# 1NC

## Off

### 1NC – Biz Con DA

#### The plan creates a chilling effect that crushes business confidence and investment

Hathout 9/23 – Ahmad Hathout, reporter focusing on the tech and telecommunications industries, citing a panel event hosted by the Institute for Policy Innovation, “Washington’s Antitrust Push Could Create ‘Chilling Effect’ on Startups, Observers Say,” 9/23/21, https://broadbandbreakfast.com/2021/09/washingtons-antitrust-push-could-create-chilling-effect-on-startups-observers-say/

WASHINGTON, September 23, 2021 – Advocates for less government encroachment on big technology companies are warning that antitrust is being weaponized for political ends that may end up placing a “chilling effect” on innovative businesses.

The Institute for Policy Innovation held a web event Wednesday to discuss antitrust and the modern economy. Panelists noted their concern that antitrust law may be welded with political aims that will ultimately create a precedent whereby the federal government will stifle innovators who get too big.

Jessica Melugin, the director of the Center for Technology and Innovation, said technology companies could see what’s happening in Washington – with lots of talk of breaking up companies deemed too big – and be uncertain of the future.

She noted that growing companies largely seek one of two things to make it big: grow to file an initial public offering, where the company’s shares are publicly traded, or wait until a large company buys you out. She said talk emanating from the White House and Washington generally about regulating the industry could deter larger companies from acquiring them, and onerous financial regulations could put a damper on IPO dreams.

“If you start robbing companies of other smaller companies they purchased, it’s going to give a lot of entrepreneurs and a lot of funders in Silicon Valley pause,” Melugin said. “If another path to success gets blocked – the IPO is now harder, and now acquisitions are a little bit questionable…that’s a chilling effect.”

President Joe Biden has made a number of appointments to key positions that is bringing more attention on Big Tech, including known Amazon critic Lina Khan to chair the Federal Trade Commission, which recently filed an amended case against Facebook for alleged anticompetitive practices. He also appointed antitrust expert and Google critic Jonathan Kanter as assistant attorney general in the Justice Department’s antitrust division.

FTC could set a bad precedent if focus is ‘big is bad’

Christopher Koopman, the executive director at the Center for Growth and Opportunity at Utah State University, said he’s concerned about the precedent Khan could set for big companies.

He said the odds are that once Khan starts, she will continue down “this path of ‘big is bad’ because that’s a prior that she has and she’s continued to operate on her entire professional career. It just so happens that the focus of this is on tech companies.

“We may be building a regulatory apparatus that will continue to burrow a hole right down the middle of the American economy before we even have a chance to ask if that’s really what we want,” Koopman added. “We just have to recognize that it doesn’t matter, really, who is running the FTC – once we tell the FTC to go break up big companies, they’re going to go break up big companies.”

#### Unpredictable shifts ruin biz con and overall growth

Cambon 21 – Sarah Chaney Cambon, reporter on The Wall Street Journal's Economics Team, “Capital-Spending Surge Further Lifts Economic Recovery”, 6/27/2021, https://www.wsj.com/articles/capital-spending-surge-further-lifts-economic-recovery-11624798800

Business investment is emerging as a powerful source of U.S. economic growth that will likely help sustain the recovery.

Companies are ramping up orders for computers, machinery and software as they grow more confident in the outlook.

Nonresidential fixed investment, a proxy for business spending, rose at a seasonally adjusted annual rate of 11.7% in the first quarter, led by growth in software and tech-equipment spending, according to the Commerce Department. Business investment also logged double-digit gains in the third and fourth quarters last year after falling during pandemic-related shutdowns. It is now higher than its pre-pandemic peak.

Orders for nondefense capital goods excluding aircraft, another measure for business investment, are near the highest levels for records tracing back to the 1990s, separate Commerce Department figures show.

“Business investment has really been an important engine powering the U.S. economic recovery,” said Robert Rosener, senior U.S. economist at Morgan Stanley. “In our outlook for the economy, it’s certainly one of the bright spots.”

Consumer spending, which accounts for about two-thirds of economic output, is driving the early stages of the recovery. Americans, flush with savings and government stimulus checks, are spending more on goods and services, which they shunned for much of the pandemic.

Robust capital investment will be key to ensuring that the recovery maintains strength after the spending boost from fiscal stimulus and business reopenings eventually fades, according to some economists.

Rising business investment helps fuel economic output. It also lifts worker productivity, or output per hour. That metric grew at a sluggish pace throughout the last economic expansion but is now showing signs of resurgence.

The recovery in business investment is shaping up to be much stronger than in the years following the 2007-09 recession. “The events especially in late ’08, early ’09 put a lot of businesses really close to the edge,” said Phil Suttle, founder of Suttle Economics. “I think a lot of them said, ‘We’ve just got to be really cautious for a long while.’”

Businesses appear to be less risk-averse now, he said.

After the financial crisis, businesses grew by adding workers, rather than investing in capital. Hiring was more attractive than capital spending because labor was abundant and relatively cheap. Now the supply of workers is tight. Companies are raising pay to lure employees. As a result, many firms have more incentive to grow by investing in capital.

Economists at Morgan Stanley predict that U.S. capital spending will rise to 116% of prerecession levels after three years. By comparison, investment took 10 years to reach those levels once the 2007-09 recession hit.

Company executives are increasingly confident in the economy’s trajectory. The Business Roundtable’s economic-outlook index—a composite of large companies’ plans for hiring and spending, as well as sales projections—increased by nine points in the second quarter to 116, just below 2018’s record high, according to a survey conducted between May 25 and June 9. In the second quarter, the share of companies planning to boost capital investment increased to 59% from 57% in the first.

“We’re seeing really strong reopening demand, and a lot of times capital investment follows that,” said Joe Song, senior U.S. economist at BofA Securities.

Mr. Song added that less uncertainty regarding trade tensions between the U.S. and China should further underpin business confidence and investment. “At the very least, businesses will understand the strategy that the Biden administration is trying to follow and will be able to plan around that,” he said.

#### Extended COVID economic decline causes multilateral meltdown – causes nuclear war, climate change, Arctic and space war.

McLennan 21 – Strategic Partners Marsh McLennan SK Group Zurich Insurance Group, Academic Advisers National University of Singapore Oxford Martin School, University of Oxford Wharton Risk Management and Decision Processes Center, University of Pennsylvania, “The Global Risks Report 2021 16th Edition” “http://www3.weforum.org/docs/WEF\_The\_Global\_Risks\_Report\_2021.pdf

Forced to choose sides, governments may face economic or diplomatic consequences, as proxy disputes play out in control over economic or geographic resources. The deepening of geopolitical fault lines and the lack of viable middle power alternatives make it harder for countries to cultivate connective tissue with a diverse set of partner countries based on mutual values and maximizing efficiencies. Instead, networks will become thick in some directions and non-existent in others. The COVID-19 crisis has amplified this dynamic, as digital interactions represent a “huge loss in efficiency for diplomacy” compared with face-to-face discussions.23 With some alliances weakening, diplomatic relationships will become more unstable at points where superpower tectonic plates meet or withdraw.

At the same time, without superpower referees or middle power enforcement, global norms may no longer govern state behaviour. Some governments will thus see the solidification of rival blocs as an opportunity to engage in regional posturing, which will have destabilizing effects.24 Across societies, domestic discord and economic crises will increase the risk of autocracy, with corresponding censorship, surveillance, restriction of movement and abrogation of rights.25 Economic crises will also amplify the challenges for middle powers as they navigate geopolitical competition. ASEAN countries, for example, had offered a potential new manufacturing base as the United States and China decouple, but the pandemic has left these countries strapped for cash to invest in the necessary infrastructure and productive capacity.26 Economic fallout is pushing many countries to debt distress (see Chapter 1, Global Risks 2021). While G20 countries are supporting debt restructure for poorer nations,27 larger economies too may be at risk of default in the longer term;28 this would leave them further stranded—and unable to exercise leadership—on the global stage.

Multilateral meltdown Middle power weaknesses will be reinforced in weakened institutions, which may translate to more uncertainty and lagging progress on shared global challenges such as climate change, health, poverty reduction and technology governance. In the absence of strong regulating institutions, the Arctic and space represent new realms for potential conflict as the superpowers and middle powers alike compete to extract resources and secure strategic advantage.29 If the global superpowers continue to accumulate economic, military and technological power in a zero-sum playing field, some middle powers could increasingly fall behind. Without cooperation nor access to important innovations, middle powers will struggle to define solutions to the world’s problems. In the long term, GRPS respondents forecasted “weapons of mass destruction” and “state collapse” as the two top critical threats: in the absence of strong institutions or clear rules, clashes— such as those in Nagorno-Karabakh or the Galwan Valley—may more frequently flare into full-fledged interstate conflicts,30 which is particularly worrisome where unresolved tensions among nuclear powers are concerned. These conflicts may lead to state collapse, with weakened middle powers less willing or less able to step in to find a peaceful solution.

### 1NC – Advantage CP

#### The United States federal government should:

* regulate firms in the same market to let other companies access a subset of data proportional to the size of the firm’s market share
* cease FTC litigation and rulemaking
* pass data privacy regulations
* pass media independence regulations
* negotiate and pass trade agreement and other relevant measures to remove digital trade barriers with the EU
* increase resiliency measures for cyber and info-war defense, including for NC3.
* take a persistent engagement approach to information warfare in coordination with allies
* regulate self-preferencing by tech companies

#### Data sharing solves Big Tech without harmonization or linking to the Econ DA

Mayer-Schonberger and Ramge 18 – VIKTOR MAYER-SCHONBERGER is Professor of Internet Governance and Regulation at the University of Oxford. THOMAS RAMGE is Technology Correspondent for brand eins and writes for The Economist. ("A Big Choice for Big Tech: Share Data or Suffer the Consequences." Foreign Affairs, vol. 97, no. 5, September/October 2018, p. 48-54. HeinOnline.)//gcd

Luckily, regulators do not have to choose between structurally vulnerable but efficient markets and resilient but inefficient ones. There's an easier way to foster both market diversity and resilience: a progressive data-sharing mandate. Under this system, every company above a certain size, say, those with more than a ten percent share of the market, that systematically collects and analyzes data would have to let other companies in the same market access a subset of its data. The larger a firm's market share, the more of its data others would be allowed to see. Data would be stripped of personal identifiers, augmented with metadata to make clear what sort of information the data provided and where it came from, and selected randomly to prevent companies from gaming the system (by granting access only to largely useless data, for instance). Participants would have to agree to certain restrictions, including rules against sharing data with third parties. The role of regulators would be limited to assessing market share, an area in which they have already accumulated expertise. If necessary, regulators would also enforce access to data, but they would not actively organize or operate the sharing system. Eventually, data sharing should be mandated across the board. But countries should start with online markets, as these are particularly vulnerable to the dangers of concentration. In the United States, Congress would have to amend the country's existing antitrust regime to develop a comprehensive data-sharing regulation, and in Europe, the EU would have to act as a whole, but a transatlantic consensus would not be necessary. Both the United States and the EU have enough regulatory power and important enough markets to make a mandate enacted in either jurisdiction effective. A progressive data-sharing mandate would offer several advantages. Unlike a tax, it would not impose any direct cost on firms; companies would remain free to use the data they collect, just as they do now. It would allow many firms and people to use the same data, which would spur innovation; today, although huge quantities of data are collected, it remains underused. If a wide variety of firms had access to market data, a firm's competitive advantage would rest on its ability to extract insights, encouraging companies to develop smarter algorithms and analytics. The policy would not differentiate between different players that crossed the necessary threshold; even Amazon would have access to data from smaller competitors as long as their market shares were greater than ten percent. But since smaller firms would have less data to share and machine-learning algorithms produce diminishing returns for each new data point, a company like Amazon would gain far less than its smaller competitors. A data-sharing mandate would lift all boats, but to different degrees. That would support diversity, innovation, and competition. Once companies had access to the necessary raw material, they would launch alternative decision assistants. People might still shop on Amazon or listen to music on Spotify, but they might use a third-party recommendation tool to choose products and songs. Today's decision assistants mostly serve the digital superstars. Tomorrow's more independent decision assistants could far more convincingly represent the interests of consumers. Price-comparison sites already let people find the seller offering the lowest price for a wide range of products. Independent decision assistants would help them identify the best product match, as well. Creating competition among assistants and markets would eliminate the need to break up digital superstars, because they would no longer enjoy an insurmountable competitive advantage. And because the shared data would be chosen randomly, each competitor would train its systems on slightly different data sets, reducing the risk of systemic failures.

#### Trade planks solves ADV 3

DuPont, 20 (Sam DuPont, Deputy Director, Digital Innovation and Democracy Initiative, Washington, DC, 11-23-2020, accessed on 1-18-2021, Wita, "The Biden Administration Should Pursue a Digital Trade Agreement", https://www.wita.org/blogs/biden-digital-trade-agreement/)//Babcii

But there is at least one area where the incoming Biden administration should launch new, ambitious negotiations: digital trade. Digital trade is about goods and services being bought, sold, and delivered electronically. It’s a U.S. cybersecurity company helping protect a Finnish company’s networks; it’s a Brazilian farmer getting real-time insights on weather conditions and agricultural markets from a Japanese data analytics company; it’s a factory on the shores of Lake Erie sending streams of data around the world so that artificial intelligence can identify maintenance issues before anything breaks down. The United States is the world’s leading exporter of services—more and more of which are delivered digitally—so the commercial value of an open, global internet and a fair, global market for such services should be obvious. A forward-looking digital trade agreement would guarantee that all these services and more can compete internationally—and that the data upon which they depend can flow freely across borders. Successfully negotiating such an agreement with a large group of trading partners would be a boon to U.S. businesses and workers, and there is every reason to believe it would be a political winner on both sides of the aisle. What is more, it would also advance the geostrategic interests of the United States. An agreement that helps ensure the global digital economy defaults toward free commerce, the free exchange of ideas, and the free flow of data will help the United States and its allies confront and compete with China. At home, the Chinese government has implemented a top-down, repressive model for controlling the internet. And it has used negotiations, influence, and raw power to advocate this model overseas—seeking to build a [coalition of countries](https://www.nbr.org/publication/chinas-vision-for-cyber-sovereignty-and-the-global-governance-of-cyberspace/) with separate, sovereign internets characterized by greater government control over information—in order to validate its domestic approach and enhance its global influence. The campaign is working: Governments around the world have followed China’s lead by restricting the free flow of information, blocking online services, and fragmenting the internet along national boundaries. Earlier this year, Freedom House documented a [10th consecutive year of decline](https://freedomhouse.org/report/freedom-net/2020/pandemics-digital-shadow) in global “internet freedom,” and the U.S. trade representative cataloged an ever-growing [list of barriers to digital trade](https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2020/march/fact-sheet-2020-national-trade-estimate-strong-binding-rules-advance-digital-trade). It is not enough for the United States to play defense against these efforts—the Biden administration should advance a proactive strategy to ensure an open, global internet with rules that are rooted in democratic values. One of the most effective ways the Biden administration can pursue this goal is by negotiating enforceable rules and commitments on digital trade that bind together a large group of countries with shared values and common interests. A digital trade agreement should be built around rules that guarantee the free flow of data, prohibit data localization requirements, and ban unfair policies that discriminate against foreign digital products and services. The fruits of a digital trade agreement wouldn’t just accrue to giant tech companies: Digital trade is fundamentally about the cross-border movement of data, and businesses big and small, across a wide range of sectors need to move data across borders to reach customers, operate efficiently, and compete globally. To help ensure they benefit, a digital trade agreement should also include commitments by governments to allow service suppliers to access foreign markets and compete on a level playing field. Establishing a large open market for service suppliers would help counteract the unfair advantages China provides its own firms. Over the past three years, a growing group at the World Trade Organization has been negotiating on digital trade. Many countries have engaged in good faith, but the participation of China, Russia, and other authoritarian governments makes a useful outcome unlikely. China, for one, has used the negotiation to advocate its “[internet sovereignty](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=253656,253560,253552,253386,253377,253311,253238,253068,252987,252986&CurrentCatalogueIdIndex=1&FullTextHash=237161575&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)” and oppose meaningful rules on core issues. This negotiation has, however, highlighted broad interest in defining rules to govern digital trade, including among many countries that share the United States’ democratic values. A digital trade negotiation should be open to any government that shares a genuine interest in a free, fair, global digital economy and a willingness to abide by enforceable, high-standard rules. This inclusiveness will help ensure that the agreement expands the bloc of countries committed to liberal digital governance, rather than ceding large swaths of the globe to China’s influence. The negotiation toward a “Trade in Services Agreement,” which stalled in 2016, could provide a useful foundation for negotiations and good starter list of countries that may be eager to engage. While a digital trade negotiation would avoid some of the trickiest areas in trade, such as agriculture and intellectual property, the intersection between cross-border data flows and data privacy has proven contentious in previous negotiations, such as the discontinued Transatlantic Trade and Investment Partnership negotiations between the United States and European Union. But that is no reason to avoid the issue. In fact, negotiators should aim to go further than past agreements and set standards for the protection of consumers and their personal data. Ensuring effective and compatible data privacy regimes in participating countries would help assuage concerns about the free flow of information among them. Passing a federal data privacy law would make it much easier for the United States to negotiate data protection standards and help establish a democratic model for digital privacy.

### 1NC – K

#### The 1AC’s construct of the firm as the locus of competitive innovation reproduces neoclassical economic orthodoxy. Antitrust is justified as an intervention to correct “market failures.” Market failure relies on the ideal of perfect competition.

Nathan **TANKUS** Research Director Modern Monetary Network **AND** Luke **HERRINE** PhD Candidate @ Yale Law, JD NYU & Former Clerk Second Circuit of Appeals **’21** “Competition Law as Collective Bargaining Law” <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3847377> p. 1-3

­ “[T]oo often discourse about ‘the market’ conveys the sense of something definite—a space or constitution of exchange...when in fact, sometimes unknown to the term’s user, it is being employed as a metaphor of economic process, or an idealisation or abstraction from that process.” – E.P. Thompson2 Introduction To those who study governance of the labor relationship, it is obvious that the relationship between business and labor must be governed, and that stability in this social relation is something valued by labor, business, and society writ large.3 Strangely, the idea that governance is necessary and price stability is good are both obscure interlopers to the study of competition law. To bridge the gap between these two areas of law--and incidentally give labor a greater role and stature in theorizing competition law--we aim to provide a general “market governance” framework for understanding how markets are governed in the context of the legal rules that allow and disallow certain forms of coordination. This framework draws from multiple heterodox traditions in political economy, but is particularly oriented toward building out the emerging framework of Neochartalist microeconomics.4

[Insert Footnote 4 – Turner]

Neochartalism, or Modern Monetary Theory (MMT), began as a macroeconomic framework for understanding how legal institutions produce and reproduce money and monetary value, particularly the acceptance of monetary objects in payments of taxes and court-ordered obligations. In developing over the last twenty-five years, Neochartalism has become an interdisciplinary perspective for understanding and reinterpreting a variety of social phenomena. Some scholarship, particularly the path-breaking work of the late economist Fred Lee (who we rely on in conceptualizing issues in this chapter) builds up a microeconomic framework that is uniquely consistent with--and reliant on--MMT insights. We hope others choose to follow Lee and ourselves in making contributions to Neochartalist Microeconomics and expanding the reach of Neochartalism in a variety of subfields that remain dominated by mainstream microeconomics.

While it is beyond the scope of the current chapter to identify all the ways in which our current perspective accords with unique insights of Neochartalism, our focus on potential financial and market instability, money prices and money income as a focus of analysis rather than relative prices and “real variables'' reflect our Neochartalist lens. Our focus on the legal construction of markets also adds to Neochartalism’s emphasis on the legal construction of a monetary production economy in general. Our focus on inherent and irreducible mediated social interdependence also accords with the scholarly perspective that Neochartalist humanities scholars bring to Neochartalism e.g. SCOTT FERGUSON, DECLARATIONS OF DEPENDENCE: MONEY, AESTHETICS, AND THE POLITICS OF CARE (2018).

[End footnote 4]

Arriving at a theory of market governance requires rejecting economic common sense. Far too much economics scholarship--both among orthodox scholars and their critics--treats “perfect competition” as the analytical (and often normative) baseline for all markets, including labor markets. Under perfect competition, prices (including wages) are arrived at entirely via the uncoordinated matching of bids and asks, assumed to result in settled equilibriums represented by intersecting supply and demand curves. If all markets are perfectly competitive (and certain other conditions obtain), then each input and output has its proper price which sends “signals” throughout the economy and results in a perfectly “efficient” allocation of resources. From this perspective, coordination, especially coordination over prices (again, including wages), appears as an unnatural intervention, a way for those acting collectively to collect “rents” above the “real” value of their contribution to society. If coordination is to be justified, it is usually to correct for some other deviation from perfect competition: workers might bargain collectively to capture some of a monopsonist's rents, for example. And, indeed, many of those trained in economics who advocate for collective bargaining or other worker-empowerment measures appeal to one or more “market failures”.5 In doing so, they reproduce the idea— intentionally or not—that if competition were finally left to do its work it would reveal the prices that reflect the allocation of goods and services that perfectly matches relative scarcity, that markets would work “better” if they were moved “closer” to (or to “resemble” or “approximate”) the “competitive” ideal.6 Collective bargaining is a distortion, but it is the best we can do in our distorted world.

But here's the rub: collective bargaining is not a distortion of a preexisting “labor market”. More generally, coordination between market participants (over price or other matters) is not in itself a distortion of any market. There is not and has never been a market without coordination, including over prices.

#### Neoclassical paradigm will destroy humanity and the biosphere.

Anne **FREMAUX** PhD Political Ecology & Philosophy @ Grenoble ‘**19** *After the Anthropocene: Green Republicanism in a Post-Capitalist World* p. 1-3

If the main starting point of this book is the severe environmental crisis we are facing and the natural planet-wide collapse toward which we are heading, today’s ecological reality is powerfully connected to other issues such as growing socioeconomic inequalities, the erosion of democratic institutions, the organized apathy of citizens, the loss of power of nation-states in favor of corporations, the progressive disappearance of the notion of common good, and the economic colonization of the social, cultural, and political life by economic objectives. The global ecological crisis reveals these interlinked disasters caused by the core components of capitalism that include: an excessive exploitation of nature, the rise of industrialism, the self-destructive over- confidence in human-technical power, the arrogant anthropocentric mind- set, and denial of ecological limits, as well as the narrow rationalism and materialism that develop within a reductionist predominant form of science.

Neoliberalism as a ‘global system’ threatens societies as a whole and more especially the core values of social communities and democracy, such as justice, ‘common decency,’ civic virtue, or citizenship. In neoliberal patterns, economic efficiency, market values, employability, consumer freedom, and instrumental rationality are favored over democratic participation, civic values, personal autonomy, active citizenship, intellectual development (‘enlightenment’1), and moral rationality (reasonability2). Institutions dedicated to the common good are systematically turned into competitive structures to satisfy the interests of markets and greedy elites. Pluralism is disappearing under the assault of a one-dimensional consumer pattern which treats humans and non-humans as commodities under the hegemony of private interests. Civil society, an essential element of the agonistic and critical democracy defended in this book, is losing out to ‘spectator democracy.’ Indeed, citizens are more and more passive and self-centered in part because existing political and democratic structures leave them with few opportunities to participate and make collective decisions. As a consequence, the link between democratic politics and citizens is being critically weakened. Neoliberal individuals end up being overtaken by lassitude and resignation, indifference, and loss of interest for the shared common world. What defines neoliberal society is, indeed, a widespread disaffection for democracy and social bonds entailed by the loss of political agency and self-determination. In such a system, propaganda is necessary to manufacture consent3 and to shape the fundamental values to ensure that individuals see themselves as consumers, workers, or owners of capital, rather than citizens, spiritual or relational individuals, friends, or members of social and ecological communities. In order to be fully operational, such a system must also rely on high doses of cynicism and the value of relativism cultivated by deconstructive postmodern views.

Neoliberal competitive market-state systems have colonized all aspects of life, but mainly, they have subjugated nature and used it as an ‘unlimited’ spring of profit and resources intended to feed the logic of growth. The globalized neoliberal framework behaves as if nature were only a neutral background for profit-seeking and economic development. In order to push back the ecological limits that are more and more visible, neoliberals argue that those limits can be transcended through decoupling and technological innovations (Chapter 5). Indeed, constructivist neoliberal governments act as if the biosphere were a mere component of the socioeconomic sphere. As an anti-ecological ideology, neoliberalism denies the existence of natural limits and promotes unlimited material wants vs. limited resources, a cult of endless consumption (consumerism), and techno-fixes (techno-optimism) as the solution to social and ecological problems. The appropriation and commodification of nature undertaken by this form of economic ideology and the freedom it enshrines—understood mainly as the legitimate exercise of extractive power—entail that the environment is viewed only as an instrumental source of raw material and sinks of fossil fuels rather than as an ethically valuable physical, biological, and chemical context of life. Inevitably, this type of economy has supported an insatiable extraction that is today overwhelming ecosystemic capacities. Neoclassical economics is certainly the instrumental form of rationality ‘that most actively opposes the ethical valuation of the environment’ (Smith, 2001: 26).

The neoliberal capitalist agenda, associated with an arrogant anthropocentrism and the technological optimism of many political leaders, experts, techno-scientists, academics, and citizens, has transformed nature and people into raw materials (‘natural’ and ‘human resources’). It has replaced democratic and republican institutions—defined by their concern for the common good—by structures aiming at facilitating the activities and profits of corporations and markets. It has deprived Western political structures of substantial democratic energy by turning citizens of wealthy liberal nations into demoralized and nihilist homo oeconomicus (‘neoliberal citizens’), that is, passive consumers as opposed to active citizens. More than that, neoliberalism, through mass media, entertainment, information, and educational systems, has incrementally converted all the spheres, activities, and dimen- sions of life into economic ones (‘economization’ or ‘marketization’ of life). Private and public institutions are used as ways to transmit the values of capitalism.4 As an unethical and unsustainable model of commercialization, ultraliberal capitalism supports crass commodification, intensifies ine-ualities and transforms everything in its way—from non-human nature to human beings—into replaceable, dispensable and disposable products. As a global threat, neoliberalism leads to ‘environmental stresses (water shortages, deforestation, soil erosion or climate change), food and energy insecurity, peak oil, rising poverty and inequalities within and between societies, increasing passivity of citizens within democracies and the inexorable rise of corporate power within and over the democratic state’ (Barry, 2008: 3).

The price we, humans, are socially, politically and ecologically paying and will continue to pay in the future for the triumph of the neoliberal ideology is disproportionate with anything humankind has experienced so far (see Fig. 1.2). However, human relatively recent history already shows that the popular passivity and political apathy (mentioned above) fostered by cynical and disempowering systems of ideas have the potential to favour the rise of dictatorial regimes in which a father figure or ‘strong man’ could take upon the conduct of public affairs. At a time when chauvinistic, racist, anti-elitist, and macho-ist parties are dangerously rising in all Western countries, this fear is taking a serious turn, which includes the risk of an authoritarian ecology.

#### We should use the framework of challenge-driven political economy instead of a competitiveness framework. Using the power of the state to make and shape markets is key to direct policy to solve inequality and climate change.

