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Henry G. Manne: Testimony on the Proposed Industrial Reorganization Act of 1973
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Summary

In 1973, Michigan Senator Philip A. Hart introduced Senate Bill 1167, the Industrial Reorganization Act, in order to address perceived problems arising from industrial concentration. The bill was rooted in the belief that industry concentration led inexorably to monopoly power; that monopoly power, however obtained, posed an inexorable threat to freedom and prosperity; and that the antitrust laws (i.e., the Sherman and Clayton Acts) were insufficient to address the purported problems.

That sentiment — rooted in the reflexive application of the (largely-discredited) structure-conduct-performance (SCP) paradigm — had become largely passé, but has resurfaced today as the asserted justification for similar (although less onerous) antitrust reform legislation and the general approach to antitrust analysis commonly known as "hipster antitrust."

The critiques leveled against the asserted economic underpinnings of efforts like the Industrial Reorganization Act are as relevant today as they were then.

The proposed bill itself was the subject of a series of hearings in both the Senate and the House, including one on April 9, 1974, at which Henry G. Manne (then professor of law and political science at the University of Rochester) testified (along with UCLA economist, Harold Demsetz) in opposition to the bill. His trenchant testimony, reprinted in full in Section 2, below, should be required reading for advocates of a return to antitrust law and policy rooted in the SCP paradigm.

As Henry Manne notes in his testimony:

> To be successful in this stated aim ["getting the government out of the market"] the following dreams would have to come true: The members of both the special commission and the court established by the bill would have to be satisfied merely to complete their assigned task and then abdicate their tremendous power and authority; they would have to know how to satisfactorily define and identify the limits of the industries to be restructured; the Government's regulation would not sacrifice significant efficiencies or economies of scale; and the incentive for new firms to enter an industry would not be diminished by the threat of a punitive

response to success.

> **The lessons of history, economic theory, and practical politics argue overwhelmingly against every one of these assumptions.**

Manne's trenchant testimony, reprinted in full in this white paper (with introductory material by Geoffrey Manne) should be required reading for advocates of a return to antitrust law and policy rooted in the SCP paradigm.

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