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Special Investigation: The Dirty Secret Behind Warren Buffett's Billions

America's favorite investor loves monopoly, not free markets.

By David Dayen

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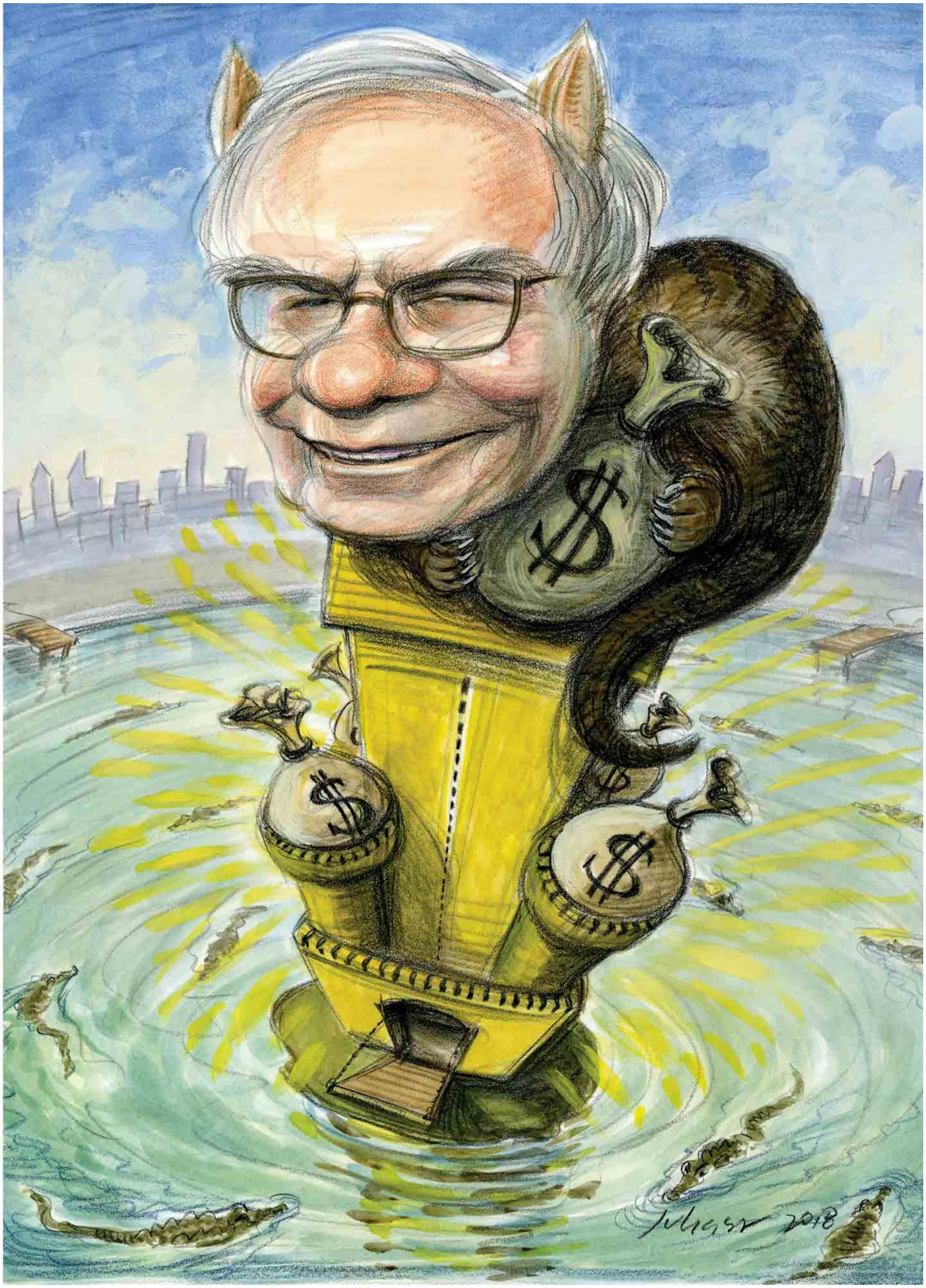

Illustrated by Victor Juhasz.