Mariana **MAZZUCATO** Inst. for Innovation & Public Purpose @ University College (London) **AND** Rainer **KATTEL** Inst. for Innovation & Public Purpose @ University College (London) **’20** “Grand Challenges, Industrial Policy, and Public Value” Non-paginated

Twenty-first-century policymaking is increasingly defined by the need to respond to major social, environmental, and economic challenges. Sometimes referred to as ‘grand challenges’, these include threats like climate change, demographic, health, and well-being concerns, as well as the difficulties of generating sustainable and inclusive growth. Against this background, policymakers are increasingly embracing the idea of using industrial and innovation policy to tackle these ‘grand challenges’. Examples of challenge-led policy frameworks include the United Nation’s Sustainable Development Goals (SDGs; Borras,­­ 2019), the European Union’s Horizon Europe research and development programme (Mazzucato, 2018a), and the UK’s 2017 Industrial Strategy White Paper (HM Government, 2018).

Challenge-driven policy frameworks are emerging in parallel to well-established modernization and competitiveness frameworks**.** While 1 2 modernization, and in particular competitiveness frameworks, rely on the idea that government should first and foremost fix market failures,3 a challenge-driven agenda does not have such clearly defined theoretical origins and analytical lenses. As Richard Nelson argued in 1977 in his seminal book The Moon and the Ghetto, getting man to the moon and back is not the same as solving the problem of ghettos in American cities. Put differently, the nature of our knowledge about socio-economic challenges differs from our perception of strictly technical challenges. We can discover answers to technical puzzles; socio-economic issues do not have a single correct discoverable solution. Such issues require continuous discussion, experimentation, and learning.

We believe challenge-led growth requires a new conceptual and analytical framework that has at its core the idea of confronting the direction of growth with growth that is, for example, more inclusive and sustainable. Such a framework should focus on market shaping and market co-creating (Mazzucato, 2016). This is a question of both theory and policy practice. In theory, challenge-driven innovation policy questions both established neoclassical and evolutionary concepts (Schot and Steinmueller, 2018). In policy practice, directed policies require rethinking what is meant by ‘vertical policies’.

Industrial policies have always been composed of both a horizontal and a vertical element. Horizontal policies have historically been focused on skills, infrastructure, and education, while vertical policies have focused on sectors like transport, health, energy, or technologies. These two traditional approaches roughly embody differing schools of economics: neoclassical economics-inspired horizontal policies focusing on supply-side factors and inputs; and evolutionary economics-inspired policies putting emphasis on demand-side factors and systemic interactions (Nelson and Winter, 1974; Hausmann and Rodrik, 2006 for a synthesis). Although certain sectors might be more suited to sectorspecific vertical strategies, the ‘grand challenges’ expressed in SDGs are cross-sectoral by nature and hence we cannot simply apply a vertical approach to them. Both neoclassical and evolutionary approaches to industrial policy have relied on the idea that the best policy outcome is economy-wide development, without specifying its nature. In policy this has led to managing economies according to GDP growth rates, competitiveness indices and rankings, or other macro indicators (e.g. exports, patents) (Drechsler, 2019). Yet, many SDGs are only indirectly related to the economy and hence many of the key issues around SDGs have not been theorized in the context of innovation and industrial policy (see, e.g., Zehavi and Brenzitz, 2017).

In this chapter we argue that through well-defined goals, or more specifically ‘missions’, that are focused on solving important societal challenges, policymakers have the opportunity to determine the direction of growth by making strategic investments, coordinating actions across many different sectors, and nurturing new industrial landscapes that the private sector can develop further (Mazzucato, 2017; Mazzucato and Penna, 2016). The result would be an increase in cross-sectoral learning and macroeconomic stability. This ‘mission-oriented’ approach to industrial policy is not about top-down planning by an overbearing state; it is about providing a direction for growth, increasing business expectations about future growth areas, and catalysing activity—self-discovery by firms (Hausmann and Rodrik, 2003)—that otherwise would not happen (Mazzucato and Perez, 2015). It is not about de-risking and levelling the playing field, nor about supporting more competitive sectors over less (Aghion et al., 2015), since the market does not always know best, but about tilting the playing field in the direction of the desired societal goals, such as the SDGs. However, we argue, to achieve this requires a new analytical framework based on the idea of public value and a policymaking framework aimed at shaping markets in addition to fixing various existing failures. Indeed, we argue that if we want to take grand challenges such as the SDGs seriously as policy goals, market shaping should become the overarching approach followed in various policy fields.

### 1NC – States CP

#### The fifty states and relevant subnational entities should substantially increase prohibitions on anti-competitive business practices by the private sector by expanding the scope of its antitrust laws to include standards against owning and competing on the same platform by platform utilities

#### States solve.

Arteaga & Ludwig ’21 [Juan; 1/28/21; Partner @ Crowell & Moring LLP, JD @ Columbia; and Jordan; Partner @ Crowell & Moring LLP, JD @ Loyola Law School, Los Angeles; “The Role of US State Antitrust Enforcement,” *Global Competition Review*; https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement; AS]

During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints. The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’. No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications. To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.

Since the reawakening of state antitrust enforcement nearly 30 years ago, state attorneys general have continued to play an important role in the enforcement of both state and federal antitrust laws. During periods of lax federal antitrust enforcement, state attorneys general have often ramped up their enforcement activity in order to protect consumers from anticompetitive transactions and business practices. During periods of vigorous federal antitrust enforcement, they have often served as strong partners for the DOJ and FTC by, among other things, offering valuable insights about competitive dynamics in local markets, assisting with obtaining information from key market participants (including state governmental entities that are direct purchasers of goods and services), and helping develop and implement litigation strategies for cases being tried before federal judges presiding in their states.

Since January 2017, state attorneys general have increasingly played a leading and independent antitrust enforcement role. State antitrust enforcers have significantly increased their enforcement activity and willingness to act separately from their federal counterparts because many of them believe that there has been ‘under-enforcement’ by the DOJ and FTC. State antitrust enforcers have also been able to enhance their influence over key competition policy issues and the antitrust enforcement agenda within the United States because there appears to have been a significant decline in the coordination and relationship between the DOJ and FTC.

### 1NC – Politics DA

#### Infrastructure passes now – solves warming.

PRG 10/1, Policy Resolution Group at Bracewell LLP, including Liam Donovan, principal at Bracwell, served as lead on tax, energy and fiscal legislative issues for Associated Builders and Contractors, worked for the National Republican Senatorial Committee, “Policy Resolution Group Reconciliation & Infrastructure Update,” Policy Resolution Group, 10/1/21

State of Infrastructure and Reconciliation Negotiations

The past week featured a series of twists and turns in negotiations over the bipartisan infrastructure framework and reconciliation package. While Speaker Pelosi (D-CA) had initially committed to a vote on the Infrastructure Investment and Jobs Act on September 27, the Congressional Progressive Caucus delayed the vote by threatening to vote against the bill without stronger commitments from Sen. Joe Manchin (D-WV) and Sen. Kyrsten Sinema (D-AZ) regarding what provisions they would support in a partisan reconciliation package.

Democratic leadership in both the House and Senate will continue to try and break the logjam between moderates and progressives over a reconciliation framework. Sen. Manchin has said that he is unlikely to support a bill with a price tag above $1.5 trillion, but progressives have reiterated that that investment would be insufficient to combat climate change and to deliver on the social safety net portions of President Biden’s agenda. Sen. Sinema’s priorities are still fairly hazy, causing significant consternation among progressives who believe she is not negotiating in good faith. As negotiations enter crunch time, Democrats must build trust and form a consensus on a reconciliation framework to unlock the rest of President Biden’s agenda.

Liam Donovan’s Bottom Line

Bottom line: The beginning of the end(game). After a turbulent week of promises, power plays, and surprise reveals, Democrats continue to negotiate a path forward on their reconciliation package, with the fate of the bipartisan infrastructure bill hanging in the balance.

Following a series of weekend audibles by House leadership, ranging from a promised vote on the yet unfinished Build Back Better Act to a delay in consideration of the Infrastructure Investment and Jobs Act, it became clear that Speaker Nancy Pelosi would have her work cut out for her in wrangling the votes, something she built in several days to do. With no immediate developments in the negotiations or cover from President Biden, an emboldened progressive caucus sensed weakness and exploited the vacuum, forcing further delay of a vote that Pelosi had insisted would occur late into Thursday night.

If progressives have a spring in their step over their newfound clout, however, they're also grappling with the revelation that West Virginia Senator Joe Manchin's demands have been clearer and less robust than they had imagined. POLITICO on Thursday published what amounts to a term sheet for Manchin's reconciliation demands, dated in late July and countersigned by Leader Chuck Schumer. The understanding of those terms is what secured Manchin's vote for the budget resolution with instructions that enabled the Democrats much larger $3.5 trillion framework.

While the revelation of the slimmed topline was hardly met with enthusiasm by progressives, it did seem to expedite what had been stalled negotiations with little clarity over the scope or scale. Negotiators from the administration, congressional leadership, and the relevant caucuses worked into the night to seek a "framework" agreement, and have reconvened this morning in search of a breakthrough. In the meantime, Speaker Pelosi has extended the previous legislative day (September 30) to comply with the underlying rule, signaling her continued intention to pass the bipartisan bill.

There are two missing links in all this. The first is Senator Kyrsten Sinema, whose demands have always been more opaque and more oriented around tax concerns than Manchin's. Could Sinema support the Manchin terms as written? Perhaps, but her position against many of the proposed tax hikes make even the $1.5 trillion figure difficult. And second, President Joe Biden. There is no deal without the President's vocal support, nor will said deal facilitate passage of the bipartisan bill without his strong backing. All of which means that the President will have to determine how badly he needs a win, and at what cost. Currently, the White House seems determined to bring the holdouts up to $2 trillion, and would likely declare victory in that event. Manchin would seem like an easier get than Sinema, but neither seem inclined to go that high. And to the extent there's an appetite in the White House to take a lesser deal, say in the mid to high $1 trillion range, it could take time for that reality to set in, particularly as he must sell it to progressives.

At any rate, all eyes are on President Biden as we enter the endgame. The storybook ending would be for the old lion of the Senate to serve as the closer, sealing the deal, uniting the clans, and selling the framework as the key to enacting his agenda, with passage of the bipartisan bill as the next step toward Building Back Better. Whether we've reached that chapter yet remains to be seen, and with the debt limit impasse encroaching on the schedule, that page may have to be dog-eared unless an agreement can be reached in the coming days.

Follow Liam on Twitter: @LPDonovan

The Breakdown with Yasmin Nelson

The Breakdown: Whoever blinks first loses. Congress managed to temporarily avert a government shutdown yesterday, extending government funding to December 3. Big cheers because this was not easy. The next big vote is the Bipartisan Infrastructure Bill (BIF). To the dismay of House Progressives, it seems as though Speaker Nancy Pelosi is pushing through on her plans to separate the BIF and the reconciliation package, even with the threat from Progressives to kill the BIF. As you know, the original plan was to vote on the BIF and reconciliation bill in tandem. It is not clear whether Pelosi is hoping Democrats will come together on this or will look to Republicans to pass the bipartisan infrastructure bill. She doesn’t need 218 from her party, meaning she could lose several votes on the floor, but not too many or she risks the bill not passing. Democrats will need to pick up somewhere around 12 Republicans votes should Speaker Pelosi not be able to unite the entire caucus.

In the Senate, Senators Manchin and Sinema have shared that the $3.5 trillion reconciliation package is too expensive, potentially threatening the Biden-Harris domestic policy agenda. Progressives will not support the BIF without also voting on the reconciliation package. Revealed today was a document Manchin shared with Leader Schumer on July 28 cutting the reconciliation bill down from $3.5 trillion to $1.5 trillion, among other propositions from the West Virginian.

There’s a lot left to be determined however, we may know more after this weekend. I don’t expect Speaker Pelosi to put a bill on the floor if she doesn’t have the votes, so if you see a vote on the BIF happening, she likely has created some kind of deal with Progressives or another path to passage with help from the Republicans.

Follow Yasmin on Twitter: @YasminRNelson

Where We Are With Energy Tax by Timothy Urban

Notwithstanding this dramatic period of conflict amongst different factions of the Democratic party over the contours of the FY2022 budget reconciliation package, we continue to believe that the outlook for enactment of an energy and environment tax title looks positive. Since negotiations among the principals are proceeding today (Friday, October 1) it is likely that circumstances will require that PRG transmit another update soon. However, as a reminder, the fundamentals remain the same: Democrats control the White House, the Senate, and the House; the legislation described in the FY2022 budget reconciliation package constitutes a very high priority for the President; there is a legislative procedure that allows Democrats to process this package without GOP votes and without fear of a GOP filibuster; everyone acknowledges that a failure to bring this process to fruition could hurt the party in the upcoming midterm elections; and this President, more than some of his predecessors, has a demonstrated proficiency at bringing Members together and concluding legislative deals.

#### Antitrust action saps finite capital, imperils rest of agenda

Karaim 21

(Reed, <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre2021050705>, 5-7)

Stucke, the former U.S. Justice Department antitrust official, says that despite Wu and Khan's credentials and reputation, changing antitrust policy will require a concerted effort. With Biden having an ambitious overall agenda and his Democratic Party holding the slimmest possible majority in the Senate, Stucke says, the question is “to what extent will the Biden administration want to expend political capital on this. They've got some bipartisan support for antitrust reform, but to what extent are they going to mobilize that?”

#### Warming leads to extinction

Kareiva 18, Ph.D. in ecology and applied mathematics from Cornell University, director of the Institute of the Environment and Sustainability at UCLA, Pritzker Distinguished Professor in Environment & Sustainability at UCLA, et al. (Peter, “Existential risk due to ecosystem collapse: Nature strikes back,” *Futures*, 102)

In summary, six of the nine proposed planetary boundaries (phosphorous, nitrogen, biodiversity, land use, atmospheric aerosol loading, and chemical pollution) are unlikely to be associated with existential risks. They all correspond to a degraded environment, but in our assessment do not represent existential risks. However, the three remaining boundaries (climate change, global freshwater cycle, and ocean acidification) do pose existential risks. This is because of intrinsic positive feedback loops, substantial lag times between system change and experiencing the consequences of that change, and the fact these different boundaries interact with one another in ways that yield surprises. In addition, climate, freshwater, and ocean acidification are all directly connected to the provision of food and water, and shortages of food and water can create conflict and social unrest. Climate change has a long history of disrupting civilizations and sometimes precipitating the collapse of cultures or mass emigrations (McMichael, 2017). For example, the 12th century drought in the North American Southwest is held responsible for the collapse of the Anasazi pueblo culture. More recently, the infamous potato famine of 1846–1849 and the large migration of Irish to the U.S. can be traced to a combination of factors, one of which was climate. Specifically, 1846 was an unusually warm and moist year in Ireland, providing the climatic conditions favorable to the fungus that caused the potato blight. As is so often the case, poor government had a role as well—as the British government forbade the import of grains from outside Britain (imports that could have helped to redress the ravaged potato yields). Climate change intersects with freshwater resources because it is expected to exacerbate drought and water scarcity, as well as flooding. Climate change can even impair water quality because it is associated with heavy rains that overwhelm sewage treatment facilities, or because it results in higher concentrations of pollutants in groundwater as a result of enhanced evaporation and reduced groundwater recharge. Ample clean water is not a luxury—it is essential for human survival. Consequently, cities, regions and nations that lack clean freshwater are vulnerable to social disruption and disease. Finally, ocean acidification is linked to climate change because it is driven by CO2 emissions just as global warming is. With close to 20% of the world’s protein coming from oceans (FAO, 2016), the potential for severe impacts due to acidification is obvious. Less obvious, but perhaps more insidious, is the interaction between climate change and the loss of oyster and coral reefs due to acidification. Acidification is known to interfere with oyster reef building and coral reefs. Climate change also increases storm frequency and severity. Coral reefs and oyster reefs provide protection from storm surge because they reduce wave energy (Spalding et al., 2014). If these reefs are lost due to acidification at the same time as storms become more severe and sea level rises, coastal communities will be exposed to unprecedented storm surge—and may be ravaged by recurrent storms. A key feature of the risk associated with climate change is that mean annual temperature and mean annual rainfall are not the variables of interest. Rather it is extreme episodic events that place nations and entire regions of the world at risk. These extreme events are by definition “rare” (once every hundred years), and changes in their likelihood are challenging to detect because of their rarity, but are exactly the manifestations of climate change that we must get better at anticipating (Diffenbaugh et al., 2017). Society will have a hard time responding to shorter intervals between rare extreme events because in the lifespan of an individual human, a person might experience as few as two or three extreme events. How likely is it that you would notice a change in the interval between events that are separated by decades, especially given that the interval is not regular but varies stochastically? A concrete example of this dilemma can be found in the past and expected future changes in storm-related flooding of New York City. The highly disruptive flooding of New York City associated with Hurricane Sandy represented a flood height that occurred once every 500 years in the 18th century, and that occurs now once every 25 years, but is expected to occur once every 5 years by 2050 (Garner et al., 2017). This change in frequency of extreme floods has profound implications for the measures New York City should take to protect its infrastructure and its population, yet because of the stochastic nature of such events, this shift in flood frequency is an elevated risk that will go unnoticed by most people. 4. The combination of positive feedback loops and societal inertia is fertile ground for global environmental catastrophes Humans are remarkably ingenious, and have adapted to crises throughout their history. Our doom has been repeatedly predicted, only to be averted by innovation (Ridley, 2011). However, the many stories of human ingenuity successfully addressing existential risks such as global famine or extreme air pollution represent environmental challenges that are largely linear, have immediate consequences, and operate without positive feedbacks. For example, the fact that food is in short supply does not increase the rate at which humans consume food—thereby increasing the shortage. Similarly, massive air pollution episodes such as the London fog of 1952 that killed 12,000 people did not make future air pollution events more likely. In fact it was just the opposite—the London fog sent such a clear message that Britain quickly enacted pollution control measures (Stradling, 2016). Food shortages, air pollution, water pollution, etc. send immediate signals to society of harm, which then trigger a negative feedback of society seeking to reduce the harm. In contrast, today’s great environmental crisis of climate change may cause some harm but there are generally long time delays between rising CO2 concentrations and damage to humans. The consequence of these delays are an absence of urgency; thus although 70% of Americans believe global warming is happening, only 40% think it will harm them (http://climatecommunication.yale.edu/visualizations-data/ycom-us-2016/). Secondly, unlike past environmental challenges, the Earth’s climate system is rife with positive feedback loops. In particular, as CO2 increases and the climate warms, that very warming can cause more CO2 release which further increases global warming, and then more CO2, and so on. Table 2 summarizes the best documented positive feedback loops for the Earth’s climate system. These feedbacks can be neatly categorized into carbon cycle, biogeochemical, biogeophysical, cloud, ice-albedo, and water vapor feedbacks. As important as it is to understand these feedbacks individually, it is even more essential to study the interactive nature of these feedbacks. Modeling studies show that when interactions among feedback loops are included, uncertainty increases dramatically and there is a heightened potential for perturbations to be magnified (e.g., Cox, Betts, Jones, Spall, & Totterdell, 2000; Hajima, Tachiiri, Ito, & Kawamiya, 2014; Knutti & Rugenstein, 2015; Rosenfeld, Sherwood, Wood, & Donner, 2014). This produces a wide range of future scenarios. Positive feedbacks in the carbon cycle involves the enhancement of future carbon contributions to the atmosphere due to some initial increase in atmospheric CO2. This happens because as CO2 accumulates, it reduces the efficiency in which oceans and terrestrial ecosystems sequester carbon, which in return feeds back to exacerbate climate change (Friedlingstein et al., 2001). Warming can also increase the rate at which organic matter decays and carbon is released into the atmosphere, thereby causing more warming (Melillo et al., 2017). Increases in food shortages and lack of water is also of major concern when biogeophysical feedback mechanisms perpetuate drought conditions. The underlying mechanism here is that losses in vegetation increases the surface albedo, which suppresses rainfall, and thus enhances future vegetation loss and more suppression of rainfall—thereby initiating or prolonging a drought (Chamey, Stone, & Quirk, 1975). To top it off, overgrazing depletes the soil, leading to augmented vegetation loss (Anderies, Janssen, & Walker, 2002). Climate change often also increases the risk of forest fires, as a result of higher temperatures and persistent drought conditions. The expectation is that forest fires will become more frequent and severe with climate warming and drought (Scholze, Knorr, Arnell, & Prentice, 2006), a trend for which we have already seen evidence (Allen et al., 2010). Tragically, the increased severity and risk of Southern California wildfires recently predicted by climate scientists (Jin et al., 2015), was realized in December 2017, with the largest fire in the history of California (the “Thomas fire” that burned 282,000 acres, https://www.vox.com/2017/12/27/16822180/thomas-fire-california-largest-wildfire). This catastrophic fire embodies the sorts of positive feedbacks and interacting factors that could catch humanity off-guard and produce a true apocalyptic event. Record-breaking rains produced an extraordinary flush of new vegetation, that then dried out as record heat waves and dry conditions took hold, coupled with stronger than normal winds, and ignition. Of course the record-fire released CO2 into the atmosphere, thereby contributing to future warming. Out of all types of feedbacks, water vapor and the ice-albedo feedbacks are the most clearly understood mechanisms. Losses in reflective snow and ice cover drive up surface temperatures, leading to even more melting of snow and ice cover—this is known as the ice-albedo feedback (Curry, Schramm, & Ebert, 1995). As snow and ice continue to melt at a more rapid pace, millions of people may be displaced by flooding risks as a consequence of sea level rise near coastal communities (Biermann & Boas, 2010; Myers, 2002; Nicholls et al., 2011). The water vapor feedback operates when warmer atmospheric conditions strengthen the saturation vapor pressure, which creates a warming effect given water vapor’s strong greenhouse gas properties (Manabe & Wetherald, 1967). Global warming tends to increase cloud formation because warmer temperatures lead to more evaporation of water into the atmosphere, and warmer temperature also allows the atmosphere to hold more water. The key question is whether this increase in clouds associated with global warming will result in a positive feedback loop (more warming) or a negative feedback loop (less warming). For decades, scientists have sought to answer this question and understand the net role clouds play in future climate projections (Schneider et al., 2017). Clouds are complex because they both have a cooling (reflecting incoming solar radiation) and warming (absorbing incoming solar radiation) effect (Lashof, DeAngelo, Saleska, & Harte, 1997). The type of cloud, altitude, and optical properties combine to determine how these countervailing effects balance out. Although still under debate, it appears that in most circumstances the cloud feedback is likely positive (Boucher et al., 2013). For example, models and observations show that increasing greenhouse gas concentrations reduces the low-level cloud fraction in the Northeast Pacific at decadal time scales. This then has a positive feedback effect and enhances climate warming since less solar radiation is reflected by the atmosphere (Clement, Burgman, & Norris, 2009). The key lesson from the long list of potentially positive feedbacks and their interactions is that runaway climate change, and runaway perturbations have to be taken as a serious possibility. Table 2 is just a snapshot of the type of feedbacks that have been identified (see Supplementary material for a more thorough explanation of positive feedback loops). However, this list is not exhaustive and the possibility of undiscovered positive feedbacks portends even greater existential risks. The many environmental crises humankind has previously averted (famine, ozone depletion, London fog, water pollution, etc.) were averted because of political will based on solid scientific understanding. We cannot count on complete scientific understanding when it comes to positive feedback loops and climate change.

## Resiliency

### 1NC – AT: Resiliency

#### **America's maintaining tech leadership now, but antitrust expansion cedes tech dominance.**

Abbott et al. '21 [Alden; 3/10/21; Senior Research Fellow, formerly served on the Federal Trade Commission’s General Counsel, J.D. from Harvard Law School, M.A. in Economics from Georgetown University; "Aligning Intellectual Property, Antitrust, and National Security Policy," https://regproject.org/wp-content/uploads/Paper-Aligning-Intellectual-Property-Antitrust-and-National-Security-Policy.pdf/]

The U.S. government has recognized that “5G is a critical strategic technology [such that] nations that master advanced communications technologies and ubiquitous connectivity will have a long-term economic and military advantage.”8 The U.S. has had a substantial technological edge over our military and intelligence rivals in foundational R&D for 5G and other next-generation technologies. U.S. companies have long been leaders in the development of previous generations of core mobile standards (2G, 3G, 4G, and LTE). This technological leadership has made it possible for U.S. companies to ensure the security and integrity of the hardware and software products that make up the backbone of the U.S. telecommunication systems. This leadership must continue for the U.S. government to more effectively anticipate potential security risks and take the necessary steps to protect national security.9

Despite this history of clear technological leadership, there are causes for concern. First, a very small number of U.S. companies have made the investments in the overwhelming majority of the R&D necessary to develop 5G.10 Historically, U.S. companies have heavily invested in R&D, which has propelled the U.S. into leadership positions in critical standard development organizations working on foundational next-generation technologies like 5G.11 U.S. companies like Qualcomm play a significant and important role in this process through innovation, patenting, and standard setting, but they are not alone in the global community of high-tech companies.12 Backed by their nations’ leadership, Chinese and Korean companies have also invested heavily in developing the core technologies for 5G.13

The willingness of U.S. companies to invest in R&D is threatened, however. The development of 5G is a bit like a race, with the companies who develop the best technology coming out ahead. While U.S. companies are savvy and talented competitors in this race, aggressive and unwarranted use of antitrust law by U.S. regulators, as well as by foreign antitrust authorities, threatens to put obstacles in these companies’ paths and hinder their ability to lead.

