Rebuilding Small Business for a Robust Recovery

A Federal Policy Agenda

By Stacy Mitchell, Susan R. Holmberg, Kennedy Smith, and Ron Knox, December 2020

Allowing the current crisis to devastate small businesses and further concentrate economic power would be a major mistake. It would render the U.S. economy less productive and more unequal. This policy brief calls for federal action to enable small, independent businesses to both weather the Covid-19 pandemic and thrive and grow in its aftermath. A policy strategy that prioritizes independent businesses will produce a more vigorous, equitable, and stable recovery. This brief lays out two dozen policy recommendations across a 6-point agenda.

Overview: What's at Stake

The U.S. is at risk of repeating the mistakes it made in the wake of the last big economic crisis. In the aftermath of the 2007-08 financial crash, federal policymakers chose to reinforce and accelerate several destructive trends. They bailed out big financial institutions and helped Wall Street further consolidate its market power. And they allowed millions of families to lose their homes, savings, and livelihoods. This policy response had two terrible consequences: It fueled extreme inequality, including a staggering loss of wealth among working people, especially African Americans. It also undermined faith in American democracy as a fair and just system, opening the way for increasingly dysfunctional and antidemocratic politics.

The current crisis threatens to produce a similar outcome. Rather than housing, this time the economic fallout is hitting small businesses, their employees, and the communities they support. People are losing their dreams and livelihoods. Neighborhoods are losing beloved local stores and gathering spots. The country is losing much of its local productive capacity. A handful of big corporations are walking away with the spoils. Concentration, already a major drag on the U.S. economy before the pandemic, has accelerated dramatically.

Nearly 100,000 small, independent businesses have already closed permanently,[1] with Black-owned businesses taking the biggest hit.[2] Without action from policymakers, many more will follow. As of early November, small business revenue was down a stunning 31 percent from January.[3] Among independent restaurants and other hospitality businesses, revenue fell 58

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This policy brief was produced by ILSR's Independent Business Initiative. To learn more about the initiative and the policy ideas outlined here, go to ilsr.org/independent-business. It was developed in consultation with several small business organizations, including American Booksellers Association, American Independent Business Alliance, Austin Independent Business Alliance, Dane Buy Local, Independent Office Products & Furniture Dealers, Local First Arizona, Low Country Local First, Mainstreet Alliance, and Running Industry Association.

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percent.[4] These losses are unprecedented and catastrophic. Many small businesses report that they haven't paid their rent and are behind on loan payments and other bills. Hundreds of thousands are at risk of going under in the coming months. They include long-standing businesses that have operated for generations, as well as young startups that carry the hopes and dreams of their neighborhoods. In New York City, officials estimate that one-third to one-half of restaurants could be gone before spring.[5]

Meanwhile, Amazon has emerged as one of the biggest beneficiaries of this crisis, topping record sales throughout the pandemic. With Amazon's stock price soaring, CEO Jeff Bezos's net worth hit $200 billion in August.[6] Dollar General CEO Todd Vasos also anticipates a bonanza for his company. "We still believe we've got 12,000 or so opportunities to place a Dollar General out there. [With] some of the displacement that we've seen, that opportunity continues to expand as far as I'm concerned."[7] To drive their own market position, private equity firms are already buying up commercial real estate and pouncing on vulnerable small companies.[8]

It's a mistake to imagine that independent businesses will simply regenerate once this storm passes. The entrepreneurially minded people who run these enterprises aren't likely to overcome bankruptcy and credit loss or have the energy to start over again. Some are losing not only their businesses but their homes, which is the main source of collateral for many small business owners.

Moreover, while the pandemic may be the immediate culprit, the reason independent businesses have been so vulnerable to this crisis is that decades of policy decisions have weakened them. Lax antitrust enforcement has allowed rampant market power abuse by dominant corporations. Banking policies have constrained the flow of credit to small businesses. Tax policies have given giant companies an unfair financial advantage. Taken together, these policies have created a context in which it has become hard to sustain a business, much less start a new one. The number of startups launched each year has fallen by almost two-thirds since 1980.[9] All 50 states and the majority of U.S. metropolitan areas have experienced a decline in new business formation.[10]

It's hard to overstate the deep and far-reaching consequences of allowing small businesses to collapse. They play a crucial role in the U.S. economy and our communities. New, small enterprises drive job creation and innovation. They nurture strong neighborhoods and vibrant local economies. They create a path to the middle class for all kinds of Americans, including new immigrants. Letting them go under while bailing out big corporations will breed even more cynicism and alienation.

