brandeis: "We must make our choice. We may have democracy, or we may have wealth concentrated in the hands of a few, but we can't have both."[197]

196. *See* United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982).
197. *See* RAYMOND LONERGAN, MR. JUSTICE BRANDEIS, GREAT AMERICAN 42 (1941).