After the worst financial collapse since the Great Depression, three officials from the Financial Crisis Inquiry Commission visited Warren Buffett at his office in Omaha, Nebraska. They wanted to ask America's most successful investor about his 24 million shares in the credit-rating agency Moody's. The commission would later identify Moody's and other rating agencies as "key enablers of the financial meltdown," for granting super-safe triple-A ratings to securities that were backed by junk mortgages. Trillions of dollars' worth of rotten financial instruments—the fuel of the crisis—"could not have been marketed and sold without [the rating agencies'] seal of approval," the commission concluded.

During that May 26, 2010, meeting, Buffett deflected responsibility for Moody's actions. "I knew nothing about the management of Moody's," he told the federal investigators, explaining candidly why he owned so much stock: Moody's faced practically no market competition.

"The single most important decision in evaluating a business is pricing power," Buffett said. "If you've got the power to raise prices without losing business to a competitor, you've got a very good business." The "big three" rating agencies—Moody's, Standard & Poor's, and Fitch—controlled 95 percent of the rating-agency market, an insurmountable advantage over would-be competitors. "If you've got a good enough business, if you have a monopoly newspaper or if you have a network television station," Buffett concluded, "your idiot nephew could run it." Warren Buffett is America's favorite tycoon. The business community hangs on his every word. The annual meetings at Berkshire Hathaway, Buffett's conglomerate, have been dubbed "Woodstock for capitalists." Barack Obama and Hillary Clinton hailed his endorsements in their campaigns for president; even Bernie Sanders has supported Buffett's position on taxes. The press treats him like a Kardashian, publishing quirky features about his bad eating habits, frugal spending, and hobnobbing with celebrities (an actual headline last November: "Katy Perry Wants to Know What Warren Buffett Thinks of Bitcoin"). An old cartoon show called *Warren Buffett's Secret Millionaires Club* featured the so-called "Oracle of Omaha" teaching children how to get rich.

This *Nation* investigation documents how Buffett's massive wealth has actually been built: on monopoly power and the unfair advantages it provides. Companies in Buffett's portfolio have extorted windfall profits, evaded US taxes, and abused customers. In the two specific cases discussed below, in the banking and high-tech industries, Buffett's investments have prompted federal investigations for anticompetitive or other illegal practices.

Buffett did not respond to repeated interview requests for this article, nor did he reply to questions submitted to his office at Berkshire Hathaway.

Buffett makes no secret of his fondness for monopoly. He repeatedly highlights the key to his personal fortune: finding businesses surrounded by a monopoly moat, keeping competitors at bay. "[W]e think in terms of that moat and the ability to keep its width and its impossibility of being crossed," Buffett told the annual Berkshire Hathaway meeting in 2000. "We tell our managers we want the moat widened every year."

America isn't supposed to allow moats, much less reward them. Our economic system, we claim, is founded on free and fair competition. We have laws over a century old designed to break up concentrated industries, encouraging innovation and risk-taking. In other words, Buffett's investment strategy should not legally be available, to him or anyone else.

Over the past 40 years, however, the United States has not only failed to build bridges across monopoly moats; it has stocked those moats with alligators. Two-thirds of all US industries were more concentrated in 2012 than in 1997, *The Economist* has documented. Since the Reagan era, the federal government has abandoned antitrust enforcement, with markets for products like eyeglasses, toothpaste, beef, and beer whittled down to a few suppliers. This consolidation has vastly inflated corporate profits, damaged workers and consumers, stunted economic growth, and supercharged economic inequality.

Buffett professes to be an innocent witness to this perversity, a passive investor observing markets from afar. He is feted as the conscience of American capitalism, a multibillionaire who speaks out about taxing the rich (Democrats even named their tax-fairness plan the "Buffett rule") and donates his fortune to charity. But Buffett's example has helped intensify US monopolization, as other investors mimic his approach of finding companies surrounded by moats. The ownership class has subsequently built up unwarrantedly large holdings, concentrating its investment in companies that further increase market power. In other words, Buffett isn't following America on the road to oligarchy; he's leading it.