Small business should be a primary focus of federal recovery policy. As we detail below, federal action that enables small businesses to weather the Covid-19 crisis and thrive and grow in its aftermath will produce a more vigorous, equitable, and stronger recovery. To do this, policymakers need to both provide relief and tackle the structural obstacles that were impeding businesses before the crisis. This means, mainly, checking monopoly power and expanding access to capital. These policies will not only revitalize American small businesses, they will stabilize and strengthen the U.S. economy.

Small Business is Key to a Strong Recovery

A recovery strategy that focuses on rebuilding, creating, and growing small businesses will lead to:

More robust job growth and a faster recovery

It took years for the U.S. economy to recover from the Great Recession and, by several measures, it never fully recovered. A main reason for this slow, anemic recovery was that the consolidated financial system constricted credit to small businesses, and that, in turn, sharply constrained employment growth.[11] New and young businesses account for virtually all net job creation,[12] and small businesses have traditionally led economic recoveries by creating jobs sooner and faster than large firms.[13] Growing market concentration has already hobbled job creation, reducing employment in the U.S. by an estimated 13 percent.[14] This recession, with its disproportionate impact on small businesses, threatens to further imperil the engine of job growth, leaving Americans to suffer a protracted and limited recovery. Policymakers can avert this outcome and spur a much more robust recovery by adopting policies that put small businesses on better footing and enable more people to successfully launch new enterprises.

Higher wages and less inequality

A small business-led recovery would put upward pressure on wages and reduce income inequality. Communities with a higher density of small businesses enjoy faster income growth, lower poverty rates, and less inequality.[15] In contrast, when Amazon and Walmart expand, average wages fall.[16] Recent research has concluded that today's median annual wage of $30,500 would be about one-third higher, or $41,000, if local labor markets were more competitive.[17] By creating the conditions in which small businesses can form and grow, policymakers can spur increased demand for labor and faster job growth, thus lifting up wages.

A more dynamic and innovative economy

Rebuilding small business is crucial to creating a dynamic economy that generates new ideas and innovations. Small businesses play a pivotal role in innovation in at least three ways. First, many inventors rely on starting a business to bring their idea to market. Second, research has found that industries populated by small firms develop new products at a faster clip than those dominated by big corporations.[18] Finally, small businesses provide diverse distribution channels, thus enabling a wider array of products to reach the market. Independent retailers, for example, have a well-documented history of helping new authors, designers, and manufacturers find an audience.[19] Even before the pandemic, there was evidence that concentration was impeding innovation.[20] It could slow even further in its aftermath. By adopting policies to support small businesses and facilitate entrepreneurialism, policymakers can rebuild the U.S. economy's dynamism and inventiveness.

Growth in every corner of the country

Prior to the 1980s, prosperity was distributed relatively evenly across the country, with cities like Rockford, Ill. and Milwaukee, Wis., rising in income and wealth as rapidly as New York and San Francisco. Yet deep disparities have emerged in the past few decades — between superstar cities and other cities, between urban and rural areas, and between regions.[21] Just ten metro areas accounted for one-fifth of net job growth between 2012 and 2018, while one-third of counties actually lost jobs in this period.[22] These declining counties are disproportionately rural, located in the South and Midwest, and home to more Black and Hispanic residents.[23] To a significant extent, this widening geographic disparity is a product of economic concentration: metro areas home to dominant corporations have grown, while other cities and towns have lost the small and mid-sized businesses that once sustained them. These growing disparities are contributing to political instability, among other consequences. By reversing corporate concentration and ensuring a level playing field for small businesses, policymakers can bring prosperity to every region and community.

Stronger, more resilient communities

Communities with a larger share of locally owned businesses are more resilient during times of distress and more effective at solving problems, researchers have found. Residents of these communities are more interconnected, have higher rates of civic engagement, and are better at acting collectively to overcome challenges.[24] By pursuing a recovery agenda that focuses on strengthening local economies, policymakers can help mend the civic fabric and improve the resilience of America's cities and towns.

Policy Agenda

To ensure that small businesses can survive the pandemic and flourish after it, we need to both provide relief and tackle the structural obstacles that were impeding business formation before the crisis, and have made small businesses so vulnerable to its ravages. This means, mainly, checking monopoly power and expanding access to capital. These policies will not only revitalize American small businesses, they will stabilize and strengthen the U.S. economy.

1. Provide Pandemic Relief

Administration

Audit the Paycheck Protection Program (PPP)

Conduct a full audit of the PPP to detect fraud and recover funds that should go to small business relief.