III. Overly Aggressive Antitrust Enforcement Hinders American Technological Leadership and Threatens National Security

As companies from around the world develop the technology and standards for 5G mobile devices and networks, American companies are under threat by aggressive antitrust enforcement that ultimately redounds to the benefit of these foreign companies, which are economic competitors in countries that are also military competitors of the U.S. Over the past five years, foreign governments, particularly in Asia, have subjected U.S. companies to antitrust investigations that failed to follow basic norms of the rule of law, such as providing basic due process protections.14 These antitrust investigations were a thinly-disguised effort by these countries to force the transfer of U.S. patented technology to their own domestic companies, or to insulate their domestic companies from American competition. In recent years, Chinese, Korean, and Taiwanese antitrust authorities have brought nearly 30 investigations against 60 foreign companies across a range of industries, including manufacturing, life sciences, and technology.15

Antitrust challenges undermine intellectual property rights by forcing companies to license their products on non-market-based terms. One prominent example in U.S. history is when the Department of Justice wrung a concession from AT&T to license royalty-free the entire portfolio of 8,600 patents held by Bell Labs in a 1956 antitrust consent decree with the company.16 Today, the White House Office of Trade and Manufacturing Policy has observed that “China uses the Antimonopoly Law of the People’s Republic of China not just to foster competition but also to force foreign companies to make concessions such as reduced prices and below-market royalty rates for licensed technology.”17 Companies have also complained about poor policy guidance and procedural protections under China’s competition laws.18 Others have complained about China’s use of its competition laws to promote policy objectives rather than protect competition and advance consumer welfare.19 In one example, companies raised concerns with Article 7 of China’s State Administration of Industry Commerce (SAIC) 2015 Rules on the Prohibition of Conduct Eliminating or Restricting Competition by Abusing Intellectual Property Rights.20 Under this provision, intellectual property constitutes an “essential facility,” which could allow parties to raise abuse of intellectual property rights claims against patent owners for a unilateral refusal to license their patents.21

Predatory antitrust enforcement actions threaten the ability of U.S. companies to continue to be leaders in 5G technological development. China and other nations with similarly restrictive regulatory frameworks can weaken the ability of the United States to compete in global markets by exacting high monetary penalties from U.S. intellectual property owners or forcing the transfer of their intellectual property to domestic commercial rivals. As a penalty for violations of its competition laws, China can impose exorbitant fines that range up to 10% of a foreign company’s entire revenue in the prior year.22 This is not a legal rule observed in the breach; it has already resulted in fines just shy of $1 billion.23

Another way in which courts in China and other foreign countries are harming U.S. companies is through the use of anti-suit injunctions. One example of this is in the recent patent infringement lawsuit brought by InterDigital, an American high-tech company that has developed key technologies in wireless telecommunication, against Chinese company Xiaomi. In June 2020, Xiaomi filed a lawsuit in the Wuhan Intermediate Court in China requesting that the court set global licensing rates for InterDigital’s patents on standardized technologies. In July 2020, InterDigital sued Xiaomi in India for infringement of InterDigital’s Indian patents. The Wuhan Intermediate Court then ordered InterDigital to stop its lawsuit with its request for an injunction in India. The Chinese court further prohibited InterDigital from suing Xiaomi and requesting an injunction or damages in the form of reasonable licensing rates, or even to enforce a previously-issued injunction, in any other country. If InterDigital does not comply with this worldwide injunction against pursuing legal relief for the violation of its patents in any other country, the company faces a significant fine in China. The type of judicial order issued by the Wuhan court is known as an anti-suit injunction and its purpose is to force an intellectual property dispute to play out solely in a Chinese court at the behest of the Chinese government. These court orders demonstrate China’s desire to become the source of 5G innovation and to dictate the licensing terms of the technology, and the anti-suit injunctions hamstring U.S. companies like InterDigital from enforcing their intellectual property rights anywhere in the world.

The unfair use of antitrust enforcement and related legal actions like anti-suit injunctions to weaken U.S. intellectual property rights around the world risks diminishing U.S. global competitiveness in critical technologies like 5G, and further empowers China and others to expand their influence over the evolving 5G technological ecosystem. To the extent the U.S. cedes its dominance in 5G standards development, China will continue its focused efforts to fill that void. Huawei, a China-based company, has increased its R&D spending while growing its share of patents on the standardized technologies comprising 5G.24 The President’s Council on Science and Technology issued a report concluding that Chinese actions in the semiconductor industry, which include a range of policies backed by over $100 billion in government funds, threaten U.S. leadership in the industry and present risks to U.S. national security.25 China’s “Made in China 2025” plan called for China to become a leader in 5G technology, including in the development of the standards for the technology, by 2020.26 The plan expressly favors Chinese domestic producers, calling for raising the domestic content of core components in high-tech industries like 5G to 70% by 2025.27

This issue, however, extends far beyond simply the ability and willingness of U.S. companies to engage in the requisite R&D to participate in the 5G race. Reduced U.S. influence on 5G standard-setting would force the U.S. government to rely on untrusted foreign companies for its 5G product supply. The Department of the Treasury has expressed concern about the “well-known” U.S. national security risks posed by Huawei and other Chinese telecommunications companies.28

#### Concentration is exaggerated – competition is vibrant.

Portuese ’20 [Aurelien; Director of Antitrust and Innovation Policy @ ITIF, Adjunct Professor of Law @ Global Antitrust Institute of George Mason University, Doctor in Law @ University of Paris II; “Beyond antitrust populism: Towards robust antitrust”; *Economic Affairs* 40(2), p. 237-258; AS]

3.1 | Concentration and competition: A neutral relationship

According to Neo-Brandeisians, digital companies have grown internally to such an extent that they have monopolised the markets or have grown externally by increasing numbers of mergers which have all resulted in increased corporate concentration. This market concentration could stifle innovation and could thus be detrimental to society at large (Stiglitz, 2019; Abdela & Steinbaum, 2018). If the evidence does indeed reveal increased corporate concentration and consolidation of business strategies (Grullon, Larkin, & Michaely, 2019; Philippon, 2018), this trend nevertheless remains modest (Shapiro, 2018) since an average of approximately 14 equally sized competitors are to be found in any given industry sector in the US (Sacher & Yun, 2019, p. 7).

Likewise, as illustrated in Figure 1, the alleged market concentration in the US economy is evidenced by the increase in the sales shares of the 50 largest firms in each sector between 1997 and 2012, according to the French Ministry of Economic Affairs (DG Trésor) on the basis of US Census Bureau data. Thus, where market concentration is witnessed in the US, in a given sector more than 50 firms still compete against one another. Moreover, such concentration consists of increases of only a couple of percentage points in the sales of the 50 largest firms in each sector. Consequently, competition is still vibrant, and the weak pattern of market concentration demonstrates that larger firms are able to increase their sales more than smaller firms can – something surmised to occur through greater innovation, better access to finance, and larger consumer bases. In Europe, DG Trésor (2018, p. 1) finds that “concentration has remained stable overall”. More precisely, “the absence of concentration in Europe could reflect a lack of these highly-productive companies” since “concentration is the result of productivity gains (superstars)” (DG Trésor, 2018, p. 7).

#### Breakups fail – doesn’t produce new companies and deters innovation.

Portuese ’20 [Aurelien; Director of Antitrust and Innovation Policy @ ITIF, Adjunct Professor of Law @ Global Antitrust Institute of George Mason University, Doctor in Law @ University of Paris II; “Beyond antitrust populism: Towards robust antitrust”; *Economic Affairs* 40(2), p. 237-258; AS]

3.3 | Break-ups: From big tech to big government

Because the consumer welfare standard is inappropriate, or because tech companies have gained too much corporate power, so the Neo-Brandeisians argue, such companies should be broken up. Idealising the break-ups in antitrust history, Neo-Brandeisians think that breaking up big tech is a legally clean, economically harmless and socially useful (structural) remedy available to antitrust agencies. Such calls for break-ups have achieved momentum in the media but have so far failed to win support in academic and regulatory circles, for two reasons: historic break-ups have been failures; and big tech break-ups would be failures.

Historically, structural remedies such as break-ups have done more harm than good. The US antitrust history of structural remedies forcing companies to break up is blatantly miserable:

[F]resh memories of the deconcentration experiences of the 1970s have convinced many that the divestiture suit is a hopelessly flawed instrument of antitrust policy. In many respects it is harder today than it was in the early 1930s to imagine a revival of the section two divestiture action as an important antitrust weapon. (Kovacic, 1989, p. 1149)

And yet, even in 1930s and before, break-ups of companies had appeared to fail to achieve their objectives and to do more harm than good. The break-up of the Standard Oil Trust19 and the “crusade against Aluminium Company of America” are attacks that “ended up with a ceremony of atonement, but few practical results”, and failed because “there were no new organizations growing up to take over the functions of those under attack” (Arnold, 1937, p. 220). Historically, the break-up of Standard Oil in 1911 and the restructuring of AT&T in the 1980s – the main prime instances of divestures in US antitrust policy – were assessed with “recurring criticism that the execution of admittedly sweeping relief was either counterproductive or essentially superfluous” (Kovacic, 1989, p. 1106).

Structural remedies imposed on big tech companies would harm consumers and deter innovation. Rather than being “clean”, the proposed “forced breakup of unlawful monopolists is much riskier because bad judicially imposed breakups can create weak firms and undermine innovation” (Bohannan & Hovenkamp, 2012, p. 11). Any break-up would ignore the fragile ecosystem within which big tech companies evolve: one set of activities may be revenue-generating only because another set of activities is not revenue-generating. In a zero-priced market, services funded by advertisements are provided to end-consumers on the basis of algorithm-driven data accumulation enabling revenue. For instance, Facebook Messenger may not be revenue generating whereas Facebook's advertisements are the core of Facebook's economic viability. Also, Google Shopping may not be revenue-generating whereas Google Search advertisements are the main source of income. Equally, Amazon as a platform provides a clearing house for price comparisons amongst widgets whereas Amazon as a retailer provides for more efficient competition on a limited set of products when efficiencies are possible. Separating one part of the ecosystem from another – that is, the platform from the commerce (Khan, 2019) – would lower the overall viability of the ecosystem without providing evidence for increased innovation and enhanced consumer welfare.20

Neo-Brandeisians vouching for break-ups of big tech companies should remember the words of Justice Brandeis himself, who, despite being a vigorous advocate of small firms, admitted that under US antitrust laws “there is nothing in our industrial history to indicate that there is any need whatever to limit the natural growth of a business in order to preserve competition” (Brandeis, 1913, p. 6). From Standard Oil to big tech companies (Lamoureux, 2019), break-ups have never seemed to be a straightforward regulatory tool at the disposal of antitrust agencies.

#### Concentration increases innovation.

Portuese ’20 [Aurelien; Director of Antitrust and Innovation Policy @ ITIF, Adjunct Professor of Law @ Global Antitrust Institute of George Mason University, Doctor in Law @ University of Paris II; “Beyond antitrust populism: Towards robust antitrust”; *Economic Affairs* 40(2), p. 237-258; AS]

Economic evidence reveals that increased market concentration can be the result of increased competition and enhanced innovation (Sacher & Yun, 2019, pp. 4–6). Concentration is indeed a rather neutral proxy for evaluating the competitive forces in a given market; the evidence for it, in line with the Schumpeterian intuition, is that firm size increase is positively related to innovation due to financial access and innovation behaviour (Alsharkas, 2014; Hirschey, Skiba, & Wintoki, 2012; Hruska, 1992). The economic evidence has long shown an ambiguous relationship between competition and innovation levels: a so-called U-inverted (concave) relationship reveals that perfect competition suppresses innovation and that a level of imperfect competition is required for the spirit of innovation to be unleashed via firm expansion (Cornett, Erhemjamts, & Tehranian, 2019; Kerber, 2017): high competition intensity increases the incentives for firms to innovate, and so market concentration increases (Aghion & Howitt, 1997; Aghion, Harris, & Vickers, 1997; Boone, 2001; Aghion, Bloom, Blundell, Griffith, & Howitt, 2005; Hashmi, 2013). Thus, market concentration may be the result of, not an impediment to, innovation incentivised by intensive market competition (Scherer, 1967; Blundell, Griffith, & Van Reenen, 1999; Tishler & Milstein, 2009).

Wright et al. (2018, p. 318) conclude that “an increase in concentration alone might be the result of more competition, less competition, or the product of factors completely unrelated to competition in the economy”. When antitrust policy frowns upon (and prohibits) mergers between hitherto competing firms for the sake of preserving an ‘optimal’ market structure, the innovation factors underpinning the mergers may be overlooked. More importantly, the discovery process inherent in competition is impeded, as market competition is no longer “able to discover the best size of firms and thus the lowest cost at which production can be maintained” (Kirzner, 2000, p.13). The German antitrust authority has acknowledged that in innovationdriven markets (such as digital markets)

the risk of over-enforcement is pointed out because the connection between concentration and innovation is not always clear and not all the influencing factors can be identified. Over-enforcement in such cases could reduce incentives for innovation and harm long-term innovation dynamics. (Bundeskartellamt, 2017, p. 32)

Similarly, the US antitrust agencies, the Federal Trade Commission and the Department of Justice, have acknowledged that concentration is not systematically an effect of decreased levels of competition. Indeed, against the mainstream discourse, and given the lack of compelling evidence, they have seminally concluded, before the OECD, that:

Concentration never tells the whole story about competition, and the proper delineation of the relevant market is critical if concentration is to tell any part of the story … Academics and journalists recently made claims of increasing concentration throughout the U.S. economy … [T]he U.S. Agencies find the claims of increasing concentration are unsupported by data for meaningful markets. (OECD, 2018b, pp. 2–3)

Increased efficiency, better consumer service, and enhanced innovation potential are strong reasons for consolidation of the market. Such consolidation of an industry may also be the result of a tit-for-tat game with other firms, thereby increasing effective competition by smaller firms against bigger players (Demsetz, 1974, p. 167). Consequently, consolidation of an industry may be the prerequisite for incumbents to be effectively challenged. Scale-and-scope economies of mergers enable synergies with lower administrative costs and greater interoperability, especially in the age of digital platforms. These synergies can be pro- or anti-competitive; but mergers, and concentration more generally, can hardly be said to be detrimental to the economy as such (Lianos, 2019, pp. 1486–7; Haucap, 2017).

Because they equate increased concentration with decreased competition, without providing evidence of consumer harm or reduced innovation, the arguments of antitrust populists in favour of more aggressive antitrust enforcement are flawed. Indeed, the “return to structural presumptions, such as a simple but per se ban on mergers that reduce the number of major firms to less than four” (Wu, 2018a, p. 129) is economically nonsensical (competition can be increased by a reduction in the number of firms) and legally impractical (how can we define markets so neatly as to be certain of the exact number of firms they contain?). Seen as “the priority for Neo-Brandeisian antitrust” (Wu, 2018a, p. 127), proposed changes to merger review rest on flawed assumptions and misconstrued proposals.

#### Causes extinction---uncontrolled risks from emerging tech cause rapid shifts in strategic stability and misuse---American dominance is key.

Jain ’20 [Ash; 2020; Senior fellow with the Scowcroft Center for Strategy and Security; Strategic Studies Quarterly; “Present at the Re-Creation: A Global Strategy for Revitalizing, Adapting, and Defending a Rules-Based International System,” <https://www.atlanticcouncil.org/wp-content/uploads/2019/10/Present-at-the-Recreation.pdf>]

The system must also be adapted to deal with new issues that were not envisioned when the existing order was designed. Foremost among these issues is emerging and disruptive technology, including AI, additive manufacturing (or 3D printing), quantum computing, genetic engineering, robotics, directed energy, the Internet of things (IOT), 5G, space, cyber, and many others. Like other disruptive technologies before them, these innovations promise great benefits, but also carry serious downside risks. For example, AI is already resulting in massive efficiencies and cost savings in the private sector. Routine tasks and other more complicated jobs, such as radiology, are already being automated. In the future, autonomous weapons systems may go to war against each other as human soldiers remain out of harm’s way.

Yet, AI is also transforming economies and societies, and generating new security challenges. Automation will lead to widespread unemployment. The final realization of driverless cars, for example, will put out of work millions of taxi, Uber, and long-haul truck drivers. Populist movements in the West have been driven by those disaffected by globalization and technology, and mass unemployment caused by automation will further grow those ranks and provide new fuel to grievance politics. Moreover, some fear that autonomous weapons systems will become “killer robots” that select and engage targets without human input, and could eventually turn on their creators, resulting in human extinction. The other technologies on this lisgt similarly balance great potential upside with great downside risk. 3D printing, for example, can be used to “make anything anywhere,” reducing costs for a wide range of manufactured goods and encouraging a return of local manufacturing industries.61 At the same time, advanced 3D printers can also be used by revisionist and rogue states to print component parts for advanced weapons systems or even WMD programs, spurring arms races and weapons proliferation.62 Genetic engineering can wipe out entire classes of disease through improved medicine, or wipe out entire classes of people through genetically engineered superbugs. Directed-energy missile defenses may defend against incoming missile attacks, while also undermining global strategic stability.

Perhaps the greatest risk to global strategic stability from new technology, however, comes from the risk that revisionist autocracies may win the new tech arms race. Throughout history, states that have dominated the commanding heights of technological progress have also dominated international relations. The United States has been the world’s innovation leader from Edison’s light bulb to nuclear weapons and the Internet. Accordingly, stability has been maintained in Europe and Asia for decades because the United States and its democratic allies possessed a favorable economic and military balance of power in those key regions. Many believe, however, that China may now have the lead in the new technologies of the twenty-first century, including AI, quantum, 5G, hypersonic missiles, and others. If China succeeds in mastering the technologies of the future before the democratic core, then this could lead to a drastic and rapid shift in the balance of power, upsetting global strategic stability, and the call for a democratic- led, rules-based system outlined in these pages.63

The United States and its democratic allies need to work with other major powers to develop a framework for harnessing emerging technology in a way that maximizes its upside potential, while mitigating against its downside risks, and also contributing to the maintenance of global stability. The existing international order contains a wide range of agreements for harnessing the technologies of the twentieth century, but they need to be updated for the twenty-first century. The world needs an entire new set of arms-control, nonproliferation, export-control, and other agreements to exploit new technology while mitigating downside risk. These agreements should seek to maintain global strategic stability among the major powers, and prevent the proliferation of dangerous weapons systems to hostile and revisionist states.

#### No cyber impact.

Lewis ’20 [James Andrew; 8/17/20; senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies; "Dismissing Cyber Catastrophe," https://www.csis.org/analysis/dismissing-cyber-catastrophe]

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

#### Attribution solves resiliency.

Lynch ’19 [Justin; 2/8/19; Associate Editor at Fifth Domain, contributor to the New Yorker, Foreign Policy, the Atlantic; "The struggle behind predicting a cyberattack," https://www.fifthdomain.com/industry/2019/02/08/the-struggle-behind-predicting-a-cyberattack/]

The idea that public data can point to future cyberattacks has been embraced by several government agencies.

The intelligence community’s research arm, the Intelligence Advanced Research Projects Activity, is researching how data can help forecast a cyberattack by using sensors that predict when a target is vulnerable to hackers. BAE Systems, Charles River Analytics, Leidos, and the University of Southern California are the prime contractors on the project.

There is a “significant link between hackers use of social media platforms, especially Twitter and Facebook, and the volume of web defacement attack,” according to 2017 research backed by the Office of the Director of National Intelligence and IARPA.

But experts have had mixed results with predicting cyberattacks with machine learning and open data.

By analyzing conversations of known criminals on the dark web, researchers from the University of California also tried to create an early warning system for incoming cyberattacks in 2017. That approach was 84 percent effective at predicting current or imminent cyberattacks.

Also in 2017, three researchers used historical attack count data to predict future cyberattacks to some success. It was 14 percent more effective than other models.

However, others believe the future of predicting cyberattacks through artificial intelligence will combine both humans and computers.

Researchers from the Massachusetts Institute of Technology created a computer system in 2016 that continuously incorporated information from human experts with a success rate of 85 percent while also decreasing false positives by a significant factor.

“The more attacks the system detects, the more analyst feedback it receives, which, in turn, improves the accuracy of future predictions,” said Kalyan Veeramachaneni, a research scientist at MIT in a release. “That human-machine interaction creates a beautiful, cascading effect.”

#### Alt causes – data shortages and attacks on other systems.

GlobalData Energy ’18 [Contributor to Power Technology, “Will data shortages cause the blackouts of the future?”, 3/6/18, https://www.power-technology.com/comment/will-data-shortages-cause-blackouts-future/]

Recently, the FT reported on a crisis brewing at National Grid and threatening to hit the reliability Great Britain’s electricity system. Interestingly, this crisis is not for the lack of power, it is a result of disruption in the flow of data. In the past, the electricity system was very centralised, with the vast majority of power produced by big generation plants (mostly coal and nuclear). This power was then channelled via the high-voltage transmission network, which is owned and operated by National Grid, which is also responsible for the proper functioning of the entire electricity system. In order to fulfil its role as a system operator, National Grid has to balance supply with generation across the UK, and make sure there is enough power to cover the highest demand peaks. It therefore relies on accurate data and modelling, to forecast both generation and demand. Why data? Why now? The problem stems from a significant change in how the grid works. The significant growth in low carbon technologies like wind, solar and combined heat and power (CHP) is important for reducing carbon emissions from the electricity system, and ensuring the long-term viability of the energy system. Many low-carbon generation resources are much smaller in scale, and are connected to the distribution networks—those that link the transmission network to most homes and businesses at a much lower and safer voltage. These networks are not operated by National Grid, and do not have as much visibility and monitoring as the transmission network. As a result, National Grid is less able to access the data on generation and peak demand within the distribution network. The data exists, and is held by a number of stakeholders, but one of the most important ones is ElectraLink, which is a company specialising in data transfer, and data analysis for the UK utilities industry. The company sells summaries of this data, in the form of its Renewable Energy Insight service, which was launched towards the end of 2016. At the time, it claimed to be removing the “renewables blind spot”. It seems that the data provided by this service is not available fast enough or at a sufficient level of granularity. National grid has reportedly entered protracted negotiations with ElectraLink to get the raw data, but it is not clear why this has not succeeded. Data is becoming as important as power for running the electricity grid Data sharing will be vital for the future operation of the utilities across the electricity, gas and water. Many in the utilities industry agree, and are exploring ways to support wider and smoother data sharing. This includes distribution network companies, like Northern Powergrid, that today announced plans to use smart meter data to reduce energy losses. The UK’s Energy Networks Association, which is the industry body representing all power and gas network companies in the UK are also promoting data sharing in the energy sector heavily, through its Open Networks scheme. On the technology side, GridKey—an analytics platform for substation data that is owned by Lucy Electric — recently announced that it collected 85 billion data points in its collaboration with UK DNOs. Another project, run by EA Technology and Western Power Distribution, is trying to build an open platform, dubbed Open LV, to share distribution network data across all UK utilities. As illustrated by National Grid, this data sharing is increasingly important for keeping the lights on. The future reliability of the energy system will depend on having the right protocols, technology infrastructure, and mindset that makes this sharing possible. However, there is also a tension between privacy and security requirements and data sharing. For examples, one of the key reasons that ElectraLink used to justify not sharing the data with National Grid is compliance with UK privacy regulations (the GDPR) that has been recently introduced. Issues like this will increasingly hinder open data sharing and need be resolved for this vision of a data-driven grid to become a reality.

#### Texas is an alt cause.

Mosier ’18 [Jeff, Energy and Environment Writer @ Dallas News, “Texas' power grid operator won't rule out rolling blackouts as tight supply meets high summer temps,” 4/30/18, https://www.dallasnews.com/business/energy/2018/04/30/texas-summer-electricity-outlook-improving-still-state-goal]

"ERCOT continues to anticipate having sufficient electricity generation to meet customers' demands, assuming the system experiences normal operating conditions," said Pete Warnken, ERCOT's manager of resource adequacy. "Although generation capacity is up since our last summer assessment that was released in March, we still expect to have tight operating reserves during peak demand periods." In "extreme conditions," Warnken said, ERCOT could tap into emergency capacity and import electricity from neighboring grids. That might not be enough in some cases. "There is a possibility that we may have what are called rotating outages," said Dan Woodfin, ERCOT's senior director of system operations. "Since we have more resources, that risk is probably reduced a little bit. But really, the focus for ERCOT is to make sure that we can quickly respond." Rotating outages, better known as rolling blackouts, last happened here in February 2011. That was when ice, snowstorms and extreme cold marred the week of Super Bowl XLV at AT&T Stadium in Arlington. This summer is expected to be a record-breaker for Texas electricity usage. ERCOT is projecting a peak summer load of 72,756 megawatts based on normal weather conditions. That is more than 1,600 megawatts higher than the all-time peak demand record set in August 2016. The National Weather Service is predicting a 60 percent chance of hotter-than-normal summer temperatures in Texas. <br>(Source: National Weather Service) (Source: National Weather Service) Also, a growing Texas population and economy is demanding more electricity. The closure of three coal-fired power plants early this year has cut into supply. Combined, the Big Brown, Sandow and Monticello plants had power generating capacity of 4,200 megawatts.

## Russia

### 1NC – AT: Russia

#### No prolif impact.

Schneider ’20 [Jonas; Senior researcher @ Center for Security Studies, Post-​doctoral Fellowships @ German Institute for International and Security Affairs (SWP) and @ CSS, Research Associate in Institute for Security Policy @ the University of Kiel, PhD in Political Science @ University of Kiel; “Chapter 26 Nuclear Proliferation and International Security” in *Understanding Global Politics: Actors and Themes in International Affairs*, edited by Klaus Larres and Ruth Wittlinger, Routledge, p. 409-425]

Other analysts have sounded a much less alarmist tone, however. Some scholars even suggested that an Iranian bomb held great potential for stabilising an unbalanced and volatile Middle East (Waltz, 2012). Closer to the mainstream of Western strategic discourse, various experts have argued that despite the risks of proliferation, nuclear weapons, and the deterrent they provide should get (more) credit for contributing, in combination with other factors, to what has been labelled ‘the Long Peace’ among the great powers since 1945 (Gaddis, 1999, p. 268–271; Gavin, 2012a, p. 164; Acton 2010, pp. 16–17). Still others have contended that because nuclear proliferation is such a rare phenomenon, and since robust nonproliferation measures tend to be disruptive, the net destabilising effect of new nuclear countries is quite small and, therefore, manageable (Mueller 2010, pp. 95–99; Hymans 2013, pp. 293–296).

The question of whether nuclear proliferation has stabilising or destabilising effects is not just fascinating for scholars of the nuclear age, but also highly consequential for practical policy issues. For in order to debate the merits of particular policy choices – such as preventive military strikes against nuclear facilities, grand bargains with potential proliferators or complete nuclear disarmament – we need to understand first how the spread of nuclear weapons impacts regional and global security.

The chapter proceeds in three steps. The first section provides the foundation for the other parts by summarising what we know about empirical patterns of proliferation and the utility of nuclear weapons for statecraft. The second section then engages the literature on the consequences of proliferation, focusing in particular on how proliferation has influenced international stability. The final section explores whether some states have been more affected than others, and what measures these states have taken to prevent proliferation, or at least mitigate its negative consequences.

Patterns of nuclear proliferation and the utility of nuclear weapons

Nuclear proliferation is commonly defined as the spread of nuclear weapons to states that did not previously have them. Within a broader conceptual framework that is rarely used by scholars, yet popular in the arms control community, this diffusion of nuclear weapons to additional states is labelled horizontal proliferation. It is conceptually accompanied by the notion of vertical proliferation, which refers to qualitative improvements and increases in the number of nuclear weapons in the stockpiles of existing nuclear weapon states. In accordance with the typical usage of the term in the scholarly debate, this chapter focuses only on how the horizontal proliferation of nuclear weapons affects international stability.

One important empirical pattern that has shaped how nuclear proliferation is understood concerns the way in which nuclear weapons have spread. The word ‘spread’ appears to suggest that the established nuclear powers have provided other interested nations with (at least a few) operational nuclear warheads. Yet such transfers have never been undertaken. Certainly, states that sought nuclear weapons have often received significant assistance from other nations (Schofield, 2014; Fuhrmann, 2012), sometimes in the form of highly sensitive technologies (Kroenig, 2010). Nonetheless, since all these transfers remained well below the weapons threshold, nations seeking nuclear weapons always had to build them indigenously. Hence, in reality, the spread of nuclear weapons has meant that merely the ambition to possess a nuclear arsenal has spread to additional states, each of which then had to pursue that goal primarily through indigenous efforts.

