

The failures of stakeholder capitalism

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People who care about creating a fairer and more sustainable market system tend to think about things like “ESG” investing (environmental, social and governance issues) and “stakeholder capitalism”. But what they need to start thinking about is power.

Consider Elon Musk’s purchase of Twitter. Tesla ranks above average on many metrics tallied by JUST Capital, an influential non-profit focused on stakeholder capitalism. But its chief executive is preparing to sell a big chunk of his stock in the electric carmaker, a company that could actually do some good in the world, to buy a social media platform which has arguably made it worse. Musk, who plans to take it private, may, for example, re-enable the former Tweeter-in-chief, Donald Trump.

Portraying Musk as the saviour of free speech and democracy may strike some as ludicrous. This is a man, after all, who views tax as some kind of personal assault and yet has enjoyed billions in government subsidies. But it’s not the only recent example of a billionaire posing as a defender of the public good.

Consider a letter from Carl Icahn, the shareholder activist and veteran of some of Wall Street’s most hostile proxy battles, to the grocery chain Kroger last week, in which he slammed the company’s record on corporate pay.

“What is totally reprehensible is that you managed to personally profit from the extremely high margins caused by the pandemic while at the same time reneging on your ‘Hero Bonus’ promise to frontline workers,” he wrote.

Icahn went on: “This mockery of meritocracy is the quintessential example of why capitalism and business get a bad rap and people are disillusioned with the American dream.”

Ever-adept at exploiting the politics of the moment, Icahn sees himself like Musk (however improbably) as a defender of the little guy. But he is on to something.

Regulators in Washington are beginning to sniff around any number of companies perceived as having benefited from the current inflationary pressures in the economy by raising profit margins unfairly.

Some leading companies haven’t covered themselves in glory, with chief executives boasting about their pricing power on earnings calls.

Yet stakeholder capitalists, “while assertive about the obligations of firms in many areas, have been utterly silent” on instances of concentrated corporate power, says Denise Hearn, a

senior fellow at the American Economic Liberties Project, and competition lawyer Michelle Meagher, co-founder of the Balanced Economy Project. They make a good point.

The pair released a paper last week arguing that those who care about more equitable markets should focus on monopoly power. “The inherent dissonance between the perpetual drive for scale and dominance, and the recurring market abuses of the largest corporations, is a conflict that stakeholder capitalism ignores,” they write.

Hearn and Meagher point out that America’s most “just” company, according to JUST Capital, is Google — a behemoth accused of antitrust violations on two continents.

Corporate concentration, like profits, has reached record levels in recent years: since 1990, more than 75 per cent of US industries have become more concentrated. The pandemic has only magnified this trend.

Even as ESG investing increased, concentration — along with global M&A, private equity deals, and financial engineering like share-buybacks — did, too. Of course, so did worker pay. But it remains to be seen whether labour’s pricing power will survive in the next downturn.

Corporate power certainly will, and that has political consequences, as Stanford business professor Anat Admati makes clear in a recent paper about what has gone wrong with capitalism. As concentration has increased, she writes, corporations have made it “challenging for governments and the legal system to protect citizens from undue harm” inflicted by companies themselves.

While many market participants view government as the problem, Admati notes, they fail to “reflect on why democratic governments are failing” and how corporations and their leaders “contribute to this failure” by undermining the public sector’s “ability, effectiveness, and willingness to act in the public interest”.

Big company market power, political power and the cognitive capture of policymakers is huge, particularly in the US. But it only takes one or two strong leaders to change things.

I was struck, at the annual University of Chicago Stigler Center’s monopoly conference a couple of weeks ago, by barn-burning comments from the head of the Federal Trade Commission, Lina Khan, and Department of Justice antitrust division chief Jonathan Kanter. Both insisted on the need to look beyond consumer welfare, for more than four decades the touchstone of US antitrust law, to “market realities” when thinking about regulatory action.

Both made it very clear that they were ready to “take on the big fights,” as Khan put it, and hold not just companies, but individuals, accountable. Referring to Jesse Eisinger’s eponymously titled book on the decline in the DoJ’s willingness to go after corporate wrongdoing, Kanter said: “We aren’t part of the chickenshit club.” Investors, take note.