Clarify PPP-related tax liability

Issue an executive order reversing the Internal Revenue Service's April 2020 ruling that businesses cannot deduct business expenses paid with forgiven Paycheck Protection Program loan proceeds.

Establish workplace safety standards for infectious diseases

Jumpstart OSHA's stalled rulemaking to create workplace standards for infectious diseases, particularly for front-line workers in sectors like warehousing and retailing. This would level the playing field for small businesses that take appropriate (and often costly) precautions to protect their staff by ensuring that their large competitors are not allowed to cut corners and operate irresponsibly.

Congress

Provide ongoing, direct relief to impacted small businesses

Enable independent restaurants, retail stores, and other small businesses to weather the Covid-19 crisis and keep their staff employed by enacting legislation to provide direct relief via the U.S. Treasury to cover payroll and fixed expenses (including rent, mortgage, and utilities) for those that are suffering substantial revenue losses. This should be along the lines of the measures proposed by Representative Pramila Jayapal and by Senators Mark Warner, Doug Jones, and Bernie Sanders, and similar to the targeted restaurant relief proposal from Representative Earl Blumenauer.

Fund local government small business assistance programs

Congress should repurpose the $130 billion in unused PPP funding to support small businesses. A portion of these funds should be used to replenish local and state small business relief programs, drawing on proposals from Senators Cory Booker, Steve Daines, and Patty Murray and Representatives Dan Kildee and Brian Fitzpatrick. As ILSR's research has shown, these programs have been highly effective, creative, and responsive to the evolving needs of small businesses.[25] By leveraging local partnerships and knowledge, many have done a better job than federal aid of supporting Black and Latinx-owned businesses and very small businesses. However, most have quickly run out of funds.

Fund targeted grants to very small businesses and those in low-income communities

The other portion of the unused PPP funds should be directed to providing grants to very small businesses. A substantial share of these grants should be earmarked for minority-, veteran-, and women-owned businesses and those in low-income rural and urban communities. (Very small businesses and those owned by people of color were least able to access PPP loans.)

Extend federally reimbursed paid leave for small business employees

Extend the Families First Coronavirus Response Act, which provides federally reimbursed paid sick time and paid leave to small business employees who have been impacted by Covid-19. The program expires on Dec. 31, 2020.

2. Check Monopoly Power and Reverse Market Concentration

Administration

Create a strong Federal Trade Commission

Appoint commissioners to the FTC who are committed to using the agency's full range of tools and powers to restore competition, including its authority to conduct industry investigations and engage in antitrust rulemaking. By utilizing its rulemaking authority, the agency can stamp out anti-competitive practices that are harming independent businesses, including exclusionary contracts and exploitive treatment by dominant digital gatekeepers.

Clarify the intent of the antitrust laws

Direct the Department of Justice (DOJ) to reaffirm the original intent of the antitrust laws, which Congress enacted to safeguard the competitive process and disperse economic power. Since the 1980s, the antitrust agencies have relied on an enforcement framework that has sacrificed competitive market structures to chase perceived scale efficiencies and low prices. This "consumer welfare" approach has harmed competition, undermined the welfare of people as workers and entrepreneurs, fueled inequality, and left most Americans worse off.

Strengthen and simplify merger policy

Charge the antitrust agencies with revising the Horizontal Merger Guidelines to strengthen merger reviews and set bright-line thresholds based on market concentration and firm size, above which mergers would be presumed anti-competitive and challenged (similar to the guidelines prior to the 1980s). The agencies should also revise the Vertical Merger Guidelines to include an explicit presumption that vertical mergers tend to harm competition and that approval requires overwhelming evidence of a vertical merger's pro-competitive effects. These shifts in policy would promote market diversification, prevent dominant corporations from expanding their market power through mergers, establish clear guidance for market participants, and make merger policy more transparent and accountable to the public.

Ensure that the DOJ's limited enforcement resources are directed at firms with market power

Charge the antitrust agencies to direct their enforcement resources at anti-competitive behavior by corporations with market power, rather than to coordination among independent businesses and contractors that collectively represent a small share of the market.

Bring daylight and public engagement to the antitrust agencies

The Administration should direct the antitrust agencies to make their decision-making more transparent and accountable to the public. We suggest two specific reforms. First, as part of the agencies' initial review of proposed mergers, they should accept public comment on those above a specified size threshold. The agencies should consider relevant information presented in these comments, including information submitted by businesses in the affected markets, in deciding whether to initiate an in-depth review of a merger. Second, when closing antitrust investigations without taking action — including merger investigations and investigations involving alleged monopolization — the agencies should publish explanations detailing their reasoning. These reforms will improve enforcement and help ensure that the public can meaningfully participate in debates about antitrust policy.

