

Lunch with the FT **Life & Arts**

Lina Khan: 'This isn't just about antitrust. It's about values'

The legal wunderkind on the monopolies hiding in plain sight — and bringing Big Tech to heel

Rana Foroohar MARCH 29, 2019

When I arrive for my noon lunch with Lina Khan, the legal wunderkind who is reshaping the global debate over competition and corporate power, I am alarmed to find that our venue, a Turkish spot in midtown New York, is completely deserted. What's more, the lone waitress seems to have only just arrived. Her coat and hat are still on, and she's huddled by a space heater in the chilly dining room, fumbling with a stack of menus.

Swamped with work, Khan hadn't had time to book a restaurant, simply sending a one-line email about her preferences: "Quiet? Middle Eastern/Thai/Midtown?" I'm already feeling regretful I didn't suggest one of Midtown's familiar business lunch spots.

Fortunately, Khan arrives with a thick coat and an obliging smile, waving off my apologies for the choice of venue — "to me, anything from semi-good food to amazing food is great," she says, gamely — and peppering me with questions and compliments.

It's hard to believe that this unassuming 30-year-old scholar, working in the long-neglected field of antitrust law, is currently public enemy number one for the world's tech titans (or perhaps number two, just behind EU competition commissioner Margrethe Vestager, who has taken some of Khan's ideas on board). She wears her power lightly, unlike many public intellectuals I know.

Khan's breakthrough came two years ago. While still a student at Yale Law School, she wrote a paper, "[Amazon's Antitrust Paradox](#)", which was published in the school's influential journal.

Academic papers don't tend to go viral, but this one received a near-unprecedented level of interest from policymakers. Khan's study seemingly hit a nerve at a time when the overweening power of the [Big Tech](#)

I'm interested in the economists who were actually studying

Feedback

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companies, from Facebook to Google to Amazon, is rising up the agenda. “The fact that people are paying attention and trying to figure out how we understand and define the problem [of monopoly power] — I think that’s a great exercise to be engaging in,” she says.

In fewer than 100 pages, Khan made the case that current interpretations of US antitrust law, which is meant to regulate competition and curb monopolistic practices, are utterly unsuited to the architecture of the modern economy. For roughly four decades, antitrust scholars — taking their lead from Robert Bork’s 1978 book *The Antitrust Paradox* — have pegged their definitions of monopoly power to short-term price effects; so if Amazon is making prices lower for consumers, the market must be working effectively.

Khan set out a simple but powerful counterargument: that it doesn’t matter if companies such as [Amazon](#) are making things cheaper in dollars if they are using predatory pricing strategies to dominate multiple industries and choke off competition and choice.

“I was fascinated by Wall Street’s view of Amazon, and how much it differed from what conventional economic theory would say about the company,” says Khan. Speaking to hedge funds and banks during her research, Khan found that they were valuing the company and its growth potential in a way that signified monopoly power — something that classic economic models were missing.

Her reframing of the problem was revelatory, and is now at the core of a number of [Big Tech antitrust](#) actions on both sides of the Atlantic. Experts have been telling us for years that the concentration of power in a few corporate giants was a crucial factor in everything from wage stagnation to rising inequality and political populism. Now, suddenly, there was a road map for understanding the problem, and a potential legal tool for dealing with it, too.

“At a basic level, I’m interested in imbalances in market power and how they manifest. That’s something you can see not just in tech but across many industries,” says Khan, who has written sharp pieces on monopoly power in areas as diverse as airlines and agriculture. “A lot of people talk about markets as these forces that are the product of globalisation and technology and these things that are totally unrooted, that are totally separate from laws and legal institutions.”

Amazon's market dominance ...

Retail value of ecommerce, 2018



... is even more pronounced in the US



Source: Euromonitor
© FT

Khan, like many in her cohort, believes otherwise. “If markets are leading us in directions that we, as a democratic society, decide are not compatible with our vision of liberty or democracy, it is incumbent upon government to do something.”