Importantly, since a state’s national efforts to turn its desire for nuclear weapons into reality naturally span several (and sometimes many) years, nuclear proliferation must be conceived of as a process, as opposed to just a single step (Meyer, 1986). This point is reinforced by the fact that 29 out of 39 states that have embarked upon that path (Müller and Schmidt, 2010, p. 157; Mikoyan, 2012; Santoro, 2017) have not acquired a nuclear arsenal. Hence, a lot of nuclear proliferation activity has been undertaken by nations that did not ultimately become nuclear weapon states. Three patterns explain this situation.

First, owing not just to the technological, but also the institutional and managerial challenges of the task, some nations simply failed in their efforts to build the bomb (Hymans, 2012; Braut-Hegghammer, 2016). Second, a few countries have chosen a nuclear ‘hedging’ strategy, intentionally confining their efforts to developing the technological capability to build an arsenal quickly while refraining from exercising that option (Narang, 2016–17, p. 134). Third, several states have undertaken a ‘nuclear reversal’, abandoning their nuclear weapons activities before developing nuclear explosive devices (Müller and Schmidt, 2010).

#### No Russia war – military agreements check.

Simon Saradzhyan 20, Master’s in Public Administration from the John F. Kennedy School of Government and Founding Director of Russia Matters, “What Stops US and Russia From Stumbling Into War?”, Russia Matters, In The Thick of It – Blog of the Harvard Belfer Center on Science and International Affairs,

As we are all well aware, the original Cold War, which officially ended 30 years ago last month, featured a number of close calls that almost turned it into a hot war. Thankfully, neither the Cuban Missile Crisis of 1962 nor the Able Archer exercise of 1983 (nor any other perilous incidents), led to a war between Washington and Moscow. More recently, however, respected statesmen have again begun to sound alarms. “Not since the 1962 Cuban Missile Crisis has the risk of a U.S.-Russian confrontation involving the use of nuclear weapons been as high as it is today,” former U.S. Energy Secretary Ernest Moniz and former U.S. Sen. Sam Nunn warned in a recent article in Foreign Affairs. I have expressed some doubts about this proposition, but it is nevertheless worth asking what it is—other than the fear of mutually assured destruction—that keeps the U.S. and Russia from stumbling into a war today or tomorrow. Part of the answer lies in the bilateral and multilateral agreements specifically designed to prevent incidents that could escalate into a war.

As is clear from the list below, there are at least half a dozen bilateral agreements between Moscow and Washington that have been concluded for the purposes of preventing dangerous military incidents. These deals include the 1972 U.S.-Soviet agreement on prevention of incidents on and over the high seas and the 1989 U.S.-Soviet agreement on prevention of dangerous military activities. Some other NATO members—including the United Kingdom, Germany, France, Italy, Norway, Spain, the Netherlands, Canada, Greece and Portugal—have agreements with Russia on prevention of incidents on the high seas that are similar to the 1972 agreement between Moscow and Washington, while Canada and Greece also have agreements with Russia on prevention of dangerous military activities. However, almost a dozen NATO members have no such agreements with Russia, even though they abut seas. These countries include Albania, Bulgaria, Croatia, Latvia, Lithuania, Romania and Slovenia. Nor are there any multilateral NATO-Russia (or NATO-Collective Security Treaty Organization) agreements on prevention of dangerous military incidents, though a NATO-Russia Memorandum of Understanding on avoiding and managing such incidents has been discussed in Track II.

#### Hybrid war ineffective.

Andrew Lanoszka, Professor of Political Science @ Waterloo, ’20, “Thank goodness for NATO enlargement,” International Politics, Volume 57, Issue 3.

Even the use of so-called hybrid tactics may have limited efficacy in the Baltic region. The three Baltic countries have been subject to an intense Russian disinformation campaign since at least 2014. Nevertheless, local public opinion remains largely supportive of NATO and other defense policy measures aimed at boosting deterrence. One reason why these societies may be inoculated against Russian disinformation is that they have grown accustomed to seeing Russia in adversarial terms, thus making average citizens critical of pro-Kremlin narratives (Lanoszka 2019). In addition, the Baltic states have integrated their minority populations far better than is often assumed. Although many Russophones may still lack citizenship rights in Estonia and Latvia and so are more likely to experience political discrimination and economic hardship, they nevertheless retain key benefits associated with living in the European Union (Trimbach and O’Lear 2015). They may have sympathies for aspects of Russian foreign policy, but these sympathies do not translate into a preference to be reunited with Russia (Kallas 2016). Accordingly, Russia faces serious obstacles replicating what it did in Crimea. Russians living in Crimea were generally sympathetic to being part of Russkiy Mir (‘Russian World’), making them more willing to be the objects of an annexation efort (O’Loughlin, Toal, and Kolosov 2016, 761). Further, Russia does not have an existing military presence in the Baltic countries—as it did with the Black Sea Fleet stationed in Sevastopol—that it could leverage to achieve easy faits accomplis and dissuade potential challengers from organizing.

## Europe

### 1NC – AT: Europe

#### Cooperation with EU now solves.

Michaels & Kendall ’21 [Daniel; 7/15/21; Brussels Bureau Chief @ The Wall Street Journal; and Brent; Legal Affairs Reporter in the Washington Bureau @ The Wall Street Journal “U.S. Competition Policy Is Aligning With Europe, and Deeper Cooperation Could Follow”; https://www.wsj.com/articles/u-s-competition-policy-is-aligning-with-europe-and-deeper-cooperation-could-follow-11626334844; AS]

The European Union’s top antitrust regulator foresees greater alignment with the U.S. on competition enforcement, particularly in the tech sector, amid a broader policy reorientation under the Biden administration.

EU Executive Vice President Margrethe Vestager, the bloc’s competition commissioner, said she expects “much more intense work when it comes to technology and the digitized market” between her team and Washington.

President Biden’s policy statements and appointments, plus legislative proposals from Congress, indicate the U.S. is moving closer to positions long held in the EU regarding internet giants, pharmaceutical firms and other industries with diminishing competition.

As the world’s two most powerful antitrust regulators, the U.S. and the EU can shape global competition discourse and rein in many of the world’s largest companies, so greater cooperation could have significant impact.

For supporters of aggressive enforcement, “it will certainly be a marriage made in heaven,” said Jeffrey Jacobovitz, a Washington-based antitrust lawyer with Arnall Golden Gregory LLP. “I think they’ll work hand in hand. Increased coordination makes enforcement stronger.”

That alignment will make it even more incumbent on companies in the crosshairs to develop broad, cross-Atlantic strategies on how to respond to that scrutiny, Mr. Jacobovitz said.

While tech companies say similar policies in multiple jurisdictions can simplify operations, some worry about the U.S. adopting some of Europe’s more aggressive positions.

“The U.S. should be wary of copying EU-style experimental regulation,” said Christian Borggreen, vice president and head of the Brussels office at the Computer & Communications Industry Association, which represents companies including Amazon.com Inc., Facebook Inc. and Google. “As a leader in tech innovation, the U.S. would have much more to lose if they get it wrong.”

Mr. Biden’s appointments of high-profile U.S. progressives who have criticized tech giants—Lina Khan to run the Federal Trade Commission, and Tim Wu to the White House Economic Council—have been widely seen as indicating that Mr. Biden plans to turn up the heat on internet conglomerates. Companies such as Microsoft Corp. , Apple Inc. and Google parent Alphabet Inc. previously felt little pressure from Democrats, including former President Barack Obama, who criticized past EU efforts to restrain U.S. tech companies.

Ms. Vestager held an initial meeting with Ms. Khan by videoconference on July 2. Mr. Biden has yet to appoint someone to lead antitrust enforcement at the Justice Department. That nomination could provide further clues to his administration’s approach.

In parallel, House Democrats recently introduced a package of bills with bipartisan support that target big tech companies’ practices considered by critics as anticompetitive. The proposed legislation could go as far as breaking up, or at least shrinking, Amazon and other top tech companies.

New York state could go a step further with proposed antitrust legislation that would forbid companies from abusing a dominant market position—a prohibition central to EU competition regulation that is much stricter than U.S. federal antitrust rules.

Mr. Biden last week issued an executive order seeking to curb the power of companies across the U.S. economy that dominate their markets.

The jockeying for new policy approaches comes as officials on both continents have faced enforcement challenges in limiting digital giants’ activities. Ms. Vestager has imposed billions of dollars in penalties on U.S. tech companies but had little impact on their ability to control markets, according to critics including consumer advocates and some smaller competitors.

In the U.S., a federal judge last month dismissed cases brought by the FTC and most U.S. states against Facebook, though the FTC is expected to try again with an amended lawsuit.

“I believe there is a greater consensus that competition enforcement has not always delivered on its promise,” said University of Oxford law professor Ariel Ezrachi, who is director of Oxford’s Centre for Competition Law and Policy. He said the new U.S. approach is “a real tectonic shift.”

#### No internet impact

Lewis 15—Senior Fellow and Director of the Strategic Technologies Program at the CSIS and a PhD from the University of Chicago [James A, “Managing Risk for the Internet of Things,” *CSIS*, December, p. iv-v, <https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/151201_Lewis_ManagingRiskIoT_Web.pdf>]

The majority of Internet “users” are machines, not people. The devices that make up “the Internet of Things” (IoT) connect to the Internet, take action, and create immense amounts of data. These devices will perform progressively more functions, creating new risks for safety and security, but we need more than anecdotes to assess risk and devise useful policies. An initial conclusion about security and the Internet of Things is that popular portrayals significantly exaggerate and misrepresent risk. • The Internet of Things will be no more secure than the conventional Internet and may be more vulnerable, since many IoT devices will use simple computers with limited functionality • Increased vulnerability, however, does not mean an increased risk. The benefits of IoT outweigh the potential for harm, and one risk usually not considered is that premature or overreaching measures for security or privacy will stifle economic growth and innovation. • IoT devices allow hackers to produce physical effects. Researchers have demonstrated many vulnerabilities in IoT devices, but the consequences of these vulnerabilities largely qualify as malicious pranks. Only IoT devices that perform sensitive functions or where disruption can produce mass effect will increase risk. This means most IoT devices pose little risk. • The state of online privacy is so dreadful it is unlikely that IoT will make it worse. • The same problems that keep us from making cyberspace more secure will slow progress in IoT security: technological uncertainty, limited international cooperation, lack of incentives for improvement, limited regulatory authority, weak online identities, and an Internet business model based on exploitation of personal data • We can accelerate risk reduction with the same approaches we use for general cybersecurity: research, liability, international cooperation, and regulation. The White House could repeat its approach to critical infrastructure and task sector-specific agencies to work with companies to improve the security of IoT devices they use or sell. • Autonomy will be a key determinant for IoT risk. Limiting device autonomy or providing a way to override autonomy reduces risk. IoT standards should require a higher degree of human intervention and control for sensitive functions. • A secure device connecting to an unsecured network does little to reduce risk. Given the weak state of security on most networks, making IoT more secure requires better use of encryption, strong authentication, and increased resilience for both devices and networks. • We can use three metrics—the value of data, the criticality of a function, and scalability of failure—to assess IoT risk. Devices that create valuable data, perform crucial functions, or can produce mass effect need to be held to higher standards. Those that do not can be left to market forces and the courts to correct • Risk is dynamic. It decreases as technology matures and as familiarity and experience grow. As we gain experience with IoT, risk will decrease.

#### Trade doesn’t stop wars – causes populism and their studies lack causation.

Gonzalez-Vincente ‘20 [Ruben; University Lecturer in Global Political Economy @ Leiden University, PhD in Geography @ University of Cambridge; “The liberal peace fallacy: violent neoliberalism and the temporal and spatial traps of state-based approaches to peace,” *Territory, Politics, Governance* 8.1, p. 100-116; AS]

Yet, decades of neoliberal integration have not brought Fukuyama’s prophecy closer to its realization. Across the world, liberal market integration has facilitated convivial relations among key countries and paid important dividends to elites, yet it has also resulted in the concentration of wealth in ever fewer hands, rising inequalities within countries (although not between them) and higher concentration of wealth at the top, and increased risks and vulnerability as the logic of market competitiveness takes hold of many aspects of our lives (Anand & Segal, 2015; Lynch, 2006). The relation between the United States and China or the processes of economic integration in the European Union are clear examples of these trends. In these places as well as others, inequalities, precarization and economic insecurity have given way to a populist and nationalist momentum that can be interpreted both as a popular response to the extreme and diverse forms of violence engendered by processes of market integration, or as a manoeuvre to channel discontent towards the ‘other’ in order to protect elite interests (Gonzalez-Vicente & Carroll, 2017). By prescribing ever more market globalization to counter populist politics and avoid conflict, liberal elites add fuel to the fire as they sever the very conditions that led to the disfranchisement of significant segments of the population in the first place. Thereby, it is crucial to understand how the argument for capitalist peace fails to factor in the crisis-prone and socially destructive tendencies of capitalism, particularly in a context of unfenced global competitiveness along market lines.2

Two of the underlying problems in the liberal peace argument stand out. The first has to do with the statistical selection of fixed points in time that suggest correlations between growth in trade and diminished conflict – while failing to discern mechanisms of causation (Hayes, 2012). A wider temporal lens is needed to situate the contemporary rise of mercantilist and illiberal politics in the context of neoliberal globalization, representing the same sort of ‘counter movement’ that Polanyi had warned of in his reading of the 19th-century downward spiral towards war – aided in our contemporary case by the demise of the traditional left (Blyth & Matthijs, 2017; Carroll & Gonzalez-Vicente, 2017). The second problem relates to liberal international political economy and IRT’s scalar fixation on inter-state matters and hence their inability to factor in violence in the absence of war. I turn now to these two points.

#### Many causes of EU/US trade barriers, but antitrust is not one of them.

Köhler-Suzuki 20 [Nicolas; Trade Policy Advisor at International Trade Intelligence; “STRATEGIC CHOICES FOR THE EU’S DIGITAL TRADE POLICY AFTER THE US ELECTION”; https://institutdelors.eu/en/publications/strategic-choices-for-the-eus-digital-trade-policy-after-the-us-election-2/; AS]

The EU has sent multiple signals that it wants to engage with the US on digital trade. Commission President von der Leyen proposed working together on a “rule book for the digital economy and society covering everything, from Big Tech to data use and privacy, from infrastructure to security.”[14] EU Trade Commissioner Valdis Dombrovskis called for solving existing trade disputes and establishing an EU-US trade and technology council–a holdover from the regulatory cooperation body that was envisaged under the failed Transatlantic Trade and Investment Partnership (TTIP).[15] There have also been other symbolic moves, such as the settlement of the lobster dispute by the European Parliament and signals for reconciliation on the Boeing-Airbus case. But von der Leyen also cautioned EU ambassadors that “some shifts in priorities and perceptions run much deeper than one politician or administration” which would not “disappear because of one election”.[16] Digital taxation and data flows, for example, will likely become a sticking point in transatlantic relations in the coming months.[17] At the same time, transatlantic views on the role of antitrust, privacy, and artificial intelligence seem to be converging. Crucially, the EU and the US have a shared foundation of liberal democratic values, which could help to break deadlock in the face of an external systemic threat.

IV. Opportunities and pitfalls for collaboration

Unilateral digital taxes and the conclusion of the OECD Base Erosion and Profit Shifting (BEPS) framework could be amongst the most difficult issues to resolve. On the campaign trail, Biden promised to increase corporate tax rates from twenty-one to twenty-eight per cent. He specifically called on technology companies to pay a larger share of taxes through raising the global intangible low-taxed income (GILTI) tax and promised to close offshoring loopholes. But Biden did not offer proposals for structural reforms of the international tax system, unlike some other Democratic candidates in the primaries.[18] Of course, the role of tax enforcer may not come naturally to Biden, who has for four decades been senator of Delaware, one of the world’s most significant tax havens. Silicon Valley was also an important contributor to his presidential campaign and to Vice President-elect Kamala Harris, and they may not want to bite the hand that fed them, at least not too much.[19] In any case, tax policy in the US is a prerogative of the legislature and digital taxes have faced strong bipartisan opposition in the House and the Senate–possibly also related to generous campaign contributions from technology firms.[20] Moreover, the Biden administration will need to finance the substantial fiscal programs it intends to implement in the coming years. It will therefore unlikely want to forgo the considerable tax revenue from US technology firms that could be diverted to other jurisdictions.

Yet there could still be room for progress. OECD tax officials do not expect a fundamental shift in the US position, but express hope that a Biden administration will support a multilateral solution.[21] While the Trump administration threatened retaliatory tariffs in return for unilateral European digital taxes, it seems less likely Biden would retaliate in the same forceful manner as Trump while he is trying to mend the diplomatic relationships with key allies.[22] If an ever-increasing number of US allies were to introduce unilateral digital taxes in 2021 or 2022, this could create pressure for the US to join OECD BEPS.

Further discord can be expected on transatlantic data flows. In July 2020, the European Court of Justice ruled in the so-called Schrems II case that the EU-US Privacy Shield, which governed transatlantic data flows, is incompatible with European privacy standards. This followed the ECJ’s 2015 invalidation of the preceding Safe Harbour framework (Schrems I). In both cases, the role of systematic surveillance by the US government was key to the reasoning of the court, that the privacy of EU citizens was insufficiently protected. It is clear that any meaningful new agreement on data flows between the EU and the US has to be based on a deeper level of trust, for example through a credible “no-spy” agreement. This, however, would likely be met with stiff resistance from the US national security apparatus as much as from European intelligence agencies, and would therefore require political will at the highest levels of government.

# 2NC

### 2NC – Europe ADV

#### First solvency card is negative regulate cp card – this is sufficient to create American leadership – it explicitly compares regulate to antitrust

Wheeler, 21 (Tom Wheeler, Tom Wheeler is a visiting fellow in Governance Studies at The Brookings Institution. Former chariman of the Chairman of the FCC., 2-10-2021, accessed on 8-18-2021, Brookings, "A focused federal agency is necessary to oversee Big Tech", <https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/)//Babcii>

American leadership?

A less obvious challenge presented by the federal government’s failure to effectively oversee the dominant digital companies is how it has left American companies unprotected in regard to the policies of other nations, and even individual American states. The United States is a worldwide leader in digital products and services for many reasons, but most notably because of its uniform market of 325 million consumers in which to develop products, products that are then widely available to an interconnected world. Such an advantage is [threatened](https://www.brookings.edu/blog/techtank/2019/03/26/the-tragedy-of-tech-companies-getting-the-regulation-they-want/) when the absence of federal government policy leadership opens the door for policies to be determined by others. In an interconnected world, the absence of national oversight and leadership leaves U.S. companies exposed to rules made by other nations. Because of this absence, there is little American input. Similarly, the absence of a national policy encourages state governments to develop their own answers to pressing digital economy questions—answers that run the risk of diminishing the advantage of a uniform national marketplace. States as diverse as [California](https://oag.ca.gov/privacy/ccpa) and [Vermont](https://www.vpr.org/post/public-utility-commission-vermont-can-regulate-internet-telecommunications#stream/0) are adopting their own approaches to internet governance, while foreign nations are filling the leadership void internationally. The European Union proposed a [Digital Services Act](https://ec.europa.eu/digital-single-market/en/digital-services-act-package) to regulate the behavior of online companies. The United Kingdom proposed the creation of a [new digital watchdog](https://www.gov.uk/government/publications/digital-regulation-cooperation-forum). Italy [announced](https://www.reuters.com/article/idUSKBN27D0MM) an investigation into Google’s advertising market activities. Germany is [investigating](https://uk.reuters.com/article/us-amazon-com-germany-competition/german-watchdog-launches-new-investigation-into-amazon-report-idUKKBN27D2OO) Amazon’s relationships with third-party sellers. China went so far as to attempt to push a [new internet architecture](https://www.infosecurity-magazine.com/news/nato-warns-new-authoritarian/) through the U.N.’s International Telecommunications Union. American market oversight policies have traditionally been the North Star in the development of international technology policy.[[7]](https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/#footnote-7) Where there is no policy, however, there can be no pole star. By being absent from the field, the federal government has walked away from a history of American leadership. POLICY RECOMMENDATIONS Too often, 21st-century tech policy issues are discussed in 20th-century terms and conclude with 19th-century solutions.[[8]](https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/#footnote-8) It is time to get out of that rut. The regulatory model established in the 19th century to oversee the industrial revolution needs updating. Congress should establish a 21st-century results-focused independent federal agency responsible for protecting consumer well-being and effective competition in the digital economy. Such an agency should be built on three pillars: Oversight based on the common-law-derived duty of care and duty to deal. Risk management that is focused on accomplishing risk-mitigating tasks rather than imposing a rigid set of rules. Government instigated, supervised, approved, and enforced behavioral standards utilizing a development process similar to the technology standards process. Reasserting common-law-derived principles The principles upon which marketplace governance has traditionally rested originated hundreds of years ago as England emerged from the Dark Ages. Expressed as common law, such concepts endured as economic activity evolved from feudalism, to mercantilism, to industrialization. The same principles remain relevant today in the digital economy. For too long, however, these basic standards have been ignored as Big Tech made the rules for the new economy. The new agency does not need to invent new constructions for marketplace behavior. A pair of centuries-old common-law-derived principles should be at the heart of digital governance: the duty to care and the duty to deal. The common-law duty of care establishes the expectation that a provider of goods and services has the responsibility to attempt to identify and mitigate the adverse consequences of that activity. From this principle flow basic consumer protections and legal concepts such as negligence and fiduciary duty. Unfortunately, in the digital economy, the duty of care is recognized more for its absence than its application. Duty-of-care expectations such as transparency, forethought, and mitigation are not revolutionary. How the concept was applied to the network revolution of the 19th century is illustrative of how it could be applied to the network revolution of the 21st century. As railroad lines cut through farmers’ fields in the mid-1800s, the speeding locomotives belched hot cinders that set ablaze homes, barns, and hayricks. Applying the duty of care meant the railroads had to put screens on their smokestacks to catch the cinders. As digital networks speed past our lives, we do not have a screen to stop harmful digital cinders from doing their damage. Digital platforms, for instance, are under no obligation to protect consumers from the adverse effects of their wholesale collection and subsequent monetization of users’ private information. A duty of care, as it relates to privacy protection, could encompass topics such as transparent disclosure of what is being collected and consumer control over the collection and use of that information. A duty of care would end the coercive collection of personal information as a condition for use of the service and establish that product design anticipates its effect on privacy. Similarly, a duty of care would protect consumer data after it has been collected and assure consumer-activated portability of their own data. Common law’s duty to deal establishes that the quasi-monopoly provider of an essential service has the obligation to provide impartial access to that activity. Applied to the digital economy, a duty to deal would open the bottlenecks that have allowed digital companies to gain and maintain a dominant market position to thwart competition and innovation. For 600 years, the simple yet irrefutable concept that the proprietor of a fundamental service has a duty to make it available to all comers has withstood the test of time as well as changes in technology. One of its earliest applications was toward ferries across waterways; the ferryman could charge for his service but had to provide it on a non-discriminatory basis. The concept was statutorily applied in 1862 toward the original electronic network, the telegraph, and continued its application toward the telephone. Later, it was applied toward the internet with the FCC’s net neutrality decision, and now it should be similarly applied toward systemically important services that utilize the internet.[[9]](https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/#footnote-9) The ferrymen of the digital era are the platform companies that collect, aggregate, and allocate digital information to create a critical service. Like their analog predecessors, the platforms are free to profit from their services, but the services cannot be allowed to become anti-competitive bottlenecks. Examples of this would include the inability of platforms to hoard the necessary digital assets or deny the interconnection necessary for others to compete. That these concepts are absent from the digital economy is the result of the federal government being a spectator to the new economy for far too long. Now, two decades into the 21st century, the absence of regulatory oversight is felt by consumers and the competitive marketplace while the ground rules for behavior in the digital market—a duty to care and a duty to deal—are in plain sight. Fill a void, don’t duplicate or replace The new agency should be additive to the activities of existing agencies such as the FTC and Justice Department. The limitations these agencies face when dealing with the digital economy are matter of agency design, not desire or dedication. The 21st-century need is for a 21st-century agency, not the repurposing of an agency designed in another era for another goal. Nothing, for instance, should interfere with or supersede the antitrust authority of the DOJ or FTC. Rather, activities of the new agency should deal with the issues that cannot be reached by those limited authorities. Not only is the direct protection of many consumer rights beyond the scope of current antitrust laws, but also of equal importance is how effective antitrust remedies may be beyond the capacity of federal courts and prosecutors. The success of the Justice Department’s suit to break up AT&T hinged on FCC-established regulations. The creation of rules for network interconnection and other behaviors, for instance, were well beyond the normal antitrust experience, requiring both technical expertise and ongoing oversight. Should the pending antitrust suits against Google and Facebook prove successful, the question will become: And then what? The courts will need the expertise and bandwidth of a focused expert agency to meaningfully implement a judicial decision. Beyond antitrust enforcement, the FTC’s power to act against unfair or deceptive acts or practices proved insufficient for developing broad-based, industrywide requirements. The FTC may be able to levy a penalty on Facebook for deceiving its consumers about the use of their information, but such targeted enforcement against an individual company only reinforces the need for broad rules applicable to all companies to mitigate such behavior in the first place. While, for instance, the FTC should continue to prosecute an e-commerce company for tainted products or false advertising, the new digital agency could promulgate a general rule that allows consumers to have control over their digital information. The new agency can fill the void created by current statutes and procedures. In addition, the new agency’s focused attention on digital marketplace behavior would overcome the risk that such oversight gets lost in having to compete for attention and resources with other oversight activities in the broader economy. Risk management replacing micromanagement: Tasks vs. tools In the industrial era, corporate management operated through rules-based bureaucracies. In a classic example of “you look like your pet,” the regulatory agencies created to oversee industrial capitalism adopted the management techniques used by the corporations themselves. The result was regulatory oversight conducted through top-down, bureaucratic, rules-based policies. Traditional regulation focused more on the tools rather than the tasks. Often characterized as “utility-style regulation,” oversight was driven by the available tools and led to micromanagement such as detailed involvement in commercial decisions, often requiring prior approval of actions and the ability to order specific activities. To this day, such rules-based approaches remain the primary legal structure of many varieties of government oversight. In contrast, risk-based regulation focuses on the tasks to be achieved. What are the adverse effects resulting from specific behaviors, and what is necessary to craft a solution to solve those harms in which the benefits outweigh the harms? Such risk-based regulation requires agility, not only in crafting a mitigation strategy, but also in its ongoing implementation amidst technological change. In such task-vs.-tools management, government has not kept pace with the companies themselves. While digital companies abandoned rules-based management hierarchies in favor of agile management that utilizes the empowerment created by a distributed network, such a concept is antithetical to the legal framework and bureaucratic regulatory culture that developed over decades of industrial oversight. Few policymakers, however, understand how to escape such outdated and counterproductive legal requirements and make the transition to the new agility in a regulatory context. Policymakers are not the only ones to be blamed for this situation. The agile-managed companies themselves have done little to help government improve its procedures. Instead, the companies use the lack of updated procedures and resulting regulatory rigidity as an argument against any regulation. While companies complain the current regulatory system is too rigid for the rapid-paced change of digital technology and markets, attempts to introduce agile regulation built on general behavioral conduct are also opposed. One approach is too rigid, while the other is “[regulatory uncertainty](https://shorensteincenter.org/wp-content/uploads/2020/08/New-Digital-Realities_August-2020.pdf).” Arguing both sides, of course, perpetuates the desired absence of any regulation. Not only is there a need for an agency with focused digital oversight responsibilities, but that new agency also must adopt a 21st-century task-focused approach to regulation. The operation of the new agency should be designed to identify, attack, and mitigate adverse effects utilizing task-oriented regulatory craftsmanship that focuses on the specific harms and target policies to address those behaviors.[[10]](https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/#footnote-10) Addressing behaviors rather than dictating operations is responsive to the need to protect consumers and competition, while at the same time being responsive to the concern that old-style regulation prioritizes the dictation of detailed procedures over boundary-expanding innovation. This evolution to agile, task-oriented regulation requires a new regulatory model. A new regulatory model: Learning from the success of technology standards

#### Regulation solves data privacy and EU harmonization

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

iii. Regulation, not Antitrust

Regulating the tech giants would be more in line with the goals outlined by those who are concerned about the influence of Big Tech. Opponents of Big Tech cite fears of data privacy, the spread of misinformation, and data misuse. Much of Big Tech's opposition comes from fears about data concerns. Roughly half of Americans do not trust the government or social media sites to protect their data.1 35 Because of these increasing concerns, companies like Apple already expect to be regulated by the government. 13 6 However, the FTC does not have much enforcement power in the protection of online privacy. Internet companies have disputed the FTC's authority to regulate data privacy practices. 137 To solve this problem the FTC has requested Congress create internet privacy and security laws. 138 Regulating Big Tech would be a more narrowly-tailored way to deal with the power and size of tech companies.