Americans falsely look to these oligarchs to solve our problems, allowing them to amass more power. For example, the recent joint effort by Buffett's Berkshire Hathaway, Amazon, and JPMorgan Chase to transform the US health-care system is vague and rather mundane—most large companies try to drive down health-care costs by leveraging their size. But when three of the age's biggest monopolists follow the trend, it's uncritically treated as front-page news, sending health-care stocks plummeting. A stray press release from Buffett can move billions of dollars in his favor.

Bill Gates of Microsoft, Jeff Bezos of Amazon, and Warren Buffett controlmore wealth than the 160 million poorest Americans combined. And Buffett doesn't mind working the system to keep it that way. His net worth as of January is $87 billion, but Buffett says he paid only $1.8 million in taxes in 2015—a mere 0.002 percent of his wealth. According to Barclays, the new Republican tax law is projected to net his business a staggering $37 billion.

Free markets are for chumps— Warren Buffett insists on monopoly moats.

Warren Buffett should not be celebrated as an avatar of American capitalism; he should be decried as a prime example of its failure, a false prophet leading the nation toward more monopoly and inequality.

You probably didn't realize that the same avuncular billionaire controls such diverse companies and products as See's Candies, Duracell batteries, Justin Boots, Benjamin Moore Paints, and World Book encyclopedias. But Buffett has transformed Berkshire Hathaway, initially a relatively small textile manufacturer, into the world's largest non-technology company by market value. Berkshire Hathaway owns over 60 different brands outright. And through Berkshire, Buffett also invests in scores of public corporations. The conglomerate closed 2016 with over $620 billion in assets.

The money mainly comes from Berkshire's massive insurance business, composed of the auto insurer GEICO, the global underwriter General Reinsurance Corporation, and 10 other subsidiaries. Insurance premiums don't get immediately paid out in claims; while the cash sits, Buffett can invest it. This is known as "float," and Berkshire Hathaway's float has ballooned from $39 million in 1970 to approximately $113 billion as of last September. It's a huge advantage over rival investors—effectively the world's largest interest-free loan, helping to finance Buffett's pursuit of monopoly. "[W]e enjoy the use of free money—and, better yet, get paid for holding it," Buffett said in his most recent investor letter. Indeed, as a 2017 *Fortune* article noted, with almost $100 billion in cash at the end of that year's second fiscal quarter, Buffett's Berkshire Hathaway literally has more money than it knows what to do with.
The dominant narrative around Buffett is that he invests in big, blue-chip companies whose products he enjoys, like Coca-Cola or Heinz ketchup. But Buffett's taste for junk food cannot match his hunger for monopoly, and he scours the investment landscape to satisfy it. For example, he's a major investor in the most profitable company you've never heard of—one used by hundreds of millions of people worldwide, mostly without their knowledge.

The company is called Verisign, and it operates an essential backbone of the Internet: registries for the domain names .com and .net, among others. If you want to create, for example, MyWebsite.com, you buy the name from a retailer like GoDaddy. But Verisign controls the global registry for .com, so GoDaddy relies on Verisign to connect users to MyWebsite.com. Verisign collects a small fee for this service, usually less than $10 a year. But drawing that fee from an enormous pool of websites results in a massive revenue stream.

As of September 2017, two of Verisign's domain-name registries, the aforementioned .com and .net, accounted for 145.8 million of the 330.7 million websites in existence, or nearly one in two. Take away the 144.7 million sites tied to a specific country (like .us, or .cn for China), and it's more like four out of five. Any company controlling 80 percent of a given market can safely be termed a monopoly, though a spokesperson for Verisign said in a statement that "we believe competition is thriving in the market."

The nonprofit Internet Corporation for Assigned Names and Numbers (ICANN), the registry industry's main regulator, granted Verisign exclusive contracts to operate .com and .net. Verisign can automatically renew the contracts as long as it meets certain performance metrics. The company was also initially permitted to raise prices gradually, despite the fact that the costs of managing a registry decline over time because the necessary infrastructure is already established.

"If you're giving a near monopoly in an industry where prices are falling, you would think that you would have terms in the contract to lower the price," said economist Dean Baker, a critic of government-granted monopolies. Instead, prices for .net domain names can rise 10 percent per year; they've more than doubled since 2005, from $3.50 to $9.02 (Verisign's statement called this price "lower than most competing legacy [top-level domains]"). Prices for .com domain names have also risen, though they are now frozen at $7.85 per year, due to an amended contract executed in 2012. Competitors have offered to run registries at significantly cheaper rates, yet ICANN hasn't altered Verisign's contract terms.

