# 1NC – Navy R2

## Offcase

### T-Strucutral – 1NC

#### Interpretation – “prohibitions” are structural – otherwise, it’s a remedy.

Jo Seldeslachts et al. ‘7. Professor of Industrial Organization at KU Leuven and a Senior Research Fellow at DIW Berlin, with Joseph A. Clougherty and Pedro Pita Barros. “Remedy for now but prohibit for tomorrow: the deterrence effects of merger policy tools.” https://www.ssoar.info/ssoar/bitstream/handle/document/25862/ssoar-2007-seldeslachts\_et\_al-remedy\_for\_now\_but\_prohibit.pdf;jsessionid=A244005110FDB5816E0347D9F1B75436?sequence=1

Let us now think about the differences between the two antitrust actions of prohibitions and remedies.7 In the case of a prohibition, the penalty for proposing a merger with significant anti-competitive problems involves the full prohibition of the merger: both the pro-competitive and the anti-competitive profits for merging firms are negated by the prohibition. The throwing out of the pro-competitive profits along with the anti-competitive profits is important, as this brings about the punitive measure that Posner (1970) acknowledges as being crucial for deterrence. The big difference between remedies and prohibitions is that remedies attempt to identify and eliminate the anti-competitive elements of a merger. In essence, the merging firms are able to hold on to the pro-competitive elements of the merger—so they keep (ΠPC), but the anti-competitive elements of the merger (ΠAC) are negated by the remedial action. If an antitrust authority imposes remedies, then the disincentive for firms to propose anti-competitive mergers is clearly lower. In short, prohibitions seemingly involve more deterrence than do remedies, as prohibitions represent larger punishments.

#### Business practices are ongoing conduct defined by the behaviors of many market participants.

Kerry Lynn Macintosh 97. Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis.

These new and revised articles reflect a strong trend toward choosing default rules 4 that codify existing business practices. 5 [FOOTNOTE 5 BEGINS] In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. 1-205(2). [FOOTNOTE 5 ENDS] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### Violation – plan only expands behavioral remedies – topical affs must prohibit practices.

#### Vote NEG:

#### 1 – Limits – there are infinite ways behavioral remedies to anticompetitive business practices – structural prohibitions are key to topic management and neg ground.

#### 2 – Ground – our interpretation ensures the aff has to “break up” industries – key to link uniqueness and core controversy on a topic with no disads.

### Cap K – 1NC

#### Anti-trust is capitalist – competition inevitably replicates market collapse.

Richard Wolff 19 Professor Emeritus of Economics at University of Massachusetts, Amherst. Transcript from YouTube video: “Economic Update: Competition and Monopoly in Capitalism.” Democracy @ Work. December 9th, 2019. https://www.democracyatwork.info/eu\_competition\_monopoly\_in\_capitalism.

Today I'm going to devote the program to something many of you have asked me to present, to talk about, to analyze, and that is the question of monopoly. It has to do with the assertions we hear often these days that somehow our capitalist system, here in the United States and beyond, is being negatively affected because monopolies have replaced or displaced competition. The idea here is if only we can get competition back, recreate a competitive capitalism, why then the problems we face will go away. Today's program is a design to show you how and why that is not the case, to think about these things in a different way from this nice story that capitalism is basically fine; it's just the monopoly form we have to get rid of so we get back to the competition which we're all supposed to believe is wonderful and presents us with no problems to solve. So let's go, and let's do it in a systematic way.

First, it is of course easier, faced with a declining capitalism, a capitalism that's all around us with its extreme inequalities, with its instabilities – here we are, trying to cope with the effects of the Great Crash of 2008, even while we anticipate the next downturn coming down the road soon – an economic system that has shown (that is, capitalism) that it is not respectful of the natural environment; it is not, as the words now go, sustainable in a reasonable way. Yeah, we're surrounded by problems of capitalism. So it's comforting in that situation to get the idea from somewhere that this really isn't a problem of capitalism as a system but rather the problem brought in somehow from the outside – monopoly – a situation in which competition among many companies gives way in some way we're not quite sure about to a domination by one or a small handful of companies. And so the argument goes, we don't have to be critical of capitalism; we don't have to think about an alternative system. No, no, we just have to deal with this little detail, the monopoly problem. And if we can deal with that, well, we'll get back to a competition, to a competitive capitalism that is good.