As of now, there is only a "patchwork" of existing regulations that apply to issues like data use and privacy. 139 To give consumers the information and transparency they want, the U.S. Congress should draft legislation outlining what can and cannot be done with consumers' data. Legislation should clearly outline consent, access, portability of information, and erasure of personal information. Additionally, policymakers should look to the European Union's General Data Protection Regulations ("GDPR") or the California Consumer Privacy Act. The GDPR protects all personal online data, regardless of who collects it or how it is processed. 140 Under the GDPR, companies are required to notify users of a data breach within 72 hours of discovering a data breach and companies must request user consent in a clear and accessible way. 141 Additionally, the GDPR allows users to stop third party access or to delete their data. 142 The GDPR imposes a fine of up to 4 percent of annual global revenue for noncompliance. 143 Regulations, like the GDPR, could serve as a template to give consumers greater control over their data.

The GDPR is not the only law regulating the tech industry and reforming data privacy. The California Consumer Privacy Act, which will take effect on January 1, 2020, will likely transform data privacy law. 14 4 Once enacted, California will have the strictest data privacy laws in the nation.145 The Act will apply to companies serving California residents, which is impactful due to California's economic presence and large population. Due to California's economic impact and large population, almost all companies will ultimately serve California residents. 14 6 The law not only compels companies to disclose data col lection in their privacy policies, but also to company users on request. The Act also allows users to delete their data and to "opt out" of having their data sold.147 Additionally, it is illegal for companies to discriminate against consumers for exercising their privacy rights under the Act.148 The Act is primarily geared toward consumers as it governs consumer privacy rights and disclosures made to consumers. 149 These protections only apply to California residents, but few companies are "likely to devote the resources necessary to provide the Act's opt-out options to a user visiting a Web site from an IP address in California, while providing a Web site without those features to residents of the other 49 states." 150As written, the law has expansive consumer protections, which could soon become the model that other states and the federal government follow.

#### Regulation solves power accumulation without breaking it up

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

Policymakers could consider other measures to regulate Big Tech without breaking up Big Tech. For instance, policymakers could mandate that Big Tech companies share their data with smaller tech companies. 15 1 Amassing data is the key to innovation and Big Tech companies maintain their competitive advantage from the vast amount of data they possess. 15 2 To increase competition, Professor Viktor Mayer-Schonberger, a professor of internet governance at the Oxford Internet Institute, advocates that large tech companies be mandated to share anonymized data with less powerful competitors.15 3 Doing so would allow start-ups to have more of an opportunity to succeed because innovation tends to require access to more data.154 This would prevent the drawbacks that breaking up a tech company like Google would create. 155 Reducing the amount of data a company can use reduces anyone's ability to use the data collected and prevent innovation.156 Breaking up a company like Google could make its services less reliable because sharing data between a service like Google Search and Google Maps creates reliability and improves consumer services. 157 Further, Big Tech could be regulated by preventing Big Tech from favoring their own platforms and services. Hal Singer, a senior fellow at the George Washington Institute of Public Policy, argues that companies like Google defeat competitors by their services special treatment, even when they are not as good as a competitor's. 158 To prevent this problem, Singer proposes regulating tech companies like cable companies by preventing tech companies from using its platform to "artificially give a leg up to [its] own affiliated properties." 159 Smaller companies could then bring complaints to a neutral arbiter.160 This could help alleviate one of the biggest concern that small businesses will not have power to take on companies like Google and Facebook.

There are ways of regulating Big Tech without requiring the drastic steps of a break-up. Regulatory measures could alleviate some concerns that antitrust advocates have. Additionally, stricter privacy laws would give consumers' protection they seek, as well as simplify compliance by establishing a national baseline.

### 2NC – Russia ADV

#### Ev agrees it’s not the only thing that matters

Hendrickson and Galston, 17 (Clara Hendrickson and William A. Galston, Hendrickson is a Research Analyst - The Brookings Institution, Galston holds the Ezra K. Zilkha Chair in the Brookings Institution’s Governance Studies Program, where he serves as a Senior Fellow. Former Acting Dean at the School of Public Policy, University of Maryland., 12-6-2017, accessed on 8-11-2021, Brookings, "Big technology firms challenge traditional assumptions about antitrust enforcement", <https://www.brookings.edu/blog/techtank/2017/12/06/big-technology-firms-challenge-traditional-assumptions-about-antitrust-enforcement/>)//Babcii

Third, it is important to recognize that antitrust is just one tool in the broader competition policy toolkit. One of the greatest barriers to entry in the tech sector remains network effects—a marketplace dynamic when greater usage of a product makes it more valuable for all users. Here, success breeds more success. If you have 900 friends on Facebook, there’s little incentive to try out “Spacebook,” a new social media site that none of your friends have joined. Luigi Zingales and Guy Rolnik [advocate](https://www.nytimes.com/2017/06/30/opinion/social-data-google-facebook-europe.html) a reallocation of property rights to combat the problem. Competition would be encouraged if individuals owned their social network and could easily move over to rival platforms.

#### Persistent engagement approach resolves Russian hybrid war

Brandt 21 (Jessica "How Democracies Can Win an Information Contest Without Undercutting Their Values," Carnegie Endowment for International Peace, <https://carnegieendowment.org/2021/08/02/how-democracies-can-win-information-contest-without-undercutting-their-values-pub-85058> 8-2-21)//gcd

HOW DEMOCRACIES SHOULD RESPOND Rather than a reactive, tit-for-tat approach to autocratic attacks on the health and strength of democratic systems, democratic governments should instead seize on their own asymmetric advantages—some of them in the information domain, others in the political, economic, and technological domains. And they must do so with an eye on consolidating long-term gains rather than short-term wins. To start with, democracies can seize the initiative by harnessing truthful information to defend their interests and the integrity of the global information environment. To do this, democratic governments should take the so-called persistent engagement approach that the United States has applied to cyberspace and [carry it into the information domain](https://securingdemocracy.gmfus.org/wp-content/uploads/2020/10/Linking-Values-and-Strategy.pdf). This would involve concerted campaigns that are grounded in truthful messaging in order to expose the failures and false promises of harmful autocratic policies. Such an approach would be in keeping with a strategy of pushing back on Moscow’s and Beijing’s advances by exploiting their weaknesses, recognizing that competition is ultimately about the pursuit and use of advantages. With that in mind, the French government could have publicly exposed Russia’s information campaigns, rather than imitating them or engaging with them. It could also have explored substantive cooperation with affected African governments to help build resilience against a shared threat. This might include, for example, building the capacity of government and civil society organizations to help facilitate healthy democratic discourse. This approach would have been in closer keeping with the recommendation of France’s own foreign affairs ministry, which has [cautioned](https://www.diplomatie.gouv.fr/IMG/pdf/information_manipulation_rvb_cle838736.pdf) that democratic decisionmakers ought not “yield to the temptation of counter-propaganda.” Policymakers in many democracies may question whether this marketplace of ideas model still works. After all, research shows that debunking falsehoods is at best partially effectual and can in some cases even help to entrench false beliefs. Importantly, the focus of democratic efforts should not be on refuting false information, but on affirmatively highlighting the strengths of democratic governance models and exposing the corruption and repression of autocratic adversaries. One audience for this messaging would be individuals who live within repressive societies. Another audience would be individuals who live in places where democracy is backsliding or not fully consolidated, where truthful information can help build resilience against authoritarian advances. To that end, democracies should also uphold freedom of information worldwide—not just because it is consistent with democratic principles, but because it puts Russia and China in a defensive position, given their fragility to open information. This strategy should include encouraging investments in local and independent media at home and supporting objective media abroad, particularly in closed spaces. Robust civil societies and news ecosystems speak truth to power and keep citizens informed. Ultimately, defending democratic interests in the information domain will require thinking beyond it. Democratic governments should use the diplomatic and economic tools at their disposal to impose costs that might [deter](https://carnegieendowment.org/2020/09/30/eu-s-role-in-fight-against-disinformation-developing-policy-interventions-for-2020s-pub-82821) authoritarian regimes from conducting manipulative information operations, recognizing that deterrence alone will not be sufficient. When it comes to Russia, this could include leveraging the strength of Western financial institutions, on which the Kremlin’s network of kleptocrats are largely reliant, to target the regime’s financial assets. Such an approach might also entail [using cyber capabilities](https://www.progressivecentre.uk/avoiding_the_trap) where appropriate, and within existing authorities, to undercut the ability of authoritarian regimes to conduct information operations—as U.S. Cyber Command reportedly did ahead of the 2018 U.S. midterm elections, when it temporarily took Russia’s Internet Research Agency [offline](https://www.washingtonpost.com/world/national-security/us-cyber-command-operation-disrupted-internet-access-of-russian-troll-factory-on-day-of-2018-midterms/2019/02/26/1827fc9e-36d6-11e9-af5b-b51b7ff322e9_story.html), and again last year, when it [deployed](https://www.nytimes.com/2020/11/02/us/politics/cyber-command-hackers-russia.html) teams abroad to [learn](https://www.foreignaffairs.com/articles/united-states/2020-08-25/cybersecurity) how adversaries might target the 2020 election. The United States in particular could build on this approach by pursuing a broad effort within the Treasury Department to prioritize tracking down graft hidden in Western financial markets, including by publishing a [National Corruption Risk Assessment](https://securingdemocracy.gmfus.org/wp-content/uploads/2020/12/Treasurys-War-on-Corruption.pdf), focusing on kleptocracies and their oligarchs. NEXT STEPS FOR DEMOCRACIES For deterrence to work, the United States and its allies would need to somehow convince Russia and China that these cyber operations, sanctions, and other actions would stop if Moscow and Beijing ceased their information manipulation. Likewise, efforts to improve global financial transparency could face pushback from vested interests around the world. Success is far from guaranteed. But democracies need to take bold, responsible action in the face of competition and disinformation from authoritarian rivals. Democratic governments should do all of this in coordination with one another, leveraging what might well be their most important strategic advantage: a strong network of partners and alliances. Democratic governments should stand shoulder to shoulder, sharing information about threats and collaborating on responses that are rooted in their values, because those values are strengths. The information competition is not just a contest between nations, but a [struggle](https://cpb-us-e1.wpmucdn.com/blogs.gwu.edu/dist/1/2181/files/2020/06/RosenbergerGorman_TWQ_43-2.pdf) over systems and principles. African democracies have a stake in the fight. They should be partners in this effort, not collateral damage.

### 2NC – AT LTNB

#### Regulatory flexibility is best to respond to disruptive innovation

Fajar 20 – Professor, Faculty of Law, Universitas Muhammadiyah Yogyakarta, Indonesia (Mukti, Fair Competition: The Concept of Regulation in the Sharing Economy Journal of Asian Finance, Economics and Business Vol 7 No 11 (2020) 637–645)//gcd

First, the law and its experts must accept the reality of this changing era as a fact of natural selection. Where naturally the new one will replace the old one. All of this is not a form of injustice or cruelty of competition, but a natural process. Like the teachings of Heraclitus: nothing endures, but change. Even Schwab said that dealing with dramatic and profound changes in the industrial revolution 4.0, would demand all social institutions to redefine and reshape themselves (Tariga, 2018). Likewise, legal institutions must reform and redefine themselves to continue to exist as a means of social control in a rapidly changing environment. Second, business law dealing with innovations in highly dynamic economic activities must reformulate a system that has been “inviolable”. Philosophically, the law is more effective if it is developed based on pragmatism. The law must see the truth from the practical side due to its good and usefulness (Posner, 2003).In line with Holmes’ dictum: “The Life of law has not been logic; it has been experienced.” It implies that the law must develop because of the influence of empirical reality, although it is often not suitable to be applied in a country that adopts a civil law legal system, which further predominates Kalsenian Theory, where the law is built on a grund norm (Hurst, 1964). From this the two legal systems can be combined to be able to regulate innovative business models, with the condition that: (1) pragmatism as the basis for legal development must not be in conflict with grund norms, and; (2) more specifically, business law that regulates economic activities, such pragmatism must be able to provide goodness and benefit so as to create social justice or prosperity for the whole community.

#### Targeted regulations don’t use the hammer of antitrust – solves bizcon

Bakst and Beaumont-Smith 20 – Daren Bakst is a senior research fellow in Regulatory Policy Studies at the Heritage Foundation. Gabriella Beaumont-Smith is a senior policy analyst for Trade and Macroeconomics in the Center for Data Analysis (CDA). (“A Conservative Guide to the Antitrust and Big Tech Debate,” BACKGROUNDER No. 3563 | December 1, 2020 https://www.heritage.org/sites/default/files/2020-11/BG3563\_0.pdf)//gcd

Antitrust Should Be Used Judiciously and Not Used for Unrelated Issues. Unlike targeted regulations that address specific problems, antitrust law can be used to completely reshape an industry and potentially the entire economy by reshaping numerous industries. Therefore, antitrust is not a policy tool to be used lightly. Yet, many proposed reforms, such as in the recent House Subcommittee report, would use concerns about Big Tech as a way to make broad-based changes to antitrust law. Just because a concern is raised about the power of Big Tech, this does not mean that antitrust is the tool to address that concern. For example, policymakers may want to address Big Tech’s censorship of speech or address data and privacy issues. These issues, though, are distinct from the competition issues addressed by antitrust law. Trying to use antitrust to address these unrelated issues will undermine antitrust and gives the impression that the goal is simply to punish Big Tech.

### AT L2NB – Big Tech

#### Data sharing mandate solves and links substantially less

Mayer-Schonberger and Ramge 18 – VIKTOR MAYER-SCHONBERGER is Professor of Internet Governance and Regulation at the University of Oxford. THOMAS RAMGE is Technology Correspondent for brand eins and writes for The Economist. ("A Big Choice for Big Tech: Share Data or Suffer the Consequences." Foreign Affairs, vol. 97, no. 5, September/October 2018, p. 48-54. HeinOnline.)//gcd

Their success has brought tremendous benefits to users-and grave dangers to societies and economies. Each company hoards the information it collects and uses centralized systems to run its huge businesses. That hoarding has hampered innovation and allowed the companies to abuse user data, and their centralized systems leave online markets vulnerable to unexpected shocks, posing risks to the wider economy. The most common answer to the problem of overly powerful firms is to break them up, as U.S. regulators once did to Standard Oil and AT&T. Yet that would destroy much of the value that these digital giants have created and probably do little to improve competition in the long run, since without structural reforms, killing today's digital superstars would simply generate opportunities for new ones to emerge. There is a better solution: a progressive data-sharing mandate. This would leave these companies intact but require them to share anonymized slices of the data they collect with other companies. Such a mandate would decentralize digital markets and spur innovation as companies competed to extract the best insights from the same data. Much is at stake; if governments fail to act, they will leave key parts of Western economies and democracies vulnerable to sudden failures.

### XT 1NC 3: Innovation Turn

#### Best data confirms big tech increases innovation.

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

Breaking up the tech giants would be contrary to the longstanding jurisprudence and current tradition expounded by the consumer benefit standard. Besides ignoring the longstanding principle of consumer welfare, breaking up the big four would have harmful effects on consumers and the American economy.

The internet is a source of great innovation and consumers do not pay for much of the benefits they receive. At consumers' fingertips are a great amount of information that provides a benefit to consumers. Search engines like Google and social media sites like Facebook "generally create the enormous social benefit of connecting content providers with users in a mutually beneficial manner." 118 Professor James Grimmelman argues that "[search engines] allow willing users and content providers to find each other, reducing transaction costs and enabling mutually beneficial exchanges. These benefits depend on the contributions of users, providers, and search engines in the form of queries, content, and ranking algorithms, respectively." 119 Grimmelman further argued that restrictions on search engines may "squander the innovative potential of search engines." 1 20 Although these arguments were aimed at search engines, they also aptly apply to other tech companies. Consumers receive substantial benefits by receiving free or nominally free services. Because of the proliferation of search services like Google, consumers have more access to information at their fingertips than any point in human history. Likewise, because of the advances pioneered by Amazon, consumers have almost an unlimited array of choices when purchasing goods. Even if these corporations have monopolistic power, a monopoly by efficiency in producing and marketing better and cheaper product than other companies does not fall within the scope of the antitrust acts. 121 Breaking up the big tech giants would lessen innovation and is counter to the current approach of antitrust law, which considers the benefit to consumers.

Proponents of breaking up Big Tech contend the consumer welfare standard should apply because the tech giants present a future threat to consumers and small businesses. However, the consumer benefit standard looks at what is benefitting or not benefitting consumers at the time of the analysis. 12 2 Declaring a company a threat to consumers in the future is not sufficient to bring an antitrust action. 123 A reduction of competition does not invoke the Sherman Act until it harms consumer welfare. 124 By breaking up internet companies because of their sheer size, the U.S. would be limiting the amount of innovation that could be produced. Goldman Sachs keeps an index tracking tech industry spending and the June 2018 spending levels are the third highest since Goldman Sachs created the index in 2002.125 This investment is primarily targeted at security software, software as a service applications, analytics, and private and public clouds.1 2 6 Apple, Amazon, and Google have spent a combined $80 billion on physical assets alone such as real estate, powerful computers, and undersea internet cables. 127 These investments benefit the economy and help drive the pace of innovation. Because of these innovations and investment, the tech giants added more market capitalization than the GDP of India since 2008.128 Even the U.S. government is dependent on the benefits of these industries. For example, the Department of Defense relies on Big Tech's cloud computing to meet its needs. 129 Untangling the interwoven nature of Big Tech would be an incredibly difficult task that would likely curb innovation and, in turn, economic growth.

#### Tech companies attain dominance because of superior products, not market power.

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

III. ANALYSIS

A. Monopoly

Monopoly power is defined as "power to control prices or exclude competition; existence of monopoly power may be inferred from predominate share of relevant market." 66 A monopoly has two elements, "the (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident." 67 However, size itself does not make a corporation a monopoly. 68 Size may be considered in "connection with other evidence bearing upon alleged monopolistic practices." 69 Simply earning massive profits or commanding a large portion of the market share is not enough to sustain an antitrust action. Although the existence of monopoly power may be inferred from predominant share of market, monopoly from market does not have to follow automatically, and only careful factual analysis of market in question will reveal whether monopoly power exists. 70 Only an overwhelming market share can qualify a corporation as a monopoly that requires breaking up. Even then, a careful analysis of the market must be done to determine if the corporation constitutes a monopoly.

Generally, courts look to examine whether a company controls more than half the market. United States v. Grinnell states that a company controlling more than 87 percent of relevant market justifies the finding of a monopoly.7 1 Other courts require that a 75 to 80 percent market share is required to successfully prove monopolization under the Sherman Anti-Trust Act.7 2 Thus, an overwhelming share of the market is required to sustain an antitrust action. However, each tech company does not control enough of the market to be considered a monopoly. Facebook and Google combined to account for 70 percent of internet traffic.73 Amazon may account for 49.1 percent of all online sales7 4 , but 90 percent of sales occur offline.7 5

A court may consider other factors tending to show monopoly power, "including the strength of competition, probable development of industry, barriers to entry, nature of anti-competitive conduct, and elasticity of consumer demand." 76 However, a corporation does not violate antitrust laws when its dominant position is secured by offering a better product and customer service.7 7 The tech giants' position in the market is the result of superior products. It is undeniable that Amazon's or Google's positions are not the result of superior products and business acumen. Amazon has surged past other e-commerce sites for its breadth of products that it offers and its convenient services, like Amazon Prime. Likewise, Google usurped Yahoo to become the world's largest search engine because of its refined and improved search algorithms. Google did not become and has not maintained its position as the world's largest search engine by buying up other search engines. Facebook did not become the dominant social network by fixing prices or controlling the supply. Facebook cannot control the supply because much of the supply is manufactured and sold by competing businesses.

It also cannot be said that the tech giants have become dominant because of price fixing or other predatory conduct. The FTC investigated whether Google's search results were unfairly biased toward favoring its own products.7 8 In 2013, the FTC closed its investigation unanimously concluding that Google's conduct did not violate antitrust laws.79 Rather, the big four tech companies have poured money into research and development and have benefitted from it. Without a superior product and demand for that product, these companies would not hold the dominant position they do. Thus, the result of their dominant market position is the result of a superior product.

#### Mergers are good for innovation and prohibitions have limited benefits.

Miller & Mitchell ’21 [Tracy; Senior Policy Research Editor @ Mercatus Center, Former Professor of Economics @ Grove City College, PhD in Economics @ UChicago; and Trace; Research Associate @ Mercatus Center, JD @ George Mason University; 1/27/21; “Dynamic Competition in Digital Markets: A Critical Analysis of the House Judiciary Committee’s Antitrust Report”; https://www.mercatus.org/publications/antitrust-and-competition-policy/dynamic-competition-digital-markets-critical-analysis; AS]

Problems with the Report’s Recommended Policy toward Mergers

In merger cases, whether a firm is considered guilty of violating antitrust law depends on comparing the ways the merger reduces competition and harms consumers with the ways it may benefit consumers. In the case of horizontal mergers, the government compares the adverse impact of fewer competitors on price and quality competition and innovation with ways that the merged firm may be more efficient and benefit consumers by passing along lower costs, improving quality, or conducting research and development more effectively. Current antitrust policy treats horizontal mergers differently from vertical mergers. The Department of Justice and the FTC are less likely to challenge a vertical merger than a horizontal merger because vertical mergers have several potential procompetitive effects. By combining two or more stages of production or by producing complementary products, a single firm may be able to streamline production, inventory management, or distribution. The merged firm will have access to an upstream input at cost with no markup, which can be passed on to consumers through lower prices. The resulting coordination may also give a firm advantages in developing innovative products.

As noted earlier, the report advocates prohibiting dominant firms from acquiring potential rivals or nascent competitors, including “codifying a presumption against acquisition of startups, particularly those that” might become “direct competitors.” In some cases, the most important source of competition for a big tech firm may be new firms entering the market. Digital platform firms may have increasing returns to scale, so average costs steadily decline with firm size. If a firm is subject to strong increasing returns to scale and there is little product differentiation between firms, one firm will tend to dominate the market and competition will come from potential entrants rather than from other incumbent firms. Dominant firms may be able to foreclose this competition by preemptively acquiring startups that have the potential to compete with them.

Although new entrants may be the only viable source of competition for firms with network externalities and economies of scale, the benefits of using antitrust policy to block acquisition of startup firms should be carefully compared with the costs of doing so in specific markets. The benefits are limited because dominant firms have a very difficult time identifying potential competitors to target for preemptive acquisitions, and the costs of blocking acquisitions may be high. Tightening merger policy often reduces startup firms’ innovation incentives and makes it more difficult to transfer technology from startups to dominant firms, which is frequently accomplished by means of acquisition because “markets for technology transfer in the form of licensing work poorly.”