Normally, companies with regulated prices aren't profit-making juggernauts. But in the third quarter of 2017, Verisign's operating income as a percentage of revenue hit 61.9 percent, putting it near the top of all companies in the S&P 500. This number has climbed steadily since 2006. If the trend continues, sometime in the next decade Verisign will post the highest rate of profitability of any public company on earth. That may explain why Buffett owns nearly 13 million shares of Verisign stock, worth $1.47 billion as of mid-January 2018. Buffett is famously averse to Internet stocks, but he does like a sure thing. So does the rest of the market: Verisign stock jumped nearly 44 percent in 2017. Buffett's seal of approval tends to boost fortunes on Wall Street, so more money flows into monopolies.

In 2016, ICANN arranged a blind auction to sell the rights to the .web domain name, seen as a promising competitor to .com. To the surprise of industry observers, an obscure company named Nu Dot Co outbid six rivals for .web, offering a record-shattering $135 million. The mystery was clarified four days later, when Verisign issued a brief press release announcing that it had provided all $135 million for Nu Dot Co's bid. Already in control of .com and .net, Verisign had wrested control of one of the only plausible alternatives. In its statement, Verisign said that "We intend to launch .web to bring choice and reliability to consumers world-wide."

Though there were signs of Nu Dot Co operating as a straw purchaser before the auction, ICANN refused to delay the proceedings. Competitors cried foul, arguing that they would have bid higher if they'd known a deep-pocketed foe like Verisign was involved. "ICANN has a history of sweetheart deals with Verisign," said Jon Nevett, co-founder of Donuts, a competing registry that unsuccessfully sued ICANN to block the .web auction. (The case is now under appeal.)

The Justice Department opened a yearlong investigation into the potential rigging of the .web auction, but in January, the department closed the case. In a research note, JPMorgan Chase called Verisign's acquisition of the domain name "a very good defensive strategic move, keeping .web out of the hands of the potential competitor." Verisign's monopolies remain well guarded—and a continuing source of profits for Warren Buffett.

In 2007, Buffett joked in an investor letter: "If a farsighted capitalist had been present at Kitty Hawk, he would have done his successors a huge favor by shooting Orville [Wright] down…. I have an 800 number that I can call if I get the urge to buy an airline stock," he added. " 'My name is Warren and I'm an air-acholic,' and then they talk me down." Nine years later, Buffett shook off his aversion to airlines. A 2016 stock-buying binge led to Buffett holding approximately 47 million shares in American Airlines, 53 million in Delta, 48 million in Southwest, and 28 million in United, for a total investment of over $9 billion. One day in April 2017, Buffett made $104 million on his airline holdings in a single trading session. The bet is not predicated on any one airline prospering: Buffett holds close to a 10 percent stake in all four major US carriers. (Investments controlling over 10 percent of company stock trigger various paperwork burdens and disclosures, and Buffett has said he likes to stay beneath that threshold.)

What changed between 2007 and 2016? With the blessing of federal regulators, the airline industry became an oligopoly. Four mega-mergers—combining Delta and Northwest, United and Continental, Southwest and AirTran, and American and US Airways—solidified major-carrier dominance in the United States. Today, four airlines control 80 percent of domestic-seat capacity. In 93 of the top 100 airports, either one or two manage a majority of all seats sold.
Market concentration has resulted in higher profits for the airlines and for Buffett, but misery for the passengers: crowded planes, more connections, and a cascade of nickel-and-dime fees. Perversely, by making flying worse, airlines further loosen passengers' wallets, enticing those who can afford it to buy more legroom, or priority boarding to ensure that their bag gets in the overhead bin. Ancillary fees represented a little over 10 percent of the airlines' total revenue in 1995; today, it's more than 25 percent. The public wouldn't stand for such fleecing if they had a choice, but market consolidation forces customer acceptance.