Our dining space, which is oddly mood-lit for the middle of the day, has begun to warm up, and the overall effect is cosier. We both order ayran, a Turkish yoghurt drink which resembles a Pakistani lassi (salty, not sweet) and launch in to the topic at hand — the way in which Khan’s work is reshaping how people think about corporate power.

In the two years since her paper was published, Khan has enjoyed a dizzying professional ascent — she’s had a stint as a legal fellow at the Federal Trade Commission, consulted with EU officials, influenced competition policy in India, brainstormed ideas with presidential hopeful Elizabeth Warren and — in the weeks following our lunch — joined the House Subcommittee on Antitrust, Commercial and Administrative Law, a sign that the Democrats are gearing up to more aggressive oversight of platforms such as Amazon, Facebook and Google.

She wears her success lightly, though she’s clearly proud of having revitalised the debate over the ascendancy of the tech giants. “During the Obama years, there was a sense that, oh, Europe’s just going after these companies because they [Europeans] are protectionist. And I think that’s

insulting. People are now recognising that, yes, there are issues.”

Khan seems just as curious about the opinions of others as she is eager to share her own. In this, she reminds me of the 29-year-old congresswoman Alexandria Ocasio-Cortez, another rising star taking on the powers that be in Washington. Both seem unafraid of rethinking the big stuff — not only the nature of corporate power, but what the role of the state relative to the private sector should be, and how to fairly structure a 21st-century digital economy for the benefit of not just consumers, but citizens.

“There’s something refreshingly ‘Emperor’s New Clothes’ about Lina and her cohort,” says Robert Hockett, a Cornell professor and mentor who’s been impressed with Khan’s undogmatic approach to policy ideas. “She hasn’t been in an ivory tower for years.”

Both Khan and Ocasio-Cortez came of age during the financial crisis. In the wake of the subprime meltdown, Khan worked in a mortgage litigation clinic with homeowners who were being foreclosed on. “Seeing the human face of it,” she says, made a deep impression — “that, and the fact that despite the scale of the foreclosures it barely made a clip on the national conversation”. That experience continues to inform how she thinks “about markets, and the government’s response to them, and certain forms of intervention that they do take, and that they don’t take”.

The waitress arrives to take our orders, and recommends the house speciality, *manti*, a small Turkish meat dumpling that is one of my favourite dishes. She also pushes the stuffed cabbage and Sultan’s Delight (a chargrilled aubergine purée with lamb). I know we’ll be safer with kebabs, but we plough ahead bravely and order it all, along with a large shepherd’s salad of tomatoes, cucumbers and feta. The warm pita bread comes quickly.

Turkuaz

**310 W 53rd St, New York,
NY10022**

Turkish dumplings \$18

Shepherd’s salad \$16

Sultan’s delight \$24

Stuffed cabbage \$18

Ayran x 2 \$8

Club soda x 2 \$5

Although you wouldn’t guess it from her accent, Khan was born in London and lived in Golders Green, in the north of the city, before moving with her family to New York at the age of 11. Her intellectual influences are eclectic, from philosopher Hannah Arendt (whose ideas about power, truth and values she applied to a college thesis on the financial crisis of 2008) to the leftwing economist Joseph Stiglitz. A recent mentor has been Barry Lynn, one-time senior fellow at the New America Foundation, who hired Khan to the centrist think-tank straight out of law

| |
|-------------------------------|
| Turkish coffee x 2 \$7 |
| Baklava \$6 |
| Total inc tax \$111.06 |

school.

Together, Khan, Lynn and others including the Columbia academic Tim Wu have developed and popularised the “[new Brandeis](#)” school of antitrust regulation, hearkening back to the era in which

Louis Brandeis, the “people’s lawyer”, took on oligarchs such as John D Rockefeller and JP Morgan.

Khan, who had considered taking a job at the Wall Street Journal before heading to law school, found the broadness of Lynn’s view inspiring. He would “keep clippings from different newspapers and had all these bookshelves devoted to different industries, just keeping notes”, and handed her a reading list including Arthur Schlesinger Jr’s narratives of the New Deal, encouraging her to take a grounded, practical approach to markets.