### \*

## Russia

### XT – AT: Hybrid War

#### No impact and proportional deterrence checks escalation.

Galeotti ’16 [Mark; London-based lecturer and writer on transnational crime and Russian security affairs and director of the consultancy Mayak Intelligence; 5/4/16; “The West needs to stop panicking about Russia's "hybrid" warfare”; https://www.vox.com/2016/5/4/11591172/russia-baltics-nato; Vox; accessed 9/29/20; TV]

There is currently a great deal of alarmist concern, triggered by a recent RAND report, about Russia’s supposed ability to conquer the Baltic states — Estonia, Latvia, and Lithuania, three former Soviet republics that are now part of NATO — and thus drive a wedge into NATO without the West being able to do anything to stop it. But before we start to panic, it’s important to consider not just whether Moscow might ever actually want to do this, but also all the many ways in which the West could retaliate other than with military force. There are, after all, more ways to win wars than just with tanks and fighters. The reality is that not only does Russia likely have zero ambitions to capture the Baltic states in the first place, but even if it did, the US and NATO could do a whole lot to punish it for doing so. That’s because for all the talk of Russia’s brilliant use of "asymmetric" or "hybrid" warfare — that is, fighting not so much on the regular battlefield but by using all kinds of sneaky and unconventional approaches, from information and cyber warfare to political manipulation — the truth is that if anyone has an "asymmetric" or "hybrid" edge, it is actually the West. The RAND report: Russia takes the Baltic states while NATO is caught napping The present debate was sparked by a RAND report, released earlier this year, that was based on a series of war games whose goal was to evaluate "the shape and probable outcome of a near-term Russian invasion of the Baltic states." The report concluded that "as presently postured, NATO cannot successfully defend the territory of its most exposed members," essentially the Baltic states, which, it claimed, Russia could conquer in at most 60 hours. There are serious questions over the RAND study’s numbers and assumptions, not least that the Russians would get pretty much everything right and NATO would be caught by surprise. Just because the Russians could take Crimea (against no opposition) and bomb rebels in Syria (who have no serious air defenses), that doesn’t make them 10 feet tall — and any invasion would be impossible to hide from the West, even under the guise of a "military exercise." That might have worked two and a half years ago, but since Crimea we are on the lookout for such scams. The study also fails to consider the most crucial question: intent. In other words, would Russia even want to take the Baltic states in the first place? The Baltic states would just be a major headache for Putin The answer, in short, is probably no. Vladimir Putin is, of course, currently engaged in an aggressive campaign to raise Russia’s international standing and undermine the West’s will to punish him for his actions in Crimea and Ukraine. However, he is neither a lunatic nor some kind of imperialist desperate to rebuild the old Soviet Union. Conquering the Baltic states may be possible, but it would win him the overt enmity of the West, the worry of his other neighbors, and three territories full of disgruntled locals with a history of guerrilla warfare against Muscovite conquerors. And for what? There are no resources of the sort Russia could readily use (their real assets are their people, who would hardly be enthusiastic about their new overlords). Rather than dividing NATO, it would probably unite and galvanize it and make Moscow look dangerously erratic. Even China would be alarmed to find its neighbor and quasi-ally suddenly flirting with global war. The West has many ways to make Russia pay if it did take the Baltic states Even if Russia did take the Baltic states, though, the West would have plenty of ways to punish Russia short of launching a full military counterattack. The first is with financial means. If Russia relies on tanks for its attack, the West could turn to banks for its response. An invasion of the Baltic states would be grounds for invoking NATO’s Article V, which treats an attack on one member as an attack on all members, thus making all NATO members at war with Russia. Member states could not only seize any Russian state assets within their jurisdictions but could — and should — extend this to Russian companies and the personal property of those Russians deemed to be significant players within the state. Oligarchs and officials alike have gleefully taken advantage of Western financial openness and rule of law to stash their usually ill-gotten gains away from the Kremlin’s hands. That could be turned into a vulnerability, a chance to encourage dissent and division within an elite more interested in its own kleptocratic opportunism than in Putin’s historical vision. Not only could the West close its markets to Russia — and likewise ban all exports there — but it could also use its political and economic muscle to try to isolate Russia from its other trading partners. Russia imports almost 40 percent of its food, and while countries such as Iran are unlikely to be willing to curtail exports to Russia, others without land borders with the country could be prevented from supplying the country’s needs. The West could also in effect force Russia out of SWIFT, the Society of Worldwide Interbank Financial Telecommunication. This would severely limit Russian banks’ capacity to move money and engage in economic activity, and although it’s not the "nuclear option" some make it out to be — in part because there are some ways around it — it would still be a severe blow to the Russian economy. Another way the West can hurt Russia is through cyberattacks. While Russian cyberattacks have been most evident, this is more because Moscow has been more willing to encourage its hackers to cause mischief in the West than because it has that much greater capacity. The West could strike back in kind once it was willing to take off the virtual gloves. Putin may be willing to see ordinary Russians make sacrifices in the name of geopolitics, but with the ruble already having devalued by some 50 percent, and more than half of household budgets in Russia currently being spent on food, how long would they be willing and able to put up with that? The old stereotypes of the fatalistic Russian peasant willing to endure any hardship for the motherland are long since out of date. Putin’s popularity at home depends on giving the appearance of easy wins, whether in Crimea or Syria. What happens to that narrative when, for example, cyber attacks crash the cellphone networks on which Russians have come to rely? How does the country function when the software behind the railways and airports becomes compromised? How do Russians buy, sell, and work when banking systems are hit and ATMs closed down? There are also "non-kinetic" military options that play to Western strengths and would have a disproportionate impact on Russia. NATO is worried about the threat of "A2/AD" — anti-access/area denial — as Russian missiles and submarines prevent NATO planes from flying in Central Europe and NATO ships from operating in the Baltic Sea. But, conversely, NATO can close the Dardanelles to any Russian military or civilian shipping, locking it out of the Mediterranean, just as it can also deny Russia the Baltic, and maybe also the Barents and Okhotsk seas to the north and east. Beyond that, the West controls the global sea lanes and could impound Moscow’s ships and cargoes, or prevent third-country trade with Russia.

#### No hybrid war

Dr. Samuel Charap 16, Ph.D. in Political Science from the University of Oxford, M.Phil. in Russian and East European Studies from the University of Oxford, B.A. in Political Science and Russian from Amherst College, Senior Fellow for Russia and Eurasia at the International Institute for Strategic Studies, “The Ghost of Hybrid War”, Survival, Volume 57, Number 6, December 2015 – January 2016

Analysts in the West tend to think that Russia would choose hybrid tactics in order to sow discord within NATO – using ambiguity to create divisions among allies about what was happening and how to respond – and thus break the Alliance politically, without firing a shot.13 This scenario reflects well-founded doubts about Alliance cohesion and unity. It does not reflect the reality of Russian strategy. An extensive search of Russian military writings produces no evidence of such considerations. Moreover, what we do know about Russian military thought suggests that a hybrid war with NATO would not make strategic sense from Moscow’s perspective. For the Russian military, the most significant threat in the Baltic region, particularly because of the strategically vulnerable Kaliningrad exclave, where the Russian Baltic Fleet is based, is the potential deployment of US forces and high-end capabilities. A Russian hybrid operation would give ample time for the US to do just that. So, in the time it took for Narva, the Russian-speaking Estonian border town, to be occupied by the little green men, the 101st Airborne Division could land in Tallinn and a US carrier group could set sail for the Gulf of Finland. Moreover, Moscow has options to prevent this scenario from materialising. For example, the army, with air support, could rapidly push from the Estonian border to the Baltic Sea, destroying all Estonian forces and denying the US access to the region before anyone in Washington or Brussels had the chance to navel gaze. One Russian analyst noted that it would take 30,000 NATO troops about a month to deploy to the Baltic region, while a Russian force of three times the size could be sent there in just 24 hours. He concluded that ‘while Europe’s top brass discuss and argue how to transit to the theater, and coordinate all of this with [the US], Warsaw, Riga, Tallinn and Vilnius would be transformed into a rubbish heap’.14

Some analysts have gone even further than discerning a doctrine and now claim that Russia is already conducting hybrid warfare on the West. As one recent report claimed, ‘The various diplomatic, economic, military and subversive measures that have been employed by Russia in the Baltic Region and increasingly in the Balkans, Black Sea and Mediterranean regions, could be interpreted as elements of a protracted campaign already underway.’15 The author thus equates hard-nosed – but commonplace – tactics to gain influence with subversion that represents a threat to national security. But there is a major difference between efforts to subvert a population against its government on the one hand, and the use of normal tools of statecraft to gain influence on the other.16 The former would be, of course, a real problem for NATO; fortunately, nothing like the subversion of eastern Ukraine is happening inside member states today. As for all the other unpleasant activities that Russia undertakes inside NATO and EU member states, such as funding political parties or developing media in local languages, these certainly do not merit the label ‘hybrid’, let alone ‘war’. After all, Western countries have been doing many of the same things inside of Russia for years. And no one considered those activities ‘elements of a protracted campaign already underway’.

\* \* \*

Three parallels between the developing conventional wisdom in Russia and the West on hybrid war emerge from the literature. Firstly, Russian strategists believe that the US is willing to risk conducting a limited, hybrid operation in Russia – that is, on the territory of a nuclear power – just as NATO strategists believe Russia is willing to risk the same on the territory of a nuclear alliance. Secondly, Russian analysts project well-founded fears about their country’s long-term political cohesion onto the West’s intentions. In other words, they know their political system is brittle, so therefore the Americans must be out to undermine it. In the same way, NATO analysts know there are divergences regarding threat perceptions inside the Alliance, so therefore Russia must be planning to take advantage of them. Finally, each side believes that Ukraine represents the other’s successful hybrid operation, and a potential precursor to such an operation being directed against it. Fortunately, on all three counts, the new conventional wisdom in both Russia and the West is wrong.

## Europe

### XT 1NC 1: Convergence Now

#### The EU supports the consumer welfare standard.

Kovacic ’18 [William; Global Competition Professor of Law and Policy @ George Washington University Law School; “Competition Policy in the European Union and the United States: The Treatment of Dominant Firms” in Hearing on “A Comparative Look at Competition Law Approaches to Monopoly and Abuse of Dominance in the US and the EU”; Senate Judiciary Subcommittee on Antitrust, Competition Policy, and Consumer Rights; AS]

3. Similarities and Dissimilarities in the Substance of EU and US Competition Policy

I share the often-expressed view of EU and US competition officials that the general trend of competition policy in the two jurisdictions has been toward common acceptance of substantive standards and the analytical concepts that support the implementation of those standards. An overview of overall goals and specific areas of activity verifies that proposition and also underscores noteworthy differences.

3.1. The Objectives of Competition Policy

It is nearly 30 years since Robert Bork’s Antitrust Paradox famously underscored the importance of objectives to the operation of a competition policy system. “Antitrust policy,” Bork wrote, “cannot be made rational until we are able to give a firm answer to one question: What is the point of the law – what are its goals? Everything else follows from the answer we give.”14

Modern discourse between EU and US government officials has featured many statements about the proper aims of competition law. The speeches of top agency leaders in both jurisdictions indicate broad agreement on the question of goals. Each jurisdiction accepts the broad proposition that the central aim of competition law is “the objective of benefitting consumers.”15 Consistent with the single-minded focus on “consumer welfare,” EU and US antitrust officials routinely disavow any purpose of applying competition laws to safeguard individual competitors as an end in itself. EU officials also have grown accustomed to hearing, by direct quotation or paraphrase, the U.S. Supreme Court’s admonition that the proper aim of antitrust law is “‘the protection of competition, not competitors.’”16

### Alt Cause

#### Alt cause – comity causes conflict

Akhtar ’18 [Zia; LLB, LLM, PhD Candidate @ Sussex University; “Mergers, Extraterritorial Jurisdiction and Convergence of EU and US Law,” *European Review of Private Law* 27(1), p. 59-82; AS]

39. The application of extra territorial jurisdiction of companies becomes more complicated when different political and economic interests are involved, generating conflicts that often place one jurisdiction against the other.

It is in this context of the effects and implementation theory that competition law is impacted on companies which are carrying on business in other jurisdictions. This has been contextualized by the companies registered under the US and EU jurisdictions that have adopted approaches in antitrust law.

40. The EU’s main challenge in asserting jurisdiction is to use appropriate discretion given comity obligations.62 In Boeing/McDonnell Douglas MDC v. Commission of the European Communities63 the Commission blocked a merger of two American undertakings and in response, US policy makers claimed that the EU should not use merger control to protect companies from global competitors. It was based on the cooperation between the States and companies involved in and the clearance was given to the merger while avoiding larger issues including giving consideration of the interests of other countries.

41. The European Commission received the notification of concentration and objected because it alleged that it would pose a potential threat to the EU market. However, the Commission made a final decision to give a clearance to the concentration after Boeing gave certain commitments. Therefore, it could be concluded that international comity could possibly contribute significantly in resolving legal conflicts caused by extraterritorial assertion of jurisdiction, although the international merger cases tend to be complex.64

42. However, a few years later, similar US–EU conflict could not be circumvented when the Commission blocked the biggest merger in US corporate history in GE/ Honeywell.65 This case demonstrated the urgency of a global competition policy to deal with increasing transnational business.66 The Commission’s case was threefold which was that GE held a dominant position in the market for large jet aircraft engines (between 43% and 65% depending on how market share was calculated) a situation where firms’ conduct is subject to particular scrutiny under Article 102, (TFEU). In business terms Honeywell had a leading position in the avionics and non-avionics aerospace component markets and the EUMR enforced at the time prohibited mergers or acquisitions which ‘create or strengthen(s) a dominant position as a result of which effective competition would be significantly impeded in the common market’. 67

# 1NR

## DA

### 1NC – Biz Con DA

#### The plan creates a chilling effect that crushes business confidence and investment

Hathout 9/23 – Ahmad Hathout, reporter focusing on the tech and telecommunications industries, citing a panel event hosted by the Institute for Policy Innovation, “Washington’s Antitrust Push Could Create ‘Chilling Effect’ on Startups, Observers Say,” 9/23/21, https://broadbandbreakfast.com/2021/09/washingtons-antitrust-push-could-create-chilling-effect-on-startups-observers-say/

WASHINGTON, September 23, 2021 – Advocates for less government encroachment on big technology companies are warning that antitrust is being weaponized for political ends that may end up placing a “chilling effect” on innovative businesses.

The Institute for Policy Innovation held a web event Wednesday to discuss antitrust and the modern economy. Panelists noted their concern that antitrust law may be welded with political aims that will ultimately create a precedent whereby the federal government will stifle innovators who get too big.

Jessica Melugin, the director of the Center for Technology and Innovation, said technology companies could see what’s happening in Washington – with lots of talk of breaking up companies deemed too big – and be uncertain of the future.

She noted that growing companies largely seek one of two things to make it big: grow to file an initial public offering, where the company’s shares are publicly traded, or wait until a large company buys you out. She said talk emanating from the White House and Washington generally about regulating the industry could deter larger companies from acquiring them, and onerous financial regulations could put a damper on IPO dreams.

“If you start robbing companies of other smaller companies they purchased, it’s going to give a lot of entrepreneurs and a lot of funders in Silicon Valley pause,” Melugin said. “If another path to success gets blocked – the IPO is now harder, and now acquisitions are a little bit questionable…that’s a chilling effect.”

President Joe Biden has made a number of appointments to key positions that is bringing more attention on Big Tech, including known Amazon critic Lina Khan to chair the Federal Trade Commission, which recently filed an amended case against Facebook for alleged anticompetitive practices. He also appointed antitrust expert and Google critic Jonathan Kanter as assistant attorney general in the Justice Department’s antitrust division.

FTC could set a bad precedent if focus is ‘big is bad’

Christopher Koopman, the executive director at the Center for Growth and Opportunity at Utah State University, said he’s concerned about the precedent Khan could set for big companies.

He said the odds are that once Khan starts, she will continue down “this path of ‘big is bad’ because that’s a prior that she has and she’s continued to operate on her entire professional career. It just so happens that the focus of this is on tech companies.

“We may be building a regulatory apparatus that will continue to burrow a hole right down the middle of the American economy before we even have a chance to ask if that’s really what we want,” Koopman added. “We just have to recognize that it doesn’t matter, really, who is running the FTC – once we tell the FTC to go break up big companies, they’re going to go break up big companies.”

#### Unpredictable shifts ruin biz con and overall growth

Cambon 21 – Sarah Chaney Cambon, reporter on The Wall Street Journal's Economics Team, “Capital-Spending Surge Further Lifts Economic Recovery”, 6/27/2021, https://www.wsj.com/articles/capital-spending-surge-further-lifts-economic-recovery-11624798800

Business investment is emerging as a powerful source of U.S. economic growth that will likely help sustain the recovery.

Companies are ramping up orders for computers, machinery and software as they grow more confident in the outlook.

Nonresidential fixed investment, a proxy for business spending, rose at a seasonally adjusted annual rate of 11.7% in the first quarter, led by growth in software and tech-equipment spending, according to the Commerce Department. Business investment also logged double-digit gains in the third and fourth quarters last year after falling during pandemic-related shutdowns. It is now higher than its pre-pandemic peak.

Orders for nondefense capital goods excluding aircraft, another measure for business investment, are near the highest levels for records tracing back to the 1990s, separate Commerce Department figures show.

“Business investment has really been an important engine powering the U.S. economic recovery,” said Robert Rosener, senior U.S. economist at Morgan Stanley. “In our outlook for the economy, it’s certainly one of the bright spots.”

Consumer spending, which accounts for about two-thirds of economic output, is driving the early stages of the recovery. Americans, flush with savings and government stimulus checks, are spending more on goods and services, which they shunned for much of the pandemic.

Robust capital investment will be key to ensuring that the recovery maintains strength after the spending boost from fiscal stimulus and business reopenings eventually fades, according to some economists.

Rising business investment helps fuel economic output. It also lifts worker productivity, or output per hour. That metric grew at a sluggish pace throughout the last economic expansion but is now showing signs of resurgence.

The recovery in business investment is shaping up to be much stronger than in the years following the 2007-09 recession. “The events especially in late ’08, early ’09 put a lot of businesses really close to the edge,” said Phil Suttle, founder of Suttle Economics. “I think a lot of them said, ‘We’ve just got to be really cautious for a long while.’”

Businesses appear to be less risk-averse now, he said.

After the financial crisis, businesses grew by adding workers, rather than investing in capital. Hiring was more attractive than capital spending because labor was abundant and relatively cheap. Now the supply of workers is tight. Companies are raising pay to lure employees. As a result, many firms have more incentive to grow by investing in capital.

Economists at Morgan Stanley predict that U.S. capital spending will rise to 116% of prerecession levels after three years. By comparison, investment took 10 years to reach those levels once the 2007-09 recession hit.

Company executives are increasingly confident in the economy’s trajectory. The Business Roundtable’s economic-outlook index—a composite of large companies’ plans for hiring and spending, as well as sales projections—increased by nine points in the second quarter to 116, just below 2018’s record high, according to a survey conducted between May 25 and June 9. In the second quarter, the share of companies planning to boost capital investment increased to 59% from 57% in the first.

“We’re seeing really strong reopening demand, and a lot of times capital investment follows that,” said Joe Song, senior U.S. economist at BofA Securities.

Mr. Song added that less uncertainty regarding trade tensions between the U.S. and China should further underpin business confidence and investment. “At the very least, businesses will understand the strategy that the Biden administration is trying to follow and will be able to plan around that,” he said.

#### Extended COVID economic decline causes multilateral meltdown – causes nuclear war, climate change, Arctic and space war.

McLennan 21 – Strategic Partners Marsh McLennan SK Group Zurich Insurance Group, Academic Advisers National University of Singapore Oxford Martin School, University of Oxford Wharton Risk Management and Decision Processes Center, University of Pennsylvania, “The Global Risks Report 2021 16th Edition” “http://www3.weforum.org/docs/WEF\_The\_Global\_Risks\_Report\_2021.pdf

Forced to choose sides, governments may face economic or diplomatic consequences, as proxy disputes play out in control over economic or geographic resources. The deepening of geopolitical fault lines and the lack of viable middle power alternatives make it harder for countries to cultivate connective tissue with a diverse set of partner countries based on mutual values and maximizing efficiencies. Instead, networks will become thick in some directions and non-existent in others. The COVID-19 crisis has amplified this dynamic, as digital interactions represent a “huge loss in efficiency for diplomacy” compared with face-to-face discussions.23 With some alliances weakening, diplomatic relationships will become more unstable at points where superpower tectonic plates meet or withdraw.

At the same time, without superpower referees or middle power enforcement, global norms may no longer govern state behaviour. Some governments will thus see the solidification of rival blocs as an opportunity to engage in regional posturing, which will have destabilizing effects.24 Across societies, domestic discord and economic crises will increase the risk of autocracy, with corresponding censorship, surveillance, restriction of movement and abrogation of rights.25 Economic crises will also amplify the challenges for middle powers as they navigate geopolitical competition. ASEAN countries, for example, had offered a potential new manufacturing base as the United States and China decouple, but the pandemic has left these countries strapped for cash to invest in the necessary infrastructure and productive capacity.26 Economic fallout is pushing many countries to debt distress (see Chapter 1, Global Risks 2021). While G20 countries are supporting debt restructure for poorer nations,27 larger economies too may be at risk of default in the longer term;28 this would leave them further stranded—and unable to exercise leadership—on the global stage.

Multilateral meltdown Middle power weaknesses will be reinforced in weakened institutions, which may translate to more uncertainty and lagging progress on shared global challenges such as climate change, health, poverty reduction and technology governance. In the absence of strong regulating institutions, the Arctic and space represent new realms for potential conflict as the superpowers and middle powers alike compete to extract resources and secure strategic advantage.29 If the global superpowers continue to accumulate economic, military and technological power in a zero-sum playing field, some middle powers could increasingly fall behind. Without cooperation nor access to important innovations, middle powers will struggle to define solutions to the world’s problems. In the long term, GRPS respondents forecasted “weapons of mass destruction” and “state collapse” as the two top critical threats: in the absence of strong institutions or clear rules, clashes— such as those in Nagorno-Karabakh or the Galwan Valley—may more frequently flare into full-fledged interstate conflicts,30 which is particularly worrisome where unresolved tensions among nuclear powers are concerned. These conflicts may lead to state collapse, with weakened middle powers less willing or less able to step in to find a peaceful solution.

### 1NR – AT: Case Outweighs

#### Turns Europe – dropped our argument that extended COVID decline uniquely hurts tade barriers and cooperation and key to maintain alliances globally.

Ronald O'Rourke, Specialist in Naval Affairs, and Kathleen J. McInnis, Specialist in International Security, 12-30-20, “COVID-19: Potential Implications for International Security Environment— Overview of Issues and Further Reading for Congress” https://www.everycrsreport.com/files/2020-12-30\_R46336\_68ae591edfaede65543751d6a841cc97e9761ef8.pdf

World Economy, Globalization, and U.S. Trade Policy

Some observers have focused on the possibility that the COVID-19 pandemic could lead to significant and potentially long-lasting changes to the world economy that in turn could reshape the international security environment. Among other things, observers have focused on the possibility that the COVID-19 situation could be leading the world economy into a significant recession—an effect that could contribute to the societal tensions mentioned in the previous point. Noting that the COVID-19 pandemic has reduced world trade volumes and disrupted global supply chains, they have focused on the question of whether economic globalization will as a result be slowed, halted, or reversed. Observers are monitoring how such effects could influence or be influenced by U.S. trade policy.

Allied Defense Spending and U.S. Alliances

The so-called burden-sharing issue—that is, the question of whether U.S. allies are shouldering a sufficient share of the collective allied defense burden—has long been a point of contention between the United States and its allies around the globe, and it has been a matter of particular emphasis for the Trump Administration. Some observers have focused on the possibility that the costs that U.S. allies are incurring to support their economies during stay-at-home/lockdown periods will lead to offsetting reductions in their defense expenditures. Some observers argue that the NATO allies in Europe in particular may experience contractions in their defense budgets for this reason. More generally, some observers argue that if the COVID-19 pandemic causes a global recession, allied defense budgets could be further reduced—a potential impact that could affect not only NATO allies in Europe, but those in Asia as well.

### 1NR – AT: Growth Low

#### Growth is strong – most recent CBO projections

Barnes 9/29 – Mitchell Barnes, research analyst for the Hamilton Project, part of the Brookings Institution, “11 facts on the economic recovery from the COVID-19 pandemic,” 9/29/21, https://www.brookings.edu/research/11-facts-on-the-economic-recovery-from-the-covid-19-pandemic/

With the ongoing effects of fiscal support, pent-up demand from consumers for face-to-face services, and the strength in labor markets and asset prices, economic growth is poised to be strong for the remainder of 2021. Indeed, the Congressional Budget Office (CBO) projects that real GDP will grow 7.4 percent from the fourth quarter of 2020 to the fourth quarter of 2021 (CBO 2021c). Moreover, CBO predicts that, by the middle of 2022, real GDP will exceed its sustainable level by 2.5 percent. The sustainable level of GDP, also known as potential output, is not a ceiling. Instead, it is the estimated level of output, given current laws and underlying structural factors, that the economy can achieve without putting upward pressure on inflation. As the factors boosting growth in the short term begin to wane, real GDP growth is expected to slow significantly.

CBO’s projection is subject to a great deal of uncertainty. In particular, the resurgence in the pandemic stemming from the Delta variant, vaccine hesitancy, and the slowness in vaccinating children ages 12 and younger appear to have dampened the growth of consumer demand and employment. Recent data suggest that the latest COVID-19 wave might be waning. However, if the Delta variant—or others that take its place—continue to affect consumer behavior and supply chains, the economic recovery will be notably slower.

#### Economic growth is stable but new shocks could derail the recovery

Irwin 9/27 – Neil Irwin, economics correspondent for the New York Times, “The Economy Looks Solid. But These Are the Big Risks Ahead.” 9/27/21, https://www.nytimes.com/2021/09/27/upshot/economy-risk-analysis.html

The Organization for Economic Cooperation and Development last week projected that the world economy would grow 4.5 percent in 2022, downshifting from an expected 5.7 percent expansion in 2021. Its forecast for the United States shows an even steeper slowdown, from 6 percent growth this year to 3.9 percent next.

Of course, a year of 3.9 percent G.D.P. growth would be nothing to scoff at — that would be much faster growth than the United States has experienced for most of the 21st century. But it would represent a resetting of the economy.

“We’ve had liftoff, and now we’re at cruising altitude,” said Beth Ann Bovino, chief U.S. economist at S&P Global.

After the global financial crisis of 2008-9, the great challenge for the recovery was a shortfall of demand. Workers and productive capacity were abundant, but there was inadequate spending in the economy to put that capacity to work. The post-reopening stage of this recovery is the opposite image.

Now there is plenty of demand — thanks to pent-up savings, trillions of dollars in federal stimulus dollars, and rapidly rising wages — but companies report struggles to find enough workers and raw materials to meet that demand.

Dozens of container ships are backed up at Southern California ports, waiting their turn to unload products meant to fill American store shelves through the holiday season. Automakers have had to idle plants for want of semiconductors. Builders have had a hard time obtaining windows, appliances and other key products needed to complete new homes. And restaurants have cut back hours for lack of kitchen help.

These strains are, in effect, acting as a brake that slows the expansion. The question is how much, and for how long, that brake will be applied.

“The kinds of growth rates we are seeing were a bounce-back from a really severe recession, so it’s no surprise that won’t continue,” said Jennifer McKeown, head of the global economics service at Capital Economics. “The risk is that this becomes less about a natural cooling and more about the supply shortages that we’re seeing really starting to bite. That may mean that economic activity doesn’t continue to grow as we’re expecting it to, as instead there is a stalling of activity and price pressures starting to rise.”

The problem is that the supply shortages have many causes, and it is not obvious when they will all diminish. Spending worldwide, and especially in the United States, shifted toward physical goods over services during the pandemic, more quickly than productive capacity could adjust. The Delta variant and continued spread of Covid has caused restrictions on production in some countries. And the lagged effects of production shutdowns in 2020 are still being felt.

Then there are the risks that lurk in the background — the kinds of things that aren’t widely forecast to be a source of economic distress, but could unspool in unpredictable ways.

#### Delta has reduced the pace of the recovery, but the economy is still growing substantially

Egan 9/27 – Matt Egan, reporter for CNN Business, “Economists slash their forecasts for America's growth,” 9/27/21, https://www.cnn.com/2021/09/27/economy/gdp-forecast-nabe/index.html

Business economists are marking down their forecasts for US growth this year as the Delta variant takes a toll on the recovery, according to a survey released Monday.

The National Association for Business Economists said the panel of 47 economists it surveyed now expects US GDP growth of 5.6%. Although that's still strong, it marks a downgrade from May when business economists anticipated 6.7% growth. Economists also sharply cut their call for third-quarter growth to an annualized pace of 4%, down from 6.6% in May.

The downgrades reflect the damage from the Delta variant, which has slowed air travel, hotel reservations and office reopenings.

At the same time, economists are bracing for price spikes to continue at the end of this year. Consumer prices are expected to surge by 5.1% during the fourth quarter on a year-over-year basis, according to NABE. That's up sharply from a forecast for 2.8% inflation as of May and underscores the sticker shock Americans are experiencing in everything from used cars and gasoline to meat.

The good news is that business economists share the Federal Reserve's view that high inflation will prove to be temporary as the economy continues to adjust to Covid. Consumer prices inflation is expected to moderate to 2.4% by the fourth quarter of next year, NABE said.

