



**Striking the Right Balance:
The Union Strikes of 2023 and the Importance of Antitrust to Labor
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In recent years, audiences following developments in employment law have noticed a [refreshed focus](#) on workers' rights, including by the White House, Congress, and executive agencies like the FTC. In 2023, the focus on workers' rights, unionization, and strikes poured into the public field this past year as a [series of prominent union strikes](#) ground America's entertainment and auto industries to a crawl, with the impact reverberating into other industries. Those strikes were led by large unions operating in very different industries: the WGA and SAG-AFTRA unions, which represent writers, actors, and other professionals in the media industry, and the UAW, which represents employees in the automobile industry.

While news outlets covered the events with appropriate passion, missing from virtually every major headline was the critical connection that both the WGA/SAG-AFTRA and UAW strikes shared a common foundation. Indeed, underpinning both was a basic, visceral sentiment among workers that they could not fairly compete for the fair share of the fruits of their labor, while employers worried about their businesses' ability to compete. Here, there was a struggle between workers and employers to achieve the right division of the economic pie they both helped create.

Crucially, the news missed a chance to communicate that the strikes highlight the pivotal role that competition and antitrust policy play in protecting competition in labor markets and helping to strike the right competitive equilibrium, including by empowering American workers like those represented by WGA/SAG-AFTRA and UAW to unionize and bargain collectively from a more equal footing.

Quintessentially Antitrust

In the United States, antitrust is the collection of laws that penalize anticompetitive activity, like monopolization and agreements between competitors (e.g., cartels). Antitrust laws ensure that markets remain fair and robust, with the idea that this robust competition results in businesses competing vigorously to innovate and produce the best goods and services for consumers.

We normally think of antitrust as fostering competition in the sale of goods and services—for example, auto manufacturers competing to produce the best cars at the lowest cost—but antitrust also protects competition for workers. Indeed, antitrust protection originated in the early 1900s as a grassroots, populist movement to protect the rights of small businesses and workers to fairly compete against the overwhelming economic (and political) power wielded by large businesses (“guilds” or “trusts”) that would cartelize to squeeze others out of business and simultaneously offer captive workers low wages and subpar working conditions.

Since then, despite stretches of inconsistent enforcement, antitrust has shaped and safeguarded U.S. markets so that they operate in ways that foster rigorous competition, not only between competing



businesses but also between workers and employers. For example, antitrust enforcement laws protect workers' wages and dignity by preventing large firms from controlling ("monopolizing") captive workforces by restricting where employees can work. Antitrust laws [also prevent employers](#) from agreeing to set wages in the industry, and antitrust laws prevent employers from agreeing not to hire each other's workers.

Antitrust, therefore, is the tool that ensures that powerful, entrenched employers cannot take unfair advantage of their positions and hoard the fruits of that labor. Indeed, it forces employers to pay their workers a competitive wage and treat them with dignity. In return, employers can expect a competitive workforce in furtherance of their ability to fairly compete with each other. Antitrust recognizes the need for balance between employers and workers.

That is why antitrust laws punish anticompetitive activity by large, dominant firms and agreements not to compete between businesses but also permit workers to band together, unionize, and engage in collective bargaining. The intent is to balance the relative competitive and negotiating dynamics. It is to ensure all stakeholders have fair access to the full economic pie. Essentially, it is the American Dream.

And while this freedom to chase the American Dream benefits all workers, it is the least powerful among us that stands to benefit the most. Dominance favors the status quo incumbency and represses the ability of others to compete for their chance, so it is, unsurprisingly, minority workers and businesses that are hurt the most. This is particularly true in labor markets, where minorities (and women, for the same reason) [consistently suffer](#) from reduced upward mobility, lower wages, and poorer working conditions. Antitrust is the tool that can protect minorities from such entrenchment.

The 2023 Strikes

This competitive fight for the American Dream is exactly what played out with the 2023 strikes.

With respect to the entertainment industry, many antitrust scholars have voiced concern over rapid consolidation over the past decade, pointing to combinations of mergers that have led to a few dominant firms accounting for most mass media and entertainment despite opportunities for meaningful competition. Workers [increasingly felt](#) like this consolidation was resulting in uneven bargaining power.

Equally importantly, this imbalance was occurring at a time of rapid change in the industry and as the groundwork for the future was being laid. As content has shifted to streaming, and as new technologies like AI have upended what we consider ownership of work (and ourselves), workers increasingly worried that they were not only getting the short shrift in the present but were losing their chance to own their fair share of the future.

Workers in the auto industry [felt similar pains](#) from imbalances, which critics have complained led to stagnant wages, subpar benefits, and a lack of innovation industrywide.

And so the unions publicized their concerns, wrote articles on the dangers of consolidation in the industry, and appealed to the White House to [enforce antitrust laws](#). And, they exercised their



collective bargaining rights under the antitrust laws and went on strike to even the negotiating playing field with the studios. After months of hard-fought negotiations and sacrifice by all parties, the strikes ended with considerable [economic rebalancing](#) in favor of workers. And some are aptly predicting that these strikes will [stimulate more labor actions](#) in 2024 and beyond.

Takeaways

None of this would have been possible without antitrust law and the competitive safeguards it has established for over a century. That is why the lack of media discussion of antitrust in the context of the union strikes is problematic and why we have taken this opportunity to try to correct their omission. Mainstream media outlets need to do a better job of understanding antitrust so that they can properly reflect it to their audiences on a wider basis. Only that way can we continuously improve and foster competition in our markets.

Indeed, anticompetitive conditions pervade most industries, and shining attention to the issue—and the tools to fix it—empowers those who are impacted. Since the origins of antitrust policy, grassroots mobilization has been the best way to hold markets accountable and discipline the unchecked power of big companies. Importantly, it also mobilizes support for pro-competitive legislation and executive action. And when everyone—the historically disadvantaged in addition to the historical incumbents—can fairly compete for economic prosperity, we can realize our collective American Dream.

About the FSIC Antitrust Taskforce:

We are community leaders, lawyers, scholars, and economists bonded by the urge to bring attention to how antitrust can protect and foster economic access and empowerment for minorities and traditionally disadvantaged communities.

We are a forum for discussion, a hub for advancing sound policy and law, and a safe helpline for those who want to raise concerns about anticompetitive conduct. Reach out to us at info@fsicoalition.org or see <https://fsicoalition.org/antitrust-task-force/> for more information.