There are three big mistakes involved in this way of thinking, which is nonetheless very widespread and very popular, more so now than in quite some years. First mistake: Capitalism has been wrestling with the problem of monopoly from day one. We have had repeated periods of monopoly. They have eventually led to movements, often of many people, to destroy or remove monopoly. We used to call that in America trust-busting, or antitrust. We even have a department within the Department of Justice in Washington devoted to antitrust activities. Yeah, we've been waging battles against monopoly over and over again, and you know why? Because we keep having monopolies over and over again. Google is a monopoly. Amazon is a monopoly. They're all around us: companies that have effectively no real competition. This is a problem that capitalism has always displayed. And that ought to lead you to wonder whether thinking about it as something we can do away with isn't maybe the best possible example of wishful thinking.

The second big mistake is to imagine that competition is some unmixed blessing. It never was, and it isn't today. A competitive market is a human institution. Like every other human institution, it has strengths, and flaws, and weaknesses. To think of competition as some magical perfection is a silly abnegation of your own rational capability to evaluate something. It's sort of advertising thinking. By that, I mean the advertiser tells you what's good about the product they've been told to advertise; they don't tell you what's bad about it. If you want to evaluate it, you don't talk to an advertiser because they only give you one side. The people who promote competition use advertising logic. We're not going to do that here. Competition is no unmixed blessing.

And finally, I'm going to show you that competition is itself the major cause of monopoly. So that even if we ever got back to a competitive capitalism, all that would mean is we're back in the process that produces monopoly – as it always has.

All right, so let's begin. I'm going to start with explaining how competition has all kinds of consequences that most of you, like me, don't like, don't want. It's a discussion, if you like, of competition's other side: you know, the part that the advertiser doesn't tell you about. The used-car salesman who wants you to buy that junk doesn't tell you about what happened last week in the car crash that that was part of, etc., etc.

All right, let's begin. One of the major reasons that American corporations shut down their operations in the United States and moved them to China, among other places, is because of – you guessed it – competition. They wanted to make more money than they had been before. They were afraid of other companies beating them in the competitive game, so they said wow, let's go to China, because there you can pay workers a lot less. There you don't have the same rules to obey. There they don't care that much about pollution as they do here. So we can save on all kinds of costs, and that will allow us to undercut our competitors. Yeah, one of the consequences of competition was the exodus of American companies to other parts of the world, and the enormous unemployment that resulted from it. Yeah, that was a result, among other things, of competition.

Here's another one: Capitalists, employers, seeking to compete with one another, often engage in what we call automation. They bring in machines that are cheaper to use than human laborers, and that gets them a step ahead of their competitors. Okay, if we replace people with machines, we throw those people out of work. That has an impact on them, their self-esteem, their relationship to their spouse, their relationship to their children, their relationship to alcohol – should I continue? What are the social costs of automation? They're huge. They've been documented over and over again. Competition provokes and produces automation.

Let me give you another example: Companies are competing, say, in the food business – you know, trying to get a customer like you or me to buy this kind of cereal rather than another. So they get their labs to go to work, and they discover we can replace wheat, which we used to put in our little flakes, with – Lord help us – some chemical that is cheaper than wheat. We're not going to worry about what that chemical does to your chemistry in your body because we can now lower the price of our cereal, because we're saving on wheat, and undercut the competitor. The human beings who eat this stuff will suffer, now and in the future, but competition left our producer of cereal no choice.

And in case you think I'm making some up, let me give you some concrete ones. The Boeing Corporation, the major producer of airplanes in this country, is in a crisis as a corporation. You know why? Because the 737 Max crashed a couple of times, killing hundreds of people. And you know why? It turns out they economized on safety measures, and training measures. And you know why they did that? Because they're in a very tight competition with European and other airplane manufacturers, and that leads them – as it usually does – to look to cut corners: that race for, quote, "efficiency." Yeah, it was competition that contributed to those deaths and to that problem. That's competition too. You can't whitewash this story; they're real. One of the ways Amazon beats its competition is it speeds up the work process. It has figured out ways to make people work much more intensely, using up their brains, their muscles, their nerves, in ways that cause real long-term physical damage to working people. That, too, is a result of the competitive effort.