#### Rising vaccinations stop Delta from killing the economy

Reilly 9/23 – Devon Reilly, assistant editor at S&P Global, “Economic Outlook U.S. Q4 2021: The Rocket Is Leveling Off,” 9/23/21, https://www.spglobal.com/ratings/en/research/articles/210923-economic-outlook-u-s-q4-2021-the-rocket-is-leveling-off-12120697

In this light, we revised our forecasts of real GDP growth for 2021 and 2022 to 5.7% and 4.1%, respectively, from 6.7% and 3.7% in our June report, with our new 2021 GDP forecast down a whopping 1 percentage point from June. Still, the near-term health of the U.S. economy remains strong and our current GDP forecast, if correct, is still the highest reading since 1984. The number of new cases fell in the first week of September, for the first time since late June. The delta variant and FDA approval of the Pfizer vaccine are encouraging more people to get vaccinated, bringing the country closer to herd immunity with 55% of Americans fully vaccinated as of Sept. 20. Moreover, the U.S. economy has felt less impact with each wave of the virus and has been able to withstand the damage. We maintain our assessment of U.S. recession risk over the next 12 months at 10%-15%--our lowest assessment in six years.

#### Business investment rising – generates longer-term growth

Ro 21 – Sam Ro, Markets Correspondent for Axios, “The "remarkable" business investment recovery,” 7/28/21, <https://www.axios.com/business-investment-recovery-0f7e7080-269e-4838-976a-fc91debb8d4f.html>

[Capex = capital expenditure]

Businesses are investing in themselves.

Why it matters: Core capital goods orders, or those for durable goods that aren’t aircraft or defense-related, are a proxy for business investment.

These equipment orders will get fulfilled in the months ahead, so they reflect businesses’ expectations for the future.

Continued growth in this measure suggests the economic growth we’re experiencing today may not be the peak.

By the numbers: Core capital goods orders increased by 0.5% in June to $76.1 billion, up from an upwardly revised $75.7 billion in May. Year-over-year, this measure is up 16.7%.

What they’re saying: Pantheon Macroeconomics’ Ian Shepherdson says the elevated levels of these orders is “remarkable.”

“A combination of rebounding earnings and support from the federal government, coupled recently with clear evidence of acute labor shortages, is pushing companies into raising capex in order to expand capacity and remain competitive,” he writes.

“If you aren't spending but your competitors are, you'll lose market share," Shepherdson adds.

The big picture: “These data points provide insight into businesses’ plans for investment in the third quarter,” Grant Thornton chief economist Diane Swonk writes.

“Continued strength in computers and electronics offset a small drop in orders in the vehicle sector, which has suffered some of the biggest supply-chain problems due to a shortage of computer chips,” Swonk says.

What to watch: These mounting orders for new capital equipment should translate to higher growth expectations from businesses.

Meanwhile, the monthly durable goods reports bear watching to see if these core capital goods orders continue to rise.

“Companies in aggregate are cash-rich, but they remain asset-constrained after a decade of under-investment following the financial crisis,” Shepherdson said. “Accordingly, we expect capex to continue rising at a rapid pace for the foreseeable future.”

The bottom line: Orders for business equipment represent companies putting their money where their mouths are. Whether or not you believe economic activity has peaked, it is the case that businesses are positioning themselves for more growth.

### 1NR – AT: FTC Thumper

#### Limited FTC resources prevent large antitrust actions now

Chakravorti 21 – Bhaskar Chakravorti, dean of global business at Tufts University’s Fletcher School of Law and Diplomacy, “Lina Khan Has Her Own Antitrust Paradox,” 9/7/21, https://foreignpolicy.com/2021/07/07/ftc-lina-khan-regulate-tech-congress/

Since Khan has written forcefully about revisiting antitrust standards, it is natural to expect this case would be her chance to rewrite not only the charge against Facebook but to change those standards more broadly. There is little doubt this is where her mind is. The FTC under her leadership voted to revoke a 2015 policy statement that limited the agency’s reach, giving it room to frame cases beyond the two foundational boundaries of antitrust in the United States: the Sherman Antitrust Act and the Clayton Antitrust Act.

But the FTC’s levers are limited.

Although Khan can reframe the fundamentals of the antitrust complaint, without adequate regulatory infrastructure—something only Congress can provide—there are likely to be unsurmountable obstacles as the chess game between the law and Facebook unfolds. No matter how brilliantly Khan’s FTC rewrites the case against Facebook, the agency’s powers, budget, and resources are still limited. Ad hoc adjustments to the FTC’s budget, as envisioned in one of the bills in Congress, and stopgap measures to expand its powers do not get around the fundamental fact that the FTC was not set up to pursue the breadth of novel issues and policy trade-offs that digital industries create.

Antitrust in digital industries cannot be considered in isolation. It is also quite different from antitrust in other industries because there are issues unique to the industry. A holistic view of digital antitrust means tying antitrust concerns with numerous broader questions, such as securing users’ data rights, the responsibilities platforms ought to have for the content they host, and criteria that helps demarcate the benefits of network effects from the abuses of network power. The FTC is too much of a general purpose entity to dive into these complexities. As former Federal Communications Commission chair Tom Wheeler observed: “The vast scope of the FTC’s present responsibilities—as diverse as funeral director practices, robocalls, and labeling hockey pucks—means that the oversight of digital platform regulation must compete with the agency’s existing diverse responsibilities and limited resources.”

#### No major antitrust actions coming now – it’s all tinkering around the edges

Wright 21 – Joshua D. Wright, Executive Director of the Global Antitrust Institute at the Antonin Scalia Law School, former commissioner of the U.S. Federal Trade Commission from 2013 to 2015, interviewed by James Pethokoukis, senior fellow at AEI, “Will US antitrust law break up Big Tech? My long-read Q&A with Joshua D. Wright,” 2/9/21, <https://www.aei.org/economics/will-us-antitrust-law-break-up-big-tech-my-long-read-qa-with-joshua-d-wright/>

[Italics denote questions from Pethokoukis]

*Do you think that, if we have this conversation in four years, we will have seen any major action against any of the largest technology companies that involves them selling off a significant business?*

That’s a great question. I bet the under, and here’s why. The US antitrust doctrine is what it is right now, and we still have meaningful judicial review. And on the left and the right, you see all of the attention paid to legislative change — they’re not going to win in the court. The DOJ will bring its case against Google, the FTC has a Facebook case where they might be able to convince a court to spin off WhatsApp or Instagram. I’m skeptical that those are good cases, but neither of them are the big-breakup, affect-the-business-model case that proponents of a new antitrust are looking for. For what it’s worth, my money is that the government loses both of those cases, but those cases exist. But overall, I think that the hope for the antitrust reformers lies, not in the courts, but in Congress.

Maybe I’ve been in DC too long, but I always bet the under if someone tells me that the revolution is coming from Congress. I don’t think we’re going to see legislation that undoes the consumer welfare standard. I do think that you’ll see some antitrust legislation. You’ll get bigger budgets for the agencies, and maybe you’ll get tinkering around the margins with the presumption here or presumption there. But I don’t think that you’re going to see a regulatory antitrust revolution via Congress.

I think it’s going to have to be done through the courts, and I’m skeptical. My silver lining of hope when watching some of these discussions happen is that you’ve got to win in the Article III courts, and that means you’ve got to have proof, not just political grievances. I don’t think they’ve got that.

#### Any new antitrust will be tiny tweaks rather than the aff’s substantial change

Hirsh 21 – Michael Hirsh, senior correspondent at Foreign Policy, “Big Talk on Big Tech—but Little Action,” 4/6/21, https://foreignpolicy.com/2021/04/06/big-tech-regulation-facebook-google-amazon-us-eu/

Problem is, that’s just about where the consensus ends. And even if you add more lawyers, antitrust cases move glacially, and federal judges are extremely cautious about punishing behavior deemed anti-competitive, especially in an era when antitrust experts disagree vehemently about remedies. Plus, now every case faces the prospect of being squelched by a very conservative Supreme Court.

Despite the documented actions of Facebook and other companies in crushing would-be competitors, there is also good reason for judicial caution. Consider the irony that Microsoft—itself the target of a major antitrust action a quarter century ago—now considers itself the aggrieved party in the recent Department of Justice case against Google, since it is trying to raise the profile of its Bing search engine, which has a meager 2.5 percent of the market. Or that Facebook’s own dominance may someday fall victim—without any help from government at all—to new blockchain technology that could allow users to run their own web services and applications. (Ironically, among the key innovators pushing for that are Zuckerberg’s old antagonists from Harvard University, Tyler and Cameron Winklevoss, who famously claimed that he stole the social network idea from them.) Even today, many antitrust experts say it’s probably a judicial and legislative bridge too far for the government to try to proactively promote competition in the tech world; let the markets take care of that instead.

But so changed is the political environment that U.S. President Joe Biden and some of his top regulators, such as Lina Khan, a Yale Law School wunderkind who was recently nominated to the FTC, might seek to break up the big tech firms. Biden, on the campaign trail, said that breaking up tech quasi-monopolies such as Facebook is “something we should take a really hard look at.”

That is almost certainly not going to happen: The political will simply isn’t there, even among many Democratic legislators influenced by Khan and other progressive thinkers.

“I don’t think Biden has the stomach for that,” said Herbert Hovenkamp, an antitrust expert at the University of Pennsylvania. The reason is simple: Today’s monopolistic abuses are quite unlike the monopoly power of old, when big cartels like John D. Rockefeller’s Standard Oil inflicted predatory high prices on consumers and political will was high to “bust trusts.” On the contrary: Most consumers love the fact that they can buy all kinds of inexpensive stuff on Amazon and have it delivered the next day, and that Facebook doesn’t charge them a cent, even as it makes a mint selling their private information to advertisers and market manipulators.

“The Democrats need to be cautious here,” Hovenkamp said. “Consumers are their constituency. And these companies are among the biggest producers of growth in the U.S. Biden certainly doesn’t want to ruin that.” Instead, the administration may well decide to focus more on smaller fish in other industries, as the FTC did last week by challenging Illumina’s $7 billion purchase of cancer test developer Grail. In a sign of how aggressive the FTC might be under Biden, it was the first time in decades that the commission sought to block a so-called vertical merger, alleging that ownership of Grail would incentivize Illumina, a gene-sequencing company, to raise costs on Grail’s competitors.

Indeed, though the United States and the European Union agree that new solutions are needed to curtail the dominance of Big Tech, the approaches remain very different. For years, the EU has led the way in filing antitrust cases, but late last year it did an about-face—deciding on a regulatory rather than lawsuit-based approach. After Brussels released a draft of its Digital Markets Act, EU competition minister Margrethe Vestager tweeted that the new rules would establish “do’s & don’t to gatekeepers” of our digital world. If passed, the act could levy stiffer penalties than ever before, including a demand for a percentage of earnings.

On the other side of the Atlantic, the FTC is also mulling ways to amp up its regulatory power. Khan and other progressives advocate rules that prevent a tech platform from favoring its own products in search results or pressing its own technologies on users, as Google allegedly does with Android, a mobile operating system. Violation of such rules could subject companies to substantial fines. According to a report last fall by Democratic members of the House Subcommittee on Antitrust—and partially written by Khan—Google has used “a series of anti-competitive contracts” that pushed Google search for users of Android phones.

Yet in many areas huge disagreement remains about how to contain Big Tech. Republicans and Democrats both want to do so, for different reasons; the former believe that Silicon Valley is biased against the right politically, while the latter tend to worry about anti-competitive behavior. Klobuchar has sponsored a monster bill, the Competition and Antitrust Law Enforcement Reform Act, which is intended not only to give federal enforcers more resources but also to strengthen prohibitions on anti-competitive conduct and mergers, among other reforms. As yet, however, she has no Republican co-sponsors, and Democrats in the House are leery of going the same route with a sprawling omnibus bill, according to a legislative aide with knowledge of the process. “If you have a big bill it creates a honey pot” for opponents, he said, noting that Big Tech’s pockets are much deeper than those of their antitrust counterparts. House leaders will instead try to introduce a slew of specifically targeted separate bills.

### 1NR – AT: New York Thumper

#### This card is speculating about passage of the law not saying it has passed.

**Abbott, 21** (Alden Abbott, Abbott is a a senior research fellow at the Mercatus Center, focusing on antitrust issues. He previously served as the Federal Trade Commission’s General Counsel from 2018 to early 2021., 6-13-2021, accessed on 9-13-2021, Truth on the Market, "NY ‘Abuse of Dominance’ Bill Attacks Consumer Welfare and the US Antitrust Tradition", https://truthonthemarket.com/2021/06/13/ny-abuse-of-dominance-bill-attacks-consumer-welfare-and-the-us-antitrust-tradition/)//Babcii

Unfortunately, the New York State Senate seems to have lost sight of the importance of promoting vigorous competition and consumer welfare, not competitor welfare, as the hallmark of American antitrust jurisprudence. The chamber on June 7 passed the ill-named 21st Century Antitrust Act (TCAA), legislation that, if enacted and signed into law, would seriously undermine consumer welfare and innovation. Let’s take a quick look at the TCAA’s parade of horribles. The TCAA makes it unlawful for any person “with a dominant position in the conduct of any business, trade or commerce, in any labor market, or in the furnishing of any service in this state to abuse that dominant position.” A “dominant position” may be established through “direct evidence” that “may include, but is not limited to, the unilateral power to set prices, terms, power to dictate non-price contractual terms without compensation; or other evidence that a person is not constrained by meaningful competitive pressures, such as the ability to degrade quality without suffering reduction in profitability. In labor markets, direct evidence of a dominant position may include, but is not limited to, the use of non-compete clauses or no-poach agreements, or the unilateral power to set wages.” The “direct evidence” language is unbounded and hopelessly vague. What does it mean to not be “constrained by meaningful competitive pressures”? Such an inherently subjective characterization would give prosecutors carte blanche to find dominance. What’s more, since “no court shall require definition of a relevant market” to find liability in the face of “direct evidence,” multiple competitors in a vigorously competitive market might be found “dominant.” Thus, for example, the ability of a firm to use non-compete clauses or no-poach agreements for efficient reasons (such as protecting against competitor free-riding on investments in human capital or competitor theft of trade secrets) would be undermined, even if it were commonly employed in a market featuring several successful and aggressive rivals. “Indirect evidence” based on market share also may establish a dominant position under the TCAA. Dominance would be presumed if a competitor possessed a market “share of forty percent or greater of a relevant market as a seller” or “thirty percent or greater of a relevant market as a buyer”. Those numbers are far below the market ranges needed to find a “monopoly” under Section 2 of the Sherman Act. Moreover, given inevitable error associated with both market definitions and share allocations—which, in any event, may fluctuate substantially—potential arbitrariness would attend share based-dominance calculations. Most significantly, of course, market shares may say very little about actual market power. Where entry barriers are low and substitutes wait in the wings, a temporarily large market share may not bestow any ability on a “dominant” firm to exercise power over price or to exclude competitors. In short, it would be trivially easy for non-monopolists possessing very little, if any, market power to be characterized as “dominant” under the TCAA, based on “direct evidence” or “indirect evidence.” Once dominance is established, what constitutes an abuse of dominance? The TCAA states that an “abuse of a dominant position may include, but is not limited to, conduct that tends to foreclose or limit the ability or incentive of one or more actual or potential competitors to compete, such as leveraging a dominant position in one market to limit competition in a separate market, or refusing to deal with another person with the effect of unnecessarily excluding or handicapping actual or potential competitors.” In addition, “[e]vidence of pro-competitive effects shall not be a defense to abuse of dominance and shall not offset or cure competitive harm.” This language is highly problematic. Effective rivalrous competition by its very nature involves behavior by a firm or firms that may “limit the ability or incentive” of rival firms to compete. For example, a company’s introduction of a new cost-reducing manufacturing process, or of a patented product improvement that far surpasses its rivals’ offerings, is the essence of competition on the merits. Nevertheless, it may limit the ability of its rivals to compete, in violation of the TCAA. Moreover, so-called “monopoly leveraging” typically generates substantial efficiencies, and very seldom undermines competition (see here, for example), suggesting that (at best) leveraging theories would generate enormous false positives in prosecution. The TCAA’s explicit direction that procompetitive effects not be considered in abuse of dominance cases further detracts from principled enforcement; it denigrates competition, the very condition that American antitrust law has long sought to promote. Put simply, under the TCAA, “dominant” firms engaging in normal procompetitive conduct could be held liable (and no doubt frequently would be held liable, given their inability to plead procompetitive justifications) for “abuses of dominance.” To top it off, firms convicted of abusing a dominant position would be liable for treble damages. As such, the TCAA would strongly disincentivize aggressive competitive behavior that raises consumer welfare. The TCAA’s negative ramifications would be far-reaching. By embracing a civil law “abuse of dominance” paradigm, the TCAA would run counter to a longstanding U.S. common law antitrust tradition that largely gives free rein to efficiency-seeking competition on the merits. It would thereby place a new and unprecedented strain on antitrust federalism. In a digital world where the effects of commercial conduct frequently are felt throughout the United States, the TCAA’s attack on efficient welfare-inducing business practices would have national (if not international) repercussions. The TCAA would alter business planning calculations for the worse and could interfere directly in the setting of national antitrust policy through congressional legislation and federal antitrust enforcement initiatives. It would also signal to foreign jurisdictions that the United States’ long-expressed staunch support for reliance on the Consumer Welfare Standard as the touchtone of sound antitrust enforcement is no longer fully operative.

### 1NR – AT: XO Thumper

#### Congress and the courts prevent Biden’s XO from accomplishing anything

McGinnis 21 – John O. McGinnis, George C. Dix Professor in Constitutional Law at Northwestern University, “Abandoning the Consumer Welfare Standard,” 8/26/21, https://lawliberty.org/abandoning-the-consumer-welfare-standard/

The Executive Order, however ill-conceived the specifics are, will do the most damage if it changes antitrust law fundamentally. And here the Biden administration happily faces problems. We have had forty years of bipartisan competition policy focused generally on consumer welfare. The President does not have a political eraser to wipe that away.

One possibility is for the Biden administration to persuade Congress to enact major changes in antitrust law. The House Judiciary Committee has passed a few bills that would make is harder for tech companies to merge with other companies. But these measures are not yet going anywhere on the House floor, and it will be difficult, if not impossible, to get any substantial changes in antitrust law through the evenly divided Senate.

Thus, the administration has pinned its strategy on transformation through administrative fiat. To that end, it appointed Lina Khan, a 32-year-old associate law professor to become Chairman of the FTC. Khan may be the single most radical appointment in the Biden administration. She opposed Amazon’s acquisition of Whole Foods, although Amazon and Whole Foods together constitute a very small part of the grocery market, and no other company in the history of the United States has been more innovative than Amazon.

Khan has begun by voting along with her Democratic colleagues on the commission to revoke a policy of the FTC supported by both Democratic and Republican administrations that essentially defined “unfair method of competition” by reference to methods that undermined consumer welfare. The idea no doubt is to write a regulation that would provide a more open-ended approach, perhaps taking into account other values like democracy and decentralization, even if these are at the expense of consumer welfare.

But it is not at all clear Khan can succeed. On such a central question as the definition of competition, courts may not give her agency much deference now that the Roberts Court appears to have stopped applying Chevron—the quintessential modern case for agency deference—to major questions raised by a statute. The meaning of competition is obviously the major question for competition law, and courts are likely to determine that for themselves, influenced by decades of their own consumer welfare jurisprudence.

Beyond that technical obstacle, Khan may be a poor choice for overhauling antitrust law because of her lack of practical experience in litigation or administration. She has already alienated her agency staff by refusing to let them speak at professional panels, as they have for years. That is a rookie mistake. Moreover, she has been so strident in her attacks as an activist against companies like Google and Amazon that the courts are likely to look at her enforcement actions with suspicion, even if the companies do not get her recused for her past opinions.

Even if the Biden administration is unlikely to succeed in the near term in transforming antitrust, it has put on the table a new vision, however amorphous, that may well influence the approach of Democratic administrations and legislators for years to come. We are moving from an era of bipartisan consensus around a constrained and economically focused antitrust law to an era of fundamental partisan disagreement. In that sense, antitrust law will become—like many other areas of our law—a reflection of polarization and a source of instability. But here the folly and instability will make us poorer.

### 1NR – AT: Plan Only Big Tech

#### Link is specifically about the plan, break ups create a chilling effect across the entire economy and means CP clear avoids the DA.

Downes 18 – Larry Downes, Internet industry analyst and author on business strategies and information technology, “How More Regulation for U.S. Tech Could Backfire,” 2/9/18, https://hbr.org/2018/02/how-more-regulation-for-u-s-tech-could-backfire

In particular, breaking up the most successful Internet and cloud-based companies only looks like a solution. It isn’t. Antitrust is meant to punish dominant companies that use their leverage to raise costs for consumers. Yet the services provided by technology companies are often widely available at little or no cost. Many of the products and services of Amazon, Apple, Google, Facebook and Microsoft — the internet giants referred to by the New York Times as “the frightful five” — are free for consumers.

More to the point, break-ups almost always backfire. Think of the former AT&T, which was regulated as a monopoly utility until 1982, when the government changed its mind and split the company into component long-distance and regional phone companies. The sum of the parts actually increased in value — except for the long-distance company, which faded in the face of unregulated new competitors.

Then, over the next 20 years, the regional companies put themselves back together, and, with economies of scale, reemerged as a mobile internet network and Pay TV provider, competing with cable companies and fast-growing internet-based video services including YouTube, Amazon and Netflix. What started as a regulatory punishment for AT&T led to an even bigger network of companies.

On the other hand, the constant threat of a forced divestiture can be disastrous for consumers and enterprise alike. IBM prevailed against multiple efforts to break it up along product lines, but was so shaken by the decades-long experience that the company became dangerously timid about future innovations, missing the shifts first to client-server and then to Internet-based computing architectures, nearly bankrupting the business.

Microsoft, similarly, was so distracted by its multi-year fight to avoid break-up both by U.S. and European regulators that it lost essential momentum. It mostly missed out on the mobile revolution, and hesitated in responding to open-source alternatives to operating systems, desktop applications, and other software apps that seriously eroded the company’s once-formidable competitive advantage. (The company is now growing a cloud services business, but is still far behind Google and Amazon.)

These examples hint at an alternative to random and unproven new forms of regulation for emerging technologies: simply waiting for the next generation of innovations and the entrepreneurs who wield them to disrupt the supposed monopolists right out of their disagreeable behaviors, sometimes fatally.

Today, it might seem that the companies in the frightful five have unbeatable leads in retailing and cloud services, social media, search, advertising, desktop operating systems and mobile devices. But the landscape of business history is littered with the corpses of supposedly invulnerable giants. In our research on wildly successful enterprises who fail to find a second act, Paul Nunes and I note that the average life span of companies on the Standard & Poor’s 500 has fallen from 67 years in the 1920s to just 15 years today.

In the early years of the internet age, a half-dozen companies were serially crowned the victor in search, only to be unseated by more innovative technology soon after. Yahoo and others gave way to Google, just as Blackberry faded in response to the iPhone. MySpace (remember them?) collapsed at the introduction of Facebook, which, at the time, was little more than a bit of software from a college student. Napster lost in court (no new laws were needed for that), leaving Apple to define a working market for digital music. And who remembers the alarm bells rung in 2000 when then-dominant ISP America On-Line merged with content behemoth Time Warner?

The best regulator of technology, it seems, is simply more technology. And despite fears that channels are blocked, markets are locked up, and gatekeepers have closed networks that the next generation of entrepreneurs need to reach their audience, somehow they do it anyway — often embarrassingly fast, whether the presumed tyrant being deposed is a long-time incumbent or last year’s startup darling.

#### Breaking up tech firms punishes them for competing successfully – that crushes innovation and growth across the economy

Wright 21 – Joshua D. Wright, Executive Director of the Global Antitrust Institute at the Antonin Scalia Law School, former commissioner of the U.S. Federal Trade Commission from 2013 to 2015, interviewed by James Pethokoukis, senior fellow at AEI, “Will US antitrust law break up Big Tech? My long-read Q&A with Joshua D. Wright,” 2/9/21, <https://www.aei.org/economics/will-us-antitrust-law-break-up-big-tech-my-long-read-qa-with-joshua-d-wright/>

[Italics denote questions from Pethokoukis]

*One reason we’re talking about antitrust law is in the context of Big Tech. Some people would really like to break them up. They have breakup plans for Amazon, Google, and Facebook. They’ve forgotten about Microsoft, but maybe aim to break up Apple. It seems to me that breaking somebody up is a pretty severe remedy. If, over the next five to seven years, we were to break up four or five companies — all of which are the largest in the United States and the world — would that be the most mind-boggling thing ever to happen in antitrust? Breaking up one of those companies would be a pretty big deal, but if we were to start carving off pieces of all of them, that would be historic, wouldn’t it?*

It would be historic, and it would also be wrong-headed for lots of reasons. For one, we’re having this chat virtually, in the middle of a pandemic, in a time where lots of people are benefiting more than ever from the goods and services provided by some of these firms. But on top of the atmospherics, the world’s most successful and innovative companies are here in the US where, in large part, our antitrust regime has avoided ex-ante regulation of these firms, at least through a competition policy lens. It’s avoided the structural breakups of these firms, as opposed to the European or Chinese approach.

Sure, there are certainly calls to break these firms up just like you have in Europe and China, where the firms don’t exist. But to cut to the chase on the law of this stuff a little bit, one of the reasons why breakup is incredibly unlikely, no matter who’s in the administration or appointed to these jobs, is because of one key feature of the US antitrust system. (And this is one of the first things I explain to my students as well, because it’s the way Europe sues Google, fined Google $5 billion, fined Amazon, and will eventually fine Apple, and Facebook, and everybody else.) One of the signature features of the US system is that US antitrust laws do not punish companies for competing successfully and becoming large. You can “build a better mouse trap,” even if you become the monopolist. There’s a famous passage by Justice Scalia in the Supreme Court case Trinko — it reads a little bit like an ode to the successful company who earns monopoly power and gets to charge the monopoly price because it out competed its rivals. So we don’t have a system in the US where we make an antitrust cause of action out of successful innovation.

They have that in China and Europe. They’ve got a more hands-on, ex-ante regulatory framework that they use to control the inner workings of these companies. In those countries, where you come out of the gate already doing things that are unlawful, you start the game in a bargaining position with the regulator. It’s illegal to be the monopolist, so you’re just going to bargain over what you are and are not allowed to do. It’s a culture of consent with the regulatory authorities.

In the US, we punish abuse of monopoly power. If you “built a better mouse trap,” but then you climb to the top of the ladder and burn it down, we have antitrust cases for that, some of which the government wins. When the government can prove that the firms are monopolist and harm competition, then the government can and will win those cases from time to time. But you’ve got to go to court to do it.

In this country, we’ve got meaningful judicial review of the government’s theories in those cases. You cannot just shout in a crowded room that the company is big and bad and just break them up that way. You’ve got to go to court and prove something like monopoly power, anti-competitive conduct, or that the companies are engaged in conduct that abuses monopoly power — something more than competition on the merits.

*But you can’t just say, “Because Google has 89.2 percent of the browser market, then they must be a monopoly and are therefore bad, so now we have to do something.”*

Right. You can’t do that here, but you can in other jurisdictions. I think that’s a feature, not a bug, of the US system. It’s one of the reasons — it’s a complicated world and there’s more than one thing going on here — why you’ve got an environment here, at least in terms of antitrust regulation, that’s been more hospitable to innovation and to hosting these companies than other jurisdictions around the world. Antitrust institutions are obviously just one part of a complex ecosystem of regulation, but they’re an increasingly important part. And so you can’t just say, “Look, this firm’s got monopoly power. Where do I go to get my remedy?” You’ve got to prove that they’ve used that power in a harmful way — and not just any harmful way, but in a harmful way that has reduced competition. That’s where these cases often go to die.