Foster a resilient and competitive supply chain by addressing buyer power

For decades, the antitrust agencies have largely ignored the exercise of buyer power, allowing large corporations, such as Amazon and Walmart, to wrest unjustified and anti-competitive discounts and other favorable treatment from suppliers, while forcing higher costs on competing independent retailers. This enforcement failure has been exacerbated by the pandemic as dominant buyers have taken advantage of supply shortages in various sectors to limit the supply of goods to their competitors.

Congress

Act on the recommendations of the House's antitrust subcommittee

Unless Congress acts to strengthen antitrust policy, the rampant market power abuses uncovered by the House antitrust subcommittee's investigation will severely hinder the recovery by impeding new business formation and hobbling the ability of existing businesses to survive and grow. Because of Covid-19, small businesses are more dependent than ever on digital platforms and online transactions to reach customers. This has greatly amplified the gatekeeper power of the tech giants, whose exorbitant fees and predatory tactics now pose an even more urgent threat to independent businesses. For these reasons, it's imperative that lawmakers sustain the momentum of the House report by moving legislation to strengthen antitrust policy and break up and regulate Amazon and the other tech giants.

Adopt a temporary merger moratorium

The current crisis has left many small businesses exposed to predatory takeovers by firms intent on increasing their market power and further consolidating industries.[26] Private equity firms say they see "distressed assets" as an obvious target for takeover.[27] By implementing a temporary moratorium on mergers in all but the most urgent cases of business failure, Congress can limit consolidation and the accumulation of market power, preventing the waves of mergers and takeovers that followed the 2008 crisis.[28]

Direct the Federal Reserve to cap credit card swipe fees

Building on the 2010 Durbin Amendment, which directed the Federal Reserve to cap debit card swipe fees, Congress should direct the Fed to issue rules capping credit card swipe fees. Visa and Mastercard, which control 85 percent of the market, impose swipe fees that are about six times higher here than in Europe, where the fees are regulated.[29] No matter how high the card networks hike their fees, small businesses have little choice but to pay up; refusing to accept credit cards, especially during a pandemic, is hardly an option. These fees amount to a form of monopoly rent. Unless Congress acts, the card networks and the big banks they partner with will continue to exploit small businesses, hindering their ability to grow and create jobs.

3. Overhaul the Small Business Administration

Administration

Reconfigure the SBA's loan guarantee programs to deliver more funding to truly small businesses

Set aside at least 15 percent of the SBA's loan guarantee programs for loans of under $100,000, including 7 percent for loans under $50,000.

Eliminate abuses in set-aside procurement contracts

Federal agencies are required to set aside a certain percentage of their procurement awards for small businesses, including businesses owned by people of color, women, and service-disabled veterans, with oversight from the SBA. These set-asides have been subject to widespread fraud by companies that do not actually meet the criteria. The incoming Administration should direct the SBA to redesign its set-aside process, with robust checks and greater authority to monitor and correct improper set-aside procurement throughout the federal government.

Invigorate the SBA's research functions

The SBA does not collect information on the short- or long-term outcomes for the businesses that receive its loans and assistance, or the broader impacts of these programs. The incoming Administration should charge the SBA with collecting and publishing this data, including tracking borrowers longitudinally and breaking out data for truly small businesses (those with fewer than 25 employees). Further, the SBA's Office of Advocacy should be directed to fulfill its research mission by conducting comprehensive studies of the conditions and policies that are impeding small businesses.

Reform and expand the SBA's entrepreneurship training and support programs

Significantly boost funding for Small Business Development Centers. Develop SBDC performance criteria and monitor their performance. Create a robust national network of small business incubators and entrepreneurship training programs, particularly in conjunction with high schools, community colleges, and Community Development Financial Institutions.

Congress

Increase the funding authorization for the SBA's 7(a) loan guarantee program and require that the agency earmark a share of this lending for truly small businesses and historically underserved entrepreneurs

Congress should authorize expanded funding for the SBA's 7(a) loan guarantee program to help drive economic recovery over the coming years. Congress should require that at least 15 percent of gross loan dollars approved by the SBA under the program go to loans of $100,000 or less, and it should require that a specified portion of loans go to minority- and women-owned businesses, rural businesses, and those in low-income communities.

Temporarily suspend the 7(a) program's fees for borrowers

As Congress did in the wake of the 2008 financial crisis, lawmakers should temporarily suspend the fees charged to small business borrowers.