And it's not just Buffett: Large index-fund providers like Vanguard and BlackRock have significant industry-wide airline holdings, a factor that may distort competition. "It's not crazy to think that the CEO of Delta has figured out that Buffett doesn't like it all that much for him to compete with United," says Martin Schmalz, an assistant professor at the University of Michigan's Ross School of Business. Schmalz, José Azar, and Isabel Tecu revised a research paper last year showing that airfares on the average route are 3 to 7 percent higher under common ownership by large investors than they would be under separate ownership. "This is not collusion; it's not a crime," Schmalz adds. "But it's an antitrust problem that increases prices."

David Dao learned the harsh realities of monopoly air travel last April, after refusing to relinquish his seat to solve an overbooking problem on a United flight. Security agents violently dragged Dao, a 69-year-old physician, down the aisle and out of the aircraft, breaking his nose and knocking out two teeth. The incident gave United a public-relations black eye—video of Dao's ordeal was viewed over 9 million times, and United's CEO was hauled before Congress—but it didn't damage the company's bottom line. The Department of Transportation declined to prosecute, United's stock price recovered after an initial dip, and seats remained filled to near capacity.

Throughout the controversy, Buffett stood by United. Assaulting Dao was a "terrible mistake," he said to CNBC, but "it wouldn't change the investment strategy."

Buffett has similarly defended Wells Fargo, his largest single investment, through one damaging scandal after another. In 2016, the bank was caught signing up customers for around 3.5 million fake accounts. Since then, Wells Fargo has also been dinged for issuing clients unwanted insurance and home-warranty products, falsifying records to increase fees on mortgage applicants, overcharging foreign-exchange clients to ring up bonuses, initiating secret changes to mortgage terms for homeowners in bankruptcy, and repossessing the cars of service members while they were on active duty. The federal investigations and fines over this misconduct continue to roll in.

Millions have been harmed by this mix of rank incompetence and outright fraud. But with the five biggest commercial banks—Wells Fargo, Bank of America, Citigroup, JPMorgan Chase, and US Bancorp—controlling nearly half of all assets, as well as robust branch and ATM networks, it can be inconvenient or even impossible not to use their services.

Last August, Buffett called Wells Fargo "a terrific bank…. There were some things that were done very wrong there, but they are being corrected." In October, he got tougher, blaming Wells Fargo's board of directors for failing to "remove the stain" on the business and musing about clawing back five years of compensation. But Buffett had supported the same board members for reelection just months earlier. It resembled his decision in 2014 to criticize the board of Coca-Cola for excessive executive compensation, but to abstain from voting on the pay package. At the time, Buffett's son Howard sat on Coke's board.
In other words, while Buffett's wealth and the media attention he attracts enable him to create change inside the boardroom, he takes virtually no responsibility as a major shareholder for the companies he invests in. "He's following his wallet, not his conscience," says David Nelson, chief strategist at Belpointe Asset Management.

Windfall profits, taxpayer rip-offs, customer abuse—it's all in a day's work for the Oracle of Omaha.

In fact, Buffett is completely enamored with the big banks whose actions sparked the Great Recession, despite a rap sheet as large as Wells Fargo's. Asked to name his favorite bank in a CNBC interview last October, Buffett replied: "What's your favorite child?"

As of last September, Buffett's financial-industry holdings approximate an astonishing $66.9 billion—more than 37 percent of his portfolio. He is Wells Fargo's largest shareholder, and he recently became the largest shareholder in Bank of America as well, the result of a post-financial-crisis deal allowing Buffett to convert an injection of capital into common stock. That conversion earned him $12 billion overnight. A similar crisis-era investment in Goldman Sachs spawned a $3 billion payday.

Buffett also holds major stakes in Bank of New York Mellon, US Bancorp, and M&T Bank. He has a hand in every major credit-card issuer: American Express, Visa, MasterCard, and Synchrony Financial, which provides private-label credit cards to retailers. While Buffett doesn't own stock in JPMorgan Chase, his top deputy Todd Combs sits on the board, obviously aware of the activities of the leading competitor to his boss's banking investments.

You may think you have a choice of financial institutions, but when you pull out a piece of plastic to pay for anything, chances are you're enriching Warren Buffett.