#### Current antitrust law fosters innovation and competition – the plan crushes growth

Wright 21 – Joshua D. Wright, Executive Director of the Global Antitrust Institute at the Antonin Scalia Law School, former commissioner of the U.S. Federal Trade Commission from 2013 to 2015, “A Time for Choosing: The Conservative Case Against Weaponizing Antitrust,” Summer 2021, https://nationalaffairs.com/time-choosing-conservative-case-against-weaponizing-antitrust

It has long been vogue among liberal advocates to champion expansion of government control over firms, their decisions, and internal workings. Perhaps no better present example can be found than in the area of antitrust, where the policy landscape looks eerily similar to the progressive view articulated 60 years ago, littered with a hodgepodge of proposals to “break up” large firms, prohibit all mergers and acquisitions, assign burdens of proof to the accused, and control the design of products. Today’s progressives offer much of the same medicine for what allegedly ails the modern economy. Senator Warren has proposed, for example, to “break up big tech” platforms such as Amazon, Apple, Facebook, and Google, and to make technology companies criminally liable for misinformation presented on their platforms.[ii] While the large and successful American tech firms—the envy of the global economy—make a convenient target for these proposals, do not be fooled. This wolf comes as a wolf. The modern progressive antitrust agenda is part of a broader, more radical program—self-described as Neo-Brandeisian Antitrust—to turn antitrust law upside down so that it may be weaponized to shape and plan all sectors of the economy.

These proposals, while unfortunate and misguided, draw heavily upon standard liberal orthodoxy that has tended to be largely suspect of markets and the agency of individuals. One can hardly be surprised to see a staunch progressive like Senator Warren or Bernie Sanders advocate greater government control over private life. Perhaps one even grows to expect it.

What is more surprising, however, is the company Senator Warren and the Neo-Brandeisian Antitrust movement have attracted with the siren call of using the antitrust laws to centrally plan the tech sector (among others things), and to achieve greater government control of the interactions between individuals and the technology we use in our daily lives. Stalwart conservatives like Senator Hawley, for example, among others, have offered policy proposals to “deal” with “Big Tech” that eerily mimic those of Senator Warren and the command and control left. Senator Hawley has proposed legislation that would rewrite Section 230 of the Communications Decency Act and usher in a quasi-Conservative Fairness Doctrine for the internet.[iii] Indeed, Hawley’s proposal would place the Federal Trade Commission in the Big Brother position of determining when a social media platform’s moderation decision was “designed to” or “motivated by an intent to” negatively impact a political party. Attorney General Barr has offered a similar refrain, announcing that antitrust is an appropriate tool to police political bias.[iv] And President Trump recently signed an executive order that directs the Federal Trade Commission to explore using its consumer protection authority to sue social media platforms for content moderation decisions.[v]

Without question, the emotional appeal undergirding these actions is understandable. Conservative voices and opinions too often face a stacked deck when dealing with technology companies and social media, in particular. And this bias against conservative voices has taken on new life in the Trump era. But the hallmark of conservative values has been to rightfully eschew government control over economic life and to value principle over expediency. What is at stake, however, with the current proposals to upend modern antitrust to address tech markets is more important than whatever fleeting satisfaction is gained from exacting policy revenge on firms perceived to squelch conservative voices and ideas. At stake are conservative commitments to the rule of law and the role of the judiciary—newly stocked with immense talent by the Trump administration—in preventing government expansion and overreach. And if we resign ourselves to transient political wins, and debase the belief that entrepreneurs rather than bureaucrats should shape technology markets, we risk not only undermining these great causes conservatives have championed for decades but also the enormous economic gains to Americans that arise in our highly competitive tech markets.

Readers less familiar with antitrust law may not understand its critical role in the conservative legal movement. Modern antitrust law—and its consumer welfare standard—is a complex product of powerful ideas, extant economic evidence, and jurists like Bork, Thomas, Scalia, Easterbrook, and Doug Ginsburg taking on the wobbly intellectual foundations of 1960s competition law. That their efforts were so successful in persuading their liberal counterparts on the Supreme Court and lesser federal courts to join in the dismantling of the stale and obsolete antitrust that was then the law of the land is powerful evidence of the force of their ideas. It is difficult to find an area of law where the conservative legal movement enjoyed as much success as quickly and with such resounding results.

No doubt it helped that yesteryear’s antitrust was intellectually bankrupt and an insult to the rule of law. It pursued an unfortunate amalgamation of contradictory doctrines, including undefined notions of populism, protection of individual industries, and reducing firm size, that could be used to justify nearly any result. For instance, antitrust law allowed the market-leading frozen pie manufacturer in Utah to successfully sue its three national-brand competitors for eroding its high market share through a series of price cuts—thereby preventing precisely the type of competition the law was intended to protect. Antitrust law was so unprincipled and incoherent at the time that it led Justice Potter Stewart to observe while reviewing a government suit to block a merger between two grocery stores with a combined market share of 7.5% that, “The sole consistency that I can find is that, in litigation under [the merger laws], the Government always wins.”[vi]

The conservative legal movement, powered by the intersection of economic analysis and law, brought the rule of law to the wild and untamed progressive antitrust vision of the 1960s. Grounding antitrust law in a disciplined and tractable framework not only promotes the rule of law while preventing arbitrary and capricious enforcement, it also creates a stable and predictable environment for private actors and firms to invest and innovate. Of course, no doctrine is perfect and today’s antitrust is not without its own flaws. But it is tethered to robust economic evidence and common-law developments that promote competitive outcomes and, like the common law, has built-in mechanisms to improve and evolve in response to empirical evidence. But the coherent and principled makeup of antitrust should not and cannot be taken for granted.

Proposals today that are attracting conservatives and liberals alike aim to unwind these gains in exchange for granting those who happen to have power in the government a dominant hand in controlling tech firms on the fleeting hope that the power will be deployed for the greater social good. We have experience with this approach to antitrust in the United States. It is what we used to do. And we know better. Shifting power from judges to regulators, and then allowing those regulators to pick winners and losers to achieve political and social goals, is a recipe for abandoning conservative commitment to the rule of law while simultaneously sacrificing economic growth and innovation. The price is too high, with little or nothing to offer those who value individual liberty, the rule of law, and economic growth. While progressive ideology is contiguous with increasing government control over economic and social interactions in technology markets for its own sake, conservative principles are not. The proposed bargain is also remarkably short-sighted. It should go without saying that empowering partisan regulators to enforce a Fairness Doctrine for conservatives is not likely to work out so well when the other side is in control.

Conservatives traditionally have been wary of proposals by liberals and other big government proponents seeking to substitute the judgment of regulators and bureaucrats for those of entrepreneurs and innovators. And rightfully so. Such proposals, even when well intentioned, risk making Americans worse off. Progressives and populists now seek to commandeer antitrust to usher in a new era of central planning in order to achieve social policy objectives that they could not accomplish otherwise. But at what cost? The risks are not trivial. Using antitrust to redesign tech companies and their products will undermine the competitive dynamics that have brought Americans countless modern benefits, including smartphones, fast and easy online shopping, on-demand ride hailing, easy-to-access streaming media, and a bevy of free services including email, maps, and video conferencing. It also will threaten the incredible economic growth and job creation that these companies have brought to America’s shores. And while politicians surely will make promises akin to, “if you like the digital platform you have, you’ll get to keep it,” it is all too clear that when you expand government discretion and limit judicial oversight, those in positions of power will increasingly impose their preferences on the broader society. Ask yourself, do you really want the government designing the iPhone?

The reality is that the U.S. digital economy is highly competitive and serves Americans well. Fueled by investment, innovation, and entrepreneurship, the digital economy has contributed substantially to America’s economic growth. According to the Bureau of Economic Analysis, the digital economy accounted for 6.9 percent of gross domestic product in 2017, growing at an annual rate of 9.9 percent since 1998 as compared to 2.3 percent for the economy overall.[vii] That economic growth has been driven by some of the world’s most successful tech companies, such as Amazon, Apple, Facebook, Intel, Google, and Microsoft, each of which calls the United States home. These firms are investing ever-increasing amounts on research and development to innovate new products and stay competitive. In fact, the United States leads the world in research and development spending, and tech companies lead in the United States—representing the nation’s top five spenders with investments totaling more than $75 billion in 2018.[viii] Tech companies rank second (behind the telecom sector) in U.S. capital expenditures, with Alphabet (Google’s parent company), Amazon, Apple, Facebook, Intel, and Microsoft together spending more than $45 billion in 2017.[ix] And these investment figures are only expected to continue to grow. These are hardly the actions of monopolists resting on their laurels, secure in belief that they are untouchable by competition.

And there is more good news. Tech has only touched a portion of the U.S. economy to date, meaning that there still are opportunities for tech companies to foster economic growth by transforming stagnant industries such as housing, transportation, manufacturing, and health care for the better. And where are the next generation of innovators and tech entrepreneurs calling home? The United States. Recognizing an economy that is dynamic and rewards creativity, venture capital investing has soared to record levels in the United States—surpassing $140 billion in 2018—providing startups with the capital necessary to innovate, compete, and grow.[x] Today the United States is home to half of all startups valued at more than $1 billion—so-called “unicorns”—outpacing every other country in the world by a wide margin.[xi]

Now, some conservatives chafe at recitations of facts and claim that technology companies exclusively benefit only the privileged. But this economic growth and investment have led to substantial benefits to ordinary American consumers and workers. You need only look to the numerous free services that tech has brought to consumers. Americans place significant value on these free services. One peer-reviewed study published by the National Academy of Sciences found that consumers would need to receive a yearly payment of $3,600 to give up free internet maps, $8,400 to give up free email, and $17,500 to give up free search engines.[xii]

Tech firms also have spurred change in long stagnant industries by developing new products that spark competition across quality, price, and other dimensions. Take for instance ride-sharing apps. Local cab companies long had a stranglehold on taxi services and saw little need to innovate or evolve. Ride-sharing apps like US-based Uber and Lyft disrupted the livery service industry by offering lower-cost and more convenient services. Cab companies have been forced to respond by offering easier payment methods and other innovative services that enhance the consumer experience. Proponents of using antitrust to restructure or even break up tech companies are unable to explain how their sweeping plans, however carefully scripted, would not undo the business models that made these services and their associated benefits possible. The burden should be on those seeking to use antitrust to remake the digital economy to demonstrate that the risk is justified. It is hard to believe how it could be.

The digital economy also has been an important source of job creation. According to one estimate, nearly 12 million people held tech jobs in the United States in 2018.[xiii] Today the largest U.S. tech companies have replaced the major American employers of the past. In just under two decades, Amazon, Apple, Facebook, Alphabet, and Microsoft have employed more than one million workers.[xiv] In 2016, Amazon became the fastest company to employ 300,000 Americans—surpassing Walmart and General Motors.[xv] Moreover, while the share of economic output going to workers has been declining steadily overall for many years both in the U.S. and globally, in the tech and telecom sectors the labor share has been steady and even has increased, suggesting improved worker welfare.[xvi]

### 1NR – AT: Biz Con Not Key

#### Declining business confidence crushes the recovery – Delta puts it on the brink

Zandi 8/18 – Mark Zandi, writer for CNN Business Perspectives, “Here's what the Delta variant means for the economic recovery,” 8/18/21, https://www.cnn.com/2021/08/18/perspectives/economic-recovery-delta-variant/index.html

The US economy's immediate prospects appear inextricably tied to how the wave of infections and hospitalizations set off by the Delta variant of Covid-19 plays out. While it seems unlikely that the variant would become so disruptive that it undermines the recovery, there are mounting reasons to be worried that it may become a significant headwind to near-term economic growth.

Consumers are increasingly nervous about the variant, sparking concerns they will turn more skittish in their spending. Retail sales for July declined, while the University of Michigan's survey of consumer sentiment pulled back sharply in early August and is now lower than it was during the worst of the pandemic last spring. Spiking inflation isn't helping consumers' moods. The timing of the slump in sentiment and spending coincides with news stories of overwhelmed hospital systems in Florida and Texas, more serious illness among younger populations, and increasing breakthrough infections among those fully vaccinated.

Businesses have also suddenly become more nervous. According to Moody's Analytics weekly business confidence index, sentiment had significantly improved this spring when vaccinations ramped up and the pandemic was steadily winding down. But it has gone sideways since mid-June. Businesses' assessment of current conditions has turned particularly soft in the past few weeks, with more survey respondents saying conditions are weakening than those that say they are improving. This is the first time this has happened since the vaccines became widely available.

Businesses' expectations regarding the economy's prospects for the remainder of this year have also diminished significantly. The number of respondents that say the economy will continue to improve has declined from more than 60% to less than half, and those that say the economy will weaken has increased from near 30% to more than 40%. This hasn't impacted businesses' hiring and investment decisions yet, according to our survey, but it bears close watching, as the job market and broader economic recovery would be in jeopardy if businesses pull back on hiring and investments.

#### Key to jobs and recovery

Pawar 9/16 – Ameya Pawar, Fellow at Open Society Foundations, “The recovery will be weak if small businesses can’t get the credit they need and deserve,” 9/16/21, https://www.marketwatch.com/story/the-recovery-will-be-weak-if-small-businesses-cant-get-the-credit-they-need-and-deserve-11631722738

If small businesses do not recover from the coronavirus pandemic, the rest of the economy won’t either.

Across America, in big cities and small towns, the auto mechanic shops, restaurants, mom-and-pop retailers, and small industrial firms create two-thirds of all net new jobs. Moreover, the money that people spend in these businesses tends to stay local and accounts for 44% of all economic activity.

### 1NR – AT: Econ Impact D

#### Decline cascades – nuclear war

Maavak 21 – Mathew Maavak, PhD in Risk Foresight from the Universiti Teknologi Malaysia, External Researcher (PLATBIDAFO) at the Kazimieras Simonavicius University, Expert and Regular Commentator on Risk-Related Geostrategic Issues at the Russian International Affairs Council, “Horizon 2030: Will Emerging Risks Unravel Our Global Systems?”, Salus Journal – The Australian Journal for Law Enforcement, Security and Intelligence Professionals, Volume 9, Number 1, p. 2-8

Various scholars and institutions regard global social instability as the greatest threat facing this decade. The catalyst has been postulated to be a Second Great Depression which, in turn, will have profound implications for global security and national integrity. This paper, written from a broad systems perspective, illustrates how emerging risks are getting more complex and intertwined; blurring boundaries between the economic, environmental, geopolitical, societal and technological taxonomy used by the World Economic Forum for its annual global risk forecasts. Tight couplings in our global systems have also enabled risks accrued in one area to snowball into a full-blown crisis elsewhere. The COVID-19 pandemic and its socioeconomic fallouts exemplify this systemic chain-reaction. Onceinexorable forces of globalization are rupturing as the current global system can no longer be sustained due to poor governance and runaway wealth fractionation. The coronavirus pandemic is also enabling Big Tech to expropriate the levers of governments and mass communications worldwide. This paper concludes by highlighting how this development poses a dilemma for security professionals.

Key Words: Global Systems, Emergence, VUCA, COVID-9, Social Instability, Big Tech, Great Reset

INTRODUCTION

The new decade is witnessing rising volatility across global systems. Pick any random “system” today and chart out its trajectory: Are our education systems becoming more robust and affordable? What about food security? Are our healthcare systems improving? Are our pension systems sound? Wherever one looks, there are dark clouds gathering on a global horizon marked by volatility, uncertainty, complexity and ambiguity (VUCA).

But what exactly is a global system? Our planet itself is an autonomous and selfsustaining mega-system, marked by periodic cycles and elemental vagaries. Human activities within however are not system isolates as our banking, utility, farming, healthcare and retail sectors etc. are increasingly entwined. Risks accrued in one system may cascade into an unforeseen crisis within and/or without (Choo, Smith & McCusker, 2007). Scholars call this phenomenon “emergence”; one where the behaviour of intersecting systems is determined by complex and largely invisible interactions at the substratum (Goldstein, 1999; Holland, 1998).

The ongoing COVID-19 pandemic is a case in point. While experts remain divided over the source and morphology of the virus, the contagion has ramified into a global health crisis and supply chain nightmare. It is also tilting the geopolitical balance. China is the largest exporter of intermediate products, and had generated nearly 20% of global imports in 2015 alone (Cousin, 2020). The pharmaceutical sector is particularly vulnerable. Nearly “85% of medicines in the U.S. strategic national stockpile” sources components from China (Owens, 2020).

An initial run on respiratory masks has now been eclipsed by rowdy queues at supermarkets and the bankruptcy of small businesses. The entire global population – save for major pockets such as Sweden, Belarus, Taiwan and Japan – have been subjected to cyclical lockdowns and quarantines. Never before in history have humans faced such a systemic, borderless calamity.

COVID-19 represents a classic emergent crisis that necessitates real-time response and adaptivity in a real-time world, particularly since the global Just-in-Time (JIT) production and delivery system serves as both an enabler and vector for transboundary risks. From a systems thinking perspective, emerging risk management should therefore address a whole spectrum of activity across the economic, environmental, geopolitical, societal and technological (EEGST) taxonomy. Every emerging threat can be slotted into this taxonomy – a reason why it is used by the World Economic Forum (WEF) for its annual global risk exercises (Maavak, 2019a). As traditional forces of globalization unravel, security professionals should take cognizance of emerging threats through a systems thinking approach.

METHODOLOGY

An EEGST sectional breakdown was adopted to illustrate a sampling of extreme risks facing the world for the 2020-2030 decade. The transcendental quality of emerging risks, as outlined on Figure 1, below, was primarily informed by the following pillars of systems thinking (Rickards, 2020):

• Diminishing diversity (or increasing homogeneity) of actors in the global system (Boli & Thomas, 1997; Meyer, 2000; Young et al, 2006);

• Interconnections in the global system (Homer-Dixon et al, 2015; Lee & Preston, 2012);

• Interactions of actors, events and components in the global system (Buldyrev et al, 2010; Bashan et al, 2013; Homer-Dixon et al, 2015); and

• Adaptive qualities in particular systems (Bodin & Norberg, 2005; Scheffer et al, 2012) Since scholastic material on this topic remains somewhat inchoate, this paper buttresses many of its contentions through secondary (i.e. news/institutional) sources.

ECONOMY

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid- 2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity.

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabriabased ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; fundamentalist-driven implosion in the Islamic world; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interaction adaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

#### Extended COVID-induced economic instability causes human extinction. Global COVID recovery solves nuclear war.

RECNA, Research Center for Nuclear Weapons Abolition, Nagasaki University (RECNA), Asia Pacific Leadership Network (APLN) & Nautilus Institute (2021), ’21, Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report, Journal for Peace and Nuclear Disarmament, 4:sup1, 6-39, DOI: 10.1080/25751654.2021.1890867

The Challenge: Multiple Existential Threats

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come. The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5

Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order. In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply. The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the existential risks posed by retaining these capabilities – are all up for redefinition.

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies.

In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon.

To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

Developing Pandemic-nuclear Nexus Scenarios

How might the COVID-19 pandemic (and future pandemics) create new opportunities or challenges for governments, civil society, and market actors to reduce nuclear risk and resume nuclear disarmament? And how might those challenges and opportunities emerge in Northeast Asia, in particular?

In the face of so much uncertainty, a powerful way to obtain navigational guidance and to develop robust strategies is to conduct scenario-based dialogues. Scenarios may be underpinned by analysis, but they rest primarily on eliciting diverse insights through a dialogic process (typically a workshop) that explores the multiple, powerful drivers of complex problems and possible strategies to resolve such problems. Rather than predict any specific future, the goal of developing scenarios is to prepare individuals and organizations for radically divergent, possible futures.

A scenario is a tool for ordering one’s perceptions about alternative future environments in which today’s decisions might play out. In practice, scenarios resemble a set of stories built around carefully constructed plots. These stories can express multiple perspectives on complex events and give multiple meaning to these events. The development of such scenarios was the primary goal of the Nagasaki 75th Anniversary Pandemic-Nuclear Nexus Scenarios workshop. Through this project, we wanted to develop an analytic understanding of the interrelated nature of nuclear weapons and global pandemics. We wanted to explore the potential levers and pathways to influence the future. And we wanted to find concrete strategies to reduce the risk of nuclear war and resume disarmament, particularly novel approaches that could engage both state and non-state actors.

Shaping the Focal Question

At the outset of the Pandemic-Nuclear Nexus Scenarios Project, the organizers framed a focal question that would guide the development of the scenarios: What are the opportunities driven by global pandemics for Northeast Asian governments, civil society, and market actors to reduce nuclear risk and resume nuclear disarmament? This focal question has twin normative values in it: (a) how to reduce the risk of nuclear war arising from the pandemic and (b) how to resume nuclear disarmament under pandemic conditions. Measures to realize (a) might be in opposition to measures to realize (b). They might be independent, or they might be complementary. Discovering opportunities where the measures are synergistic has the highest value; avoiding contradictory measures might be critically important. But forced to choose, we likely must go first and foremost with measures to reduce the risk of nuclear war, as disarmament becomes moot and improbable if nuclear war occurs.

As in any scenarios event, we sought to identify robust strategies that could work across the divergent, uncertainty-based scenarios and move each story line toward a higher probability of realizing these two strategic goals. We were particularly interested in prompting discussion on the role of cities as potential new players with regard to nuclear war risk reduction. The challenges of “global nuclear governance” and nuclear disarmament have traditionally been dominated by great powers (that is, nation-states).

But given their evident and emerging leading role as “first responders” to the existential threats of the coronavirus pandemic and climate change effects, we wanted to see how cities’ capacity and experience may be useful in relation to nuclear risk and disarmament. The focal question also centers on Northeast Asia, a region that was the site of the first use of nuclear weapons (in Hiroshima and Nagasaki), and that today has thousands of cities, as well as potential for conflict on multiple fronts, including between China and Taiwan, China and the United States, and the ROK and DPRK. Northeast Asia sits at the nexus of relations between the world’s three largest nuclear armed states (China, Russia, and the United States), and it is home to the DPRK, a rapidly developing new nucleararmed state.

Identifying Critical Uncertainties

In the first phase of the scenario development process, participants were divided into four groups where they brainstormed a broad range of “critical uncertainties,” variables whose outcomes are both undetermined and important for shaping the near- and long-term future. Participants were asked to consider uncertainties based on different categories (social, technological, environmental, economic, political, military, and epidemiological). Through their initial brainstorm, groups developed a list of dozens of critical uncertainties (see Appendix 2). They were asked to narrow down their lists of uncertainties to those most likely to play a major role in shaping the pandemic-nuclear nexus. They then considered how these uncertainties could unfold along an axis with two diverging outcomes. Following are a few of the drivers participants identified: How might a distanced society affect nuclear strategies? On one end of the spectrum, for example, re-spatialization could lead to greater cooperation as people work across borders, physical and virtual. On the other end, the need to maintain distance could lead to shifts in militaries’ offshore strategies for deterrence/military projection of might and could potentially lead to the increased use of non-conventional (including nuclear) weapons.

How will changes in budgets affect dis/armament? The economic recession caused by the pandemic could lead to drastic cuts in funding for the military, including for nuclear weapons. On the other hand, countries’ economic struggles could lead them to increasingly favor investing in nuclear, as opposed to higher-cost conventional weapons.

How might pandemics affect global cooperation? The COVID-19 pandemic could serve as an impetus for increased international cooperation and the sharing of global information, which could extend to other areas, including nuclear. On the other hand, questions over the origin of the virus, border closures, and “vaccine competition” could lead to a rise in tensions.

How will information sharing evolve? The proliferation of misinformation through diverse media channels (including social media) could erode progress in tackling shared global challenges. Or new systems could emerge that help ensure that information is shared with a high level of transparency and be verified as accurate.

Will inequality increase or decrease? Following the economic recession caused by shutdowns aimed at limiting the pandemic, the gap could continue to grow between (and within) societies regarding economic well-being and human health. Or the pandemic may usher in a more redistributive economic system that leads to a decrease in inequality.

How will governments manage simultaneous or prolonged threats? Governments may struggle to contend with concurrent challenges of pandemics, climate change, food insecurity, and terrorism, leaving them to ignore the nuclear issue. Or they may find ways to collaborate, reallocating budgets toward effective solutions and developing international agreements that could later pave the way for disarmament.

What is the effect of technology on nuclear risk and disarmament? Changes in technology could have a major influence on nuclear risk. New risks could emerge from the proliferation of artificial intelligence systems (including in nuclear command, control, and communication systems), deep fakes, drones, and hackers intercepting and altering messages. On the other hand, technology could enhance capacity for early warning systems, increase monitoring of military movement, and improve communication systems.

### 2NR – Suominin is Speculative

#### Suominen is speculative and about what they might do – doesn’t say they will break up companies

Suominen, 20 (Kati Suominen , Kati Suominen is an adjunct fellow with the CSIS Europe, Russia, and Eurasia Program; Dr. Suominen holds a B.A. from the University of Arkansas, an M.A. from Boston University, an M.B.A. from the University of Pennsylvania’s Wharton School, and a Ph.D. from the University of California, San Diego. She is a life member of the Council on Foreign Relations., 10-26-2020, accessed on 7-20-2021, Csis, "On the Rise: Europe’s Competition Policy Challenges to Technology Companies", https://www.csis.org/analysis/rise-europes-competition-policy-challenges-technology-companies)//Babcii

Both the United States and Europe are currently debating the merits of these arguments—including whether antitrust law should be retailored to address them. In the **United States, antitrust enforcement officials and courts** have, in general, **accepted market leadership earned through competition** in the marketplace, as long as it leads to greater efficiencies and cost savings for consumers. In contrast, the European Commission antitrust officials have tended to favor protecting potential competitors, even if market leaders have managed to outperform competitors and gain consumer loyalty through their ingenuity and smart acquisitions. One of the outcomes of this approach has yielded recent investigations and multi-billion-dollar fines by the European Commission on American companies such as Google, Apple, and Amazon for supposedly violating European competition policy rules. Today, the business climate for American technology companies is **heating up in Europe**. Concerned about Europe’s lack of competitiveness in the global digital economy, both the European Commission and various EU member states are looking to significantly **expand their antitrust powers** to curb large technology companies. One way they do this is by blocking pre-eminent firms’ planned mergers and acquisitions and forcing them to provide access to the data they have gathered—to the benefit of European competitors. Europe’s hardening antitrust stance poses significant problems to **U.S. business interests in Europe’s** giant digital market—Europe’s business-to-consumer (B2C) e-commerce sales alone are climbing [past $850](https://ecommercenews.eu/ecommerce-in-europe-e717-billion-in-2020/) [billion this year](https://ecommercenews.eu/ecommerce-in-europe-e717-billion-in-2020/). The Commission’s approach also risks **digital protectionism** and **politicization** of antitrust enforcement, which could have **significant implications for trade** relations between the United States and the European Union and for many emerging markets’ thinking about competition policy issues.