

An unlikely hub for big-tech challengers emerges in Utah

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For decades, conservative economic thought on the virtues of the free market has reigned supreme in American jurisprudence, nourished by scholars at places such as the University of Chicago and George Mason University.

The University of Utah is looking to change that.

With a new initiative dubbed "The Utah Project on Antitrust and Consumer Protection," the university wants to position itself as a center of progressive economic thought and policymaking even though it's based in a state better-known for its conservative politics.

"We are trying to institute a new type of thinking," said Hal Singer, the project's director, who also works as an economics expert in antitrust cases and teaches at the university. "Markets are not always perfect. There are other thoughts out there besides 'do nothing and hands off and the markets are going to solve everything.'"

Utah may seem like an unlikely place to host such a venture. All four Republican House incumbents

won at least 60% of the vote this month, and no Democrat has won statewide office since 1985. But Utah—home to only two companies in the S&P 500 Index—has a tradition of opposing corporate dominance. Its constitution includes a clause supporting the free market "to promote the dispersion of economic and political power."

It's also played a role in landmark antitrust cases against technology giants. In the 1990s, the software firm Novell, headquartered in Provo, Utah, was among firms that complained about Microsoft Corp. in the Justice Department's epic monopolization case. Utah's attorney general is currently leading one of a trio of antitrust suits against Alphabet Inc.'s Google.

Utah Senator Mike Lee, who won reelection, is the top Republican on the Senate Judiciary Committee's antitrust panel. Lee, who declined to comment on the Utah Project, is hardly progressive on economic matters, but he has been critical of lax antitrust enforcement, particularly of tech giants.

The Utah Project took shape at the university's 2019 antitrust conference where a manifesto, called "The Utah Statement," was drafted.

Two of the statement's drafters have since joined President Joe Biden's administration: Tim Wu as a White House adviser on technology and competition policy, and Lina Khan as chair of the Federal Trade Commission. Alongside Jonathan Kanter, a longtime Google critic and the Justice Department's antitrust chief, they are considered crusaders trying to restore enforcement to its trust-busting roots.

During a keynote address at a Utah Project symposium last month, Khan pledged to revive dormant antitrust statutes, such as the 1936 Robinson-Patman Act, which bars price-discrimination by suppliers.

"I admire what you all are looking to do," she told the roughly 100 academics, lawyers, economists and top Biden antitrust officials who attended the Salt Lake City symposium.

A joint venture between the university's economics and law departments, the project plans to fund research, publish legal writing and host events—including some aimed at persuading judges to support more aggressive antitrust challenges to mergers. It has started an online magazine, *The Sling*—a reference to the weapon used by David to defeat the Biblical giant Goliath—for antitrust commentary and hopes to establish a legal journal for longer academic writings. The idea is to provide a counterweight to the philosophies of the University of Chicago and the Antonin Scalia Law School at George Mason University.

The most striking divide between progressives and the prevailing view of antitrust enforcement that emerged from the Chicago school is the consumer-welfare standard. This approach uses consumer price increases to gauge competitive harm. Critics of that view say the focus on consumer prices has handcuffed enforcers in the digital age, for example, when it comes to policing tech companies whose products are often free.

Utah's burgeoning tech, banking and biotech industries—which helped fuel a 49% population surge since 2000 to 3.34 million—make it an ideal location to challenge the traditional views on the economy and business, said University of Utah law professor Christopher Peterson.

"This is a spot where we can talk about [new ideas](#)," said Peterson, a Democrat who ran unsuccessfully for governor in 2020.

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