It would be one thing if Buffett were passive about investments he doesn't totally control but scrupulous regarding the businesses owned within Berkshire Hathaway's portfolio. But only 25 people work at Berkshire's headquarters, overseeing 63 companies and more than half a trillion dollars in assets. It's impossible for Buffett to be anything but an absentee owner, instructing portfolio managers to gain market share but ignorant of how they do it. And anyone who has watched Buffett operate over the past 40 years knows his preferred path to wealth: through monopoly.

Among his first investments were newspapers, including the 1977 purchase of the *Buffalo Evening News*. Buffett immediately targeted the *News*'s rival, the *Courier-Express*, by launching a Sunday edition. By 1982, the *Courier-Express* was out of business, and Buffett's local monopoly became his largest single investment. Even today, despite the

Internet, Buffett owns 31 daily newspapers, most of them local monopolies.

A more brutal example involves Berkshire Hathaway subsidiaries Clayton Homes, the nation's largest mobile-home builder, and Vanderbilt Mortgage, its companion lender. A series of journalistic investigations in 2015 foundthat the companies targeted minorities with high-pressure sales tactics, issuing loans swollen with hidden fees. African-American, Native American, and Latino borrowers received higher interest rates, even if their fellow white borrowers earned less. When the loans failed, Clayton repossessed and resold the homes, earning more fees each time. The Consumer Financial Protection Bureau's complaint databases are littered with hundreds of comments about Clayton and Vanderbilt. "This type of behavior by any lender is despicable and absolutely intolerable," wrote one complainant.

Buffett has publicly defended the businesses, which earned $744 million in 2016. He even tried to attack the credibility of a critical reporter, because the reporter's sister worked at a law firm that sued Clayton. In 2017, Buffett vowed that Clayton Homes would grow, despite admitting that it foreclosed on one out of every 40 properties the previous year—over three times the national average.

Last December, the House of Representatives passed a bill to further deregulate the manufactured-home industry, eliminating consumer protections and disclosure requirements under statutes like the Truth in Lending Act. If the bill becomes law, Clayton Homes salespeople could legally steer borrowers to high-cost loans, which traditional mortgage brokers are barred from doing. As Maxine Waters, ranking Democrat on the House Financial Services Committee, said on the House floor, "This bill makes it easier for financial titans like billionaire Warren Buffett to earn even more profits, at the expense of some of the most vulnerable consumers in this country."

The disparity between Buffett's words and actions is an enduring feature. His main entry into the political arena involves a plea for tax fairness, to “stop coddling the super-rich.” But Buffett’s third most valuable stock holding (after Wells Fargo and Kraft Heinz) is a $22.8 billion investment in Apple, perhaps America’s most notorious corporate-tax evader, famous for stashing profits in offshore tax havens. Buffett takes full advantage of tax loopholes. He uses Berkshire Hathaway, a valuable tax shelter, for his investments. The Republican tax bill will saveBerkshire an estimated $37 billion, because the firm habitually defers its tax liabilities, which will now be paid off at a much lower rate. Even the infamous ”private-jet tax break” in the bill is really an extrajudicial attempt to settle a dispute between the IRS and NetJets, a private-plane company wholly owned by Berkshire Hathaway.

“I think idolizing Buffett is unhealthy,” says Robin Harding, Tokyo bureau chief for the *Financial Times*, who offered a rare note of criticism of the billionaire investor in the business press last September. “We should lionize entrepreneurs…who take bold risks by investing to make our lives better,” Harding adds. “Buffett’s whole method…is to minimize risk by building moats while investing to buy a greater share of what already exists.”

Former Supreme Court Justice Louis Brandeis called businesses like Buffett’s, which use other people’s money to create personal fortunes, the “Money Trust.” These financier middlemen “bestride as masters of America’s business world, so that practically no large enterprise can be undertaken successfully without their participation or approval,” Brandeis wrote. Buffett routinely takes advantage of opportunities unavailable to ordinary investors: The mega-bank Goldman Sachs created an internal “brain trust” solely to pitch deals to people like Buffett. “The kind of trades he does today no one else can do—you gotta be that big,” explains David Nelson of Belpointe Asset Management. Buffett’s fortune reflects a change in whom modern capitalism serves. Former labor secretary Robert Reich, whose latest book, *Saving Capitalism*, was recently adapted into a Netflix documentary, explained that the wealth generated through corporations used to be shared somewhat more with workers, communities, and the broader economy in what he termed “stakeholder capitalism.” “That changed in the 1980s, when the corporate raiders insisted that CEOs only focus on maximizing shareholder returns,” Reich says. “Even if companies wanted to be sustainable, they’re not able to under the current system.”