“He definitely informed how I look at these issues,” says Khan, turning her on to “a much richer history of economists who were actually studying power . . . that’s something that gets channelled out in the contemporary version of economics”.

That holistic approach allowed her to see Amazon as not just a discount retailer but as a marketing platform, delivery and logistics network, a payment service, a credit lender, auction house, publisher and so on, and to understand just how ill-equipped current antitrust law was to deal with such a multi-faceted entity.

Soon after being hired at New America, Khan got a real-world lesson in how market power works. In 2017, after Lynn wrote a statement praising the EU’s landmark €2.4bn antitrust fine against [Google](#), he was pressured out of New America. Lynn alleged that his firing was the result of complaints raised by the think tank’s single biggest donor, former Google and Alphabet executive chairman Eric Schmidt — a claim denied by both New America’s president and Google.

The resulting press was terrible for Schmidt but great for Lynn, who decamped with Khan and several others to start the Open Markets Institute, using the moment to push the new Brandeis ideas into the mainstream with a series of high-profile op-eds and events. Thanks in large part to those efforts, it seems likely that the sole focus on consumer pricing as the metric of monopoly power is over — though moving to a new era is likely to take years.

In the meantime, chief executives from Silicon Valley to Wall Street are watching what she does (I recently received a piece of research from a major bank with the title “Lina Khan Bolsters

House Democrats”, analysing what her appointment to the House antitrust committee could mean for tech stock valuations). Amazon has, for its part, funded research more favourable to its own views.

She laughs off the attention just as she shrugs off critics. Some Republicans have tried to dismiss the new Brandeis school as “hipster antitrust”, even as they bash Silicon Valley themselves. “There’s an interesting question about the Republicans that are interested in Big Tech issues,” says Khan. “Like, to what degree that’s a response to fears about the suppression of conservative speech, or more about the fact that Big Tech firms often fund Democrats?”

I feel like sending a few disingenuous Republicans to our lunch spot. The tomatoes in the salad are mushy, the manti tastes reheated, and the “Sultan’s Delight” is flat-out terrible. Fortunately, Khan assures me she’s not a gourmet. These days, she says, she has little time to do much but work and commute. It takes her several minutes to remember the last movie she watched (*Roma*, as it turned out).

Her husband (also Pakistani; the two met through friends) is a cardiologist finishing up a fellowship in Dallas; she spends part of the week there, and part in New York. He jokes that he finds out what she’s doing via Twitter — which is mostly putting out smart thoughts on the latest antitrust cases, many of which run way over the 280-character limit. “There are ways that it can be crippling to your day-to-day work,” she says, noting the addictive properties of social media. “But I find it useful,” she adds. Rather than retweeting cat memes, she uses the site to follow other experts, the likes of EU chief competition economist Tommaso Valletti.

Some of Khan’s Tweets may soon focus on her next work, due for publication in May: a Columbia Law Review paper that explores the case for separating the ownership of technology platforms from the commercial activity they host, so that Big Tech firms cannot both run a dominant marketplace and compete on it. Khan is examining a host of old cases — from railroad antitrust suits to the separation of merchant banking and the ownership of commodities — to argue that “if you are a form of infrastructure, then you shouldn’t be able to compete with all the businesses dependent on your infrastructure”.

It’s an argument that would certainly apply to Amazon and a host of other tech behemoths, if not a broader range of industries (though Khan makes the point that any reforms should be platform-specific, given the different trade-offs that each platform involves).

“The new Brandeis movement isn’t just about antitrust,” she says, as we end our meal with baklava and strong Turkish coffee. Rather, it is about values. “Laws reflect values,” she says. “Antitrust laws used to reflect one set of values, and then there was a change in values that led us to a very different place.”

If she and her contemporaries have their way, law — along with the economy and society at large — may be about to reach another dramatic turning point.

Rana Foroohar is the FT's global business columnist and winner of this year's SABEW award for commentary

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