And you know, it wasn't so long ago that children were part of the labor force. That's right, kids as young as five and six years of age. We were told they have little fingers, you see. They can be more productive than people who are adults with big fat fingers, you know – that doesn't work. And by the way, you should be grateful because poor kids are the ones we hire, and that gives their poor families more income than they would otherwise have. We heard those arguments. Competition, the companies said, required them to use the more productive, and the lower-wage, children rather than adults. So child labor was also a result of competition. It was so ugly and so troubling to so many people that finally there were movements in the United States and many other countries simply to outlaw child labor. So it became a crime for any employer to use a worker who was under 16 or 18 years of age. That was a way in which people said we are not going to allow competition among capitalists to destroy our children. They were recognizing that competition has an awful effect in what it does to children.

Well, it has many awful effects. So let's be clear: In the history of capitalism, the monopoly problem (which we're going to get to in the second half of today's program) is no worse, it's just different, from the competition problems. Capitalism goes through phases of competition and monopoly, going from one to the other, as I will explain. But we shouldn't bemoan the one in favor of the other, any more than vice-versa. These are neither of them solutions; they are both phases of the problem. And the problem is capitalism, which does its number on us both in the period when it's competitive and in the period when it's monopoly. People who want us to engage one more time in an anti-monopoly crusade are doing something that in the end evades the problem, which is the system – capitalism – not this or that form of that system, such as competition and monopoly.

We've come to the end of the first half of today's Economic Update. This gives me an opportunity to remind you, please, to sign up if you haven't already, to subscribe to our YouTube channel. It's a way easily for you to support us, doesn't cost any money, and it is a big help to us in terms of our reputation and what we can accomplish. Likewise, please make use of our websites. They are there for your communication with us. They are there for you to be able to, with a click of a mouse, to follow us on Facebook, Twitter, and Instagram. And finally, a special thanks goes, as always, to our Patreon community for their ongoing enthusiastic support. It means the world to us. My final, very final for this first half, is about a new book that we have just produced and released. It's a follow-up to an earlier volume I have spoken to you about that was called Understanding Marxism. For the same reason, we have now produced a brand-new book, just out, called Understanding Socialism. It is a response, as this program is, to issues, questions, comments you have sent to us in large numbers. It's an attempt to give an overview of the different interpretations of what socialism means, of what happened in countries like Russia and China that tried to create this – the strengths, the weaknesses, the lessons to be learned, what to do, and what not to do. Please, if you're interested and want to follow up, check us out, check the book out: lulu.com is how you find both books. And I will be right back; stay with us.

Welcome back, friends, to the second half of today's Economic Update. This program, as I explained, is devoted to the analysis of competition and monopoly as two interactive, sequential phases of capitalism as a system. The first part of the program was devoted mostly to competition, so let's turn now to monopoly. What is the basic definition and criticism of monopoly? Strictly speaking, monopoly is defined simply as a situation in which the producers of a particular commodity – shoes, software programs, haircuts, it doesn't matter – have been reduced to only one. Literally one seller – a monopolist. But in general language, it includes also situations where many producers who once competed with one another have been reduced to only a handful. The strict term for only a handful is "oligopoly," but we don't have to split hairs about this. "Monopoly" will be the word we use for either one or a very small number.

For example, there were once dozens of automobile companies, but very quickly their competition reduced them to basically three for much of the post-World War II period, and you know their names: Ford, General Motors, and Chrysler. And likewise there were once many cigarette producers, there were once many television-set producers, and they became very few, whose names, therefore, we all know.

What's the criticism of a monopoly or oligopoly situation? Again, very simple: The idea is, if there's only one seller of something, that seller can jack up the price way above what he might have otherwise because he doesn't have any competitor. If he had a competitor, if he raised the price, the competitor would get all the business because we'd all go to the competitor who hadn't raised the price rather than buy it at a higher price from the monopolist. So we don't like monopolies, because they can jack up their prices and their profits because they don't have a competitor. And if it's a few, a handful, well then we talk about things like cartels: arrangements when a few get together over dinner, or out on the golf course, and tell us what the price is. If you ever wondered why the prices of different cars, different cigarettes, and so on, are so close to one another – mm-hmm – that's because there are few sellers, and somehow they worked it all out. But the basic criticism is that a monopoly is a situation in which the seller of something jacks the price up way beyond what they could otherwise get because there are no more competitors.