Amazingly, Buffett has spearheaded an effort to promote “commonsense corporate governance principles,” joining the CEOs of America’s largest corporations, from General Motors to JPMorgan Chase. The group’s manifesto states that “[o]ur financial markets have become too obsessed with quarterly earnings forecasts,” recommending that institutional investors make informed decisions about the direction of the companies they hold. But this is precisely what Buffett never does; he openly ignores management performance in favor of finding businesses with moats. This has become his perfect excuse: Buffett evades responsibility for abuses of market power, preserving his pristine reputation by passing the buck.

Nor does Buffett acknowledge his role in driving further monopolization. The investment-research firm Morningstar has created the “economic moat” index to track the 20 companies with the highest walls around their businesses. The money-management firm VanEck sells an exchange-traded fund based on that index called “MOAT.” Companies like Valeant Pharmaceuticals scoop up lifesaving drugs that nobody else makes and jack up the prices; it’s the moat strategy taken to its logical extreme. “We’re seeing this almost spontaneous decision across whole industries that they’re going to milk existing market positions rather than compete aggressively,” Harding says.

Buffett says he supports fairer taxes, but owns $22 billion of tax evader Apple.

What’s the answer? First off, aggressive antitrust enforcement. “What the framers of the antitrust laws…were concerned about is unreasonable market power that gives companies the chance to engage in predatory behavior of consumers and political power,” Reich says. Companies like Verisign, which exploit their monopolies, should face greater scrutiny. Dominant players in industries like airlines and banks should be downsized. Sprawling investors like Buffett also present concerns. “If we didn't allow Buffett to own substantial stakes in all air carriers, the problem would be significantly reduced," says the University of Michigan's Martin Schmalz.

We must also consider disproportionate capital concentration. The top 1 percent owns a significant portion of all wealth, and it increasingly makes money just from having money. Globally, 82 percent of the wealth generated in 2017 flowed to that top 1 percent, according to Oxfam. Through dividends, interest payments, and rising investments—Buffett-style passive ownership—the holders of capital capture about 30 percent of national income,according to research by Thomas Piketty, Emmanuel Saez, and Gabriel Zucman. "If you're well diversified and you just chill out, you will make a lot of money without doing much for it," says Matt Bruenig, founder of the People's Policy Project.

Bruenig has proposed a wealth tax, with the revenue directed into a stock-accumulating sovereign-wealth fund. Citizens could receive a direct dividend from the gains, the way Alaskans receive a check from the state's Permanent Fund. Instead of someone like Buffett hoarding wealth to extract income, we would all benefit in service to a fairer society. And as with Norway's wealth fund, the government could involve itself more directly in corporate governance, as a countervailing force to shareholder tyranny.

Getting serious about taming monopolies also means ceasing the endless praise of Warren Buffett. Leading Democrats and the press have given him a pass for decades. But the path to solving America's inequality crisis goes through Omaha and the cuddly billionaire whose love of monopoly is contributing to national desperation. "He's a really good investor," David Nelson says of Buffett. "I'm not sure he's much of an example on anything else."

Correction: *An earlier version of this article claimed that Warren Buffett's Berkshire Hathaway is invested in the aerospace company TransDigm and cited that company's alleged price gouging as an example of how Buffett benefits from monopolistic practices. Regrettably, we confused Berkshire Hathaway with Berkshire Partners, a firm unrelated to Mr. Buffett, which* *is invested in TransDigm. Accordingly, those passages have been removed from the article, and other sentences have been edited to reflect this fact. We apologize to our readers and to Mr. Buffett for the error.*

The article also inaccurately stated that the Republican tax bill is projected to benefit Buffett's business $37 billion per year. It is a one-time $37 billion benefit.

DAVID DAYEN David Dayen is the author of *Chain of Title: How Three Ordinary Americans Uncovered Wall Street's Great Foreclosure Fraud*, which won the Studs and Ida Terkel Prize.

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