4. Increase The Flow of Capital to Small Businesses

** See additional capital measures under the SBA section above.*

Administration

Strengthen local community banks

Direct the banking regulatory agencies to assess the barriers and challenges facing local community banks and implement measures to reduce their compliance costs and otherwise strengthen these local institutions. Community banks account for a substantial share of small business lending, but the number of community banks has fallen by one-third over the last decade.[30]

Strengthen the Community Reinvestment Act

Ensure that the Community Reinvestment Act overhaul currently in process puts small businesses at its core and provides powerful incentives for directing capital to low- and moderate-income communities. Reject the recent changes by the Office of the Comptroller of the Currency that allow banks to exclude 20 percent of their assessment areas but still receive favorable CRA grades and that reward investments in Opportunity Zones without regard to whether those investments specifically benefit low- and moderate-income community residents.

Congress

Significantly expand funding for other programs that provide capital for small businesses

These include the CDFI Fund, Minority Business Development Agency, and the Fresh Food Financing Initiative.

Reestablish the State Small Business Credit Initiative

In the wake of the 2008 crash, Congress disbursed $1.5 billion in grants for state-run small business support programs under the State Small Business Credit Initiative. These programs were highly effective. This federal funding initiative should be reestablished, enabling states to develop tailored and targeted equity and lending programs to support new and growing local businesses.

Support the establishment of public banks at the local and state levels

As the experience of the Bank of North Dakota has shown, public banks greatly expand the volume of lending flowing to small businesses,[31] in part by strengthening community banks and credit unions. Congress should enact legislation along the lines of H.R.8721 to facilitate the formation of public banks by cities and states.

Enact protections for small business borrowers

Congress should extend consumer lending protections to small business borrowers, ensuring that they receive clear and accurate information and are not subject to predatory fees and practices, particularly in dealing with online lenders.

5. Ensure Small Business Can Compete for Public Procurement

Administration

Put the brakes on the GSA's Commercial Platforms program

The General Services Administration (GSA) has been moving forward with an initiative to shift federal procurement of commercial goods to an online portal(s) run by a private contractor. As part of a pilot, the GSA has granted "micro purchase" agreements to Amazon, Overstock, and Fisher Scientific. The pilot, which started this year, makes it possible for federal agencies to make purchases of up to $20,000 from these three platforms without the traditional rules and regulations that protect public dollars. In addition, the program compels independent businesses to sell on Amazon's platform (and be subject to its fees and dictates) if they wish to compete for government spending. GSA should shift course and instead develop a government-built purchasing portal, which would protect public dollars and ensure fair access for small businesses.

Meet the federal government's commitment to buying from small businesses

The government has set a goal of awarding 23 percent of its prime contracts to small businesses, with specific set-asides for historically underrepresented businesses. However, as noted above, persistent problems, such as misreporting by agencies and fraud by contractors, have cast serious doubt on the government's claim that it is meeting this obligation.[32] The incoming Administration should institute strong controls to ensure compliance and establish a more robust system, via an online portal, to connect agencies with potential small business contractors.

6. Invest In Critical Infrastructure

Congress

Expand affordable, high-speed internet access

Reliable, affordable, high-speed internet is essential to the success of just about any kind of independent business. Many rural regions and low-income urban neighborhoods lack this basic service, however. Congress should pass the Community Broadband Act of 2020 to remove barriers erected in 19 states to block local governments from investing in municipal broadband projects, and pass the Digital Equity Act of 2019 to rectify the structural racism of existing federal broadband policy.

Establish a fund to enable Community Land Trusts to invest in commercial buildings

Congress should establish a fund to provide capital for Community Land Trusts to invest in commercial properties and create affordable space for independent entrepreneurs. Rapidly rising commercial rents are crushing small businesses in many cities and making it impossible for new entrepreneurs to pursue their dreams. By providing capital to CLTs for commercial investment, Congress can help communities rebuild in the wake of the pandemic. This program would enable CLTs, which have a long track record of successfully investing in residential properties, to buy commercial buildings (including distressed properties that might otherwise be swept up in an anticipated land grab by private equity firms) and renovate them to incubate and house small businesses. This approach would also help to address the problem of rapidly rising rents by bringing commercial properties into a long-term, locally controlled trust.

7. Make Taxes Fair

Congress

Close loopholes that allow large multinational corporations to escape taxes

It's not uncommon for large, wealthy corporations, including Amazon, to pay very low or no federal income taxes. Small businesses cannot take advantage of these schemes. The average effective tax rate paid by small businesses is 20 percent. Closing tax loopholes would level the playing field for small businesses and generate much-needed public revenue. ■

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