So let's talk about this monopoly problem and where the monopolies come from. Well, the first and most important lesson is this: Competition produces monopoly. It's not something external, imposed on competition. It has nothing to do with human greed or anything else. Are people greedy? You betcha – some more, some less – but that's really a separate matter. It's competition that produces monopoly, and let me show you how that works. In competition, we have, by definition, a whole bunch of producers. They all produce the same thing. They compete with one another, hoping we, the consumer, will buy from one rather than the other. They compete in the quality of what they produce and in the price of what they produce. And we are supposed, as consumers, to go look for the best quality at the lowest price, and to patronize that one who offers that to us better than the others that we could buy from but choose not to.

Okay, that's a fair definition. Now let's follow the logic. Company A produces – however it manages it – a better quality and/or a lower price than Company B. So we all go to Company A. Company B can't find any buyers because it's not competitive. Or to say the same thing in other words, Company A outcompetes Company B. Here's what happens: Company B collapses. Because it can't sell its goods, we're all going to Company A. So Company B sooner or later declares bankruptcy. It can't continue. It lays off its employees, it stops buying inputs, because it can't compete. Good. Now what happens in Company A? Company A says hey, there's a whole bunch of workers that have just lost their job at Company B; they're trained in producing what we produce; let's go hire some of them. And likewise, Company A says, they're not using their computers, or their trucks, or their other inputs. They're going to have to sell them on the secondhand market. We can get some important inputs we need at a lower price than we would have to pay if we bought them new. So what begins to happen is, where before there were two companies, A and B, there's now one larger A, and B has disappeared. Or to say the same thing in simple English, A – the winner in the competitive struggle – eats, absorbs into itself, what's left of Company B.

And this process is repeated over and over, until 30, or 300, companies have become one, or two, or three. That's the result of competition. That's how competition is supposed to work. That's how competition does work. It's important to understand: Monopoly is where competition leads. And as if that weren't enough, let me make sure you understand this from the business point of view: It is the great dream of every entrepreneur to become the last one standing in the competition, to win the competition, not just because it makes you feel good you outmaneuvered your competitors, but because if you're the last one standing, you're the monopolist. The reward for having outcompeted the others is that you're now in a position to jack up the profits, and the prices, way beyond what you could have done before.

So we have a system that produces monopoly, and all the incentives for every entrepreneur in competition to work as hard as possible to become the monopolist. So why is anyone surprised that monopolies keep happening, because they're the whole point and purpose of capitalist competition. If you ever were – and we never have, but if you ever were – able to get rid of all the monopolies and re-establish competition, all you would be doing is setting this same process in motion again for the umpteenth historical time. In other words, fighting against monopoly is pointless as long as you have capitalism, because it is the endless reproducer of this problem – as it always has been.

Now, how do monopolies maintain themselves? If you're the only one standing, you're a monopolist. Or you're an oligopoly, you're a few, and you get together and jack up your prices together. The question becomes look, a monopolist makes very high profits – much higher than a competitor can achieve – and isn't that an enormous incentive for other capitalists to get in on that business? Because look at the profits they're earning, because they're the only one. Apple, Amazon, Google – the profits are staggering. Everybody wants to get in. So the way a monopolist has to think is, I've got to create obstacles that block other people from coming in to get a piece of the enormous profits my monopoly allows me to get. We call that in economics "barriers to entry." Monopolists need to create barriers. Let me give you a couple of examples.

The major soft drink makers in the United States – basically Coca-Cola and Pepsi Cola – they produce a drink that has sugar and coloring in it, and lots and lots of water. Let me assure you, there is nothing difficult or complicated about producing a mixture of sugar, color, and water. It doesn't take a genius; it never did. Pepsi and Coca-Cola make a fortune off of their product, as we know, and they have for decades. They have a virtual monopoly. Now, lots of other people could produce water, sugar, and color close to, if not identical with, whatever they produce, but they can't break through. They can't really get to that status. And you know why? Because Coca-Cola and Pepsi erected a barrier to entry. And the way they did that was with advertising. Every billboard, every magazine cover, every doorway of every institution you've ever been to has a picture of smiling, happy people drinking one or the other. You've learned: that's the drink, that's the drink. Another company might make a perfect substitute, but they can't afford the enormous cost of advertising. The advertising costs more than the water, and the sugar, and the color. What you pay for when you buy Pepsi and Coke is the advertising that got you to buy it. You're paying for being hustled. But it works, because it means other companies know that they can't get in there by cheaply producing an alternative, because you have to produce the advertising that goes with it, or else you can't do it. And so their monopoly is maintained.

Here's another way to maintain a monopoly: Get the government to step in. Here the famous example is the milk producers. Some years ago, there was a crisis with milk. There was contamination; people were getting sick. So the clever milk monopolies came in and said, we're going to support the enormously expensive, special equipment to guarantee pasteurization, and so on, of milk. Why did they support it? Because your small farmer, your small dairy producer, can't afford it, so they go out of business. Only the big, rich few that are left can afford the enormous equipment. They used governmental rules to create a barrier to entry.

Here's another way: corrupt public officials. President Trump denounces Huawei corporation because it compromises our national security. It denounces European car producers because somehow their shipping cars here compromises our security. Who cares? As long as the president blocks other companies from getting into the business that might compete with an American, a barrier to entry exists. Monopolists have been very creative in coming up with ways to preserve their monopolies.

I don't want to lose the basic point. The basic point is: Capitalism oscillates, back and forth between competition and monopoly – first this industry, then that one. For a while, Ford, General Motors, and Chrysler were the monopolies – or the oligopoly, if you like – in automobiles. But eventually, Toyota, and Nissan, and Peugeot, and Fiat broke the monopoly. In that case, it was foreigners who did it. And then we had some competition, and that, then, is now shrinking. The French – the last two producers in France – have just agreed to merge. You get the picture. Industry by industry, first this one, then that one, go through one phase or another.

The important point is: The phases are not our problem. They merge into, and incentivize, each other. Each provokes movement in the other direction. The point to understand is that the problems of a capitalist system are not about this oscillation of phases. We're not going to solve the problem of monopoly by getting rid of them and re-establishing competition. We've been there; we've done that; it reproduces monopoly; and it doesn't change the basic inequality, unsustainability, instability of capitalism. We need to get beyond that stale, old debate – competition versus monopoly – and face the underlying reality: Capitalism is the problem, and getting beyond it is the solution.

#### Covid, labor surplus, automation, population collapse cap – attempts to resuscitate cause extinction.

David Neilson 21. Professor of Political Science and Economics, University of Waikato, New Zealand. “Reversing the catastrophe of neoliberal-led global capitalism in the time of coronavirus: Towards a democratic socialist alternative.” *Capital and Class* 2021. DOI: 10.1177/0309816821997114.

This competitive logic interacts both with the ‘third international division of labour’ and ‘relative surplus population’ driven (un)employment effects. Interconnected sets of mutually dependent firms located across geographically remote national localities produce parts of single commodities are brought together for final assembly (Taylor 2008). Global capitalist firms technologically enabled by advanced systems of information and communication command this global supply-side-chain form of production. Simpler parts of the production process are sub-contracted to firms located in the industrially developing countries where high ‘formal subordination’ of labouring populations facilitates ‘absolute surplus value’ strategies. In turn, conception and the more technically advanced parts of the production process that Marx identifies with ‘relative surplus value’ are located in industrially advanced countries. In sum, a contractual chain of global capitalist coordination connects specialised production units across nationally diverse locations that enable global corporations to optimise surplus value by combining absolute and relative surplus value accumulation.

However, the terms of locational competition across unevenly developing countries are actually more complex. To begin with, the second international division of labour still exists, most extensively in the form of China’s belt and road initiative. As well, developed and developing countries move somewhat towards more hybrid two-speed national economies that include both low tech or low pay peripheral, and high tech or high pay metropolitan, sectors. In sum, neoliberal globalisation has unleashed a complex competitive advantage logic for countries that has led to their reduced self-sufficiency, and thus integrally, to their dependence on the global mode of accumulation.

Second, this neoliberal-led competition-driven version of uneven development has been intensified by the zero-sum logic implied by capital scarcity caused by a growing ‘relative surplus population’ (Marx 1976; Neilson & Stubbs 2011). An increasing relative surplus population driven by redundancy of industrial production workers in the advanced capitalist countries is being intensified, not just by the transfer of material production to the recently proletarianised workers of newly industrialising capitalist countries, but also by rapid automation. Simultaneously, by extending the ‘coercive whip of competition’ to the countryside of the Global South, the first wave of the relative surplus population tendency driven by peasant dispossession has been brutally activated across previously protected peasant modes of agriculture. For newly industrialising competition states, a necessary but not sufficient source of competitive advantage has been low wages enabled by labour’s high ‘formal subordination’ driven by a growing relative surplus population. In general, growing demand to facilitate employment – but hastening ecological destruction – is prevented by the demand-depressing effects of global market competition that is intensified by labour’s increasing oversupply that inversely increases the scarcity of capital.

Moreover, ‘relative surplus population’ employment logic has particular relevance to the present virus-led crisis because labour made redundant by increasing productivity in agriculture and industry spreads to the service sector (Neilson & Stubbs 2011). Although outside the core necessary economy in Marx’s sense, the service sector has become a significant source of employment and economic viability for many countries. With this neoliberal-led zero-sum terms of international competition, a significant proportion of service sector employment has become dependent on nation states’ capacity, in competition with other nation states, to attract overseas tourists. In turn, this process has unleashed a global movement of people that now spreads the virus.

Especially for countries struggling to retain or achieve international competitiveness, which is central to local employment, there is entailed an international race to the bottom in wages, working conditions and, relatedly, in ecological standards (Olney 2013). In sum, the neoliberal model of development has activated a zero-sum international competition for scarce capital, including money coming in through overseas tourists.

Regressive nationalism and the rise of neo-fascism

Defenders of the neoliberal model of development do their best to cast the ‘regressive nationalism’ of the Alt. Right as the antithesis of its cosmopolitan project. Actually, regressive nationalism is the degenerate effect of the neoliberal project’s competition-driven globalisation logic (Neilson 2020c). However, the deep causes of regressive nationalism that lie with the effects of the neoliberal model of development are mystified both by neoliberals and Alt. Rightists (Gray 2018).

The volatility of national economic competitiveness under neoliberal globalisation implies employment insecurity and uncertainty for local populations, which is heightened further by importing overseas labour. In particular, both legal and illegal low-paid workers are imported from the relative surplus populations of competitively struggling countries into more economically successful countries. Both indirectly and directly, foreign forces and peoples can thus be cast as the cause of local economic insecurity and of undermining pre-existing cultural identities. Insecure local labouring populations are invited to release their anxiety as xenophobic anger towards scapegoated immigrant labour forces. In turn, the Alt. Right argue that the solution is to expel residing immigrant populations and halt further immigration.

In their aggressive pursuit of proactive regulation domestically, agents of the Alt. Right are degenerately vulgar neoliberals. However, they break more fundamentally with neoliberalism because they directly oppose both neoliberal cultural cosmopolitanism and neoliberal market globalisation. In particular, regardless of moral, legal or political implications, all strategies that may render a national advantage can be rationalised because there are no rules in their worldview of a primordial zero-sum war between warring nations fighting for survival. Therefore, they wilfully oppose and transgress the strictly prescribed and transparent rules of economic competition that define the project of the neoliberalised global market. As the world descends into recurring, escalating and viciously interacting crises, mistrust and economic competition fed by the primordial ideology and amoral practices of the agents of regressive nationalism threaten to spill over into direct forms of civil and international war.

The global pandemic

The global spread of COVID-19 is also related to limitations arising from the neoliberal model of development’s modes of regulation and accumulation. Its proactively capitalist mode of competitive regulation has been ideologically promoted, institutionally constructed and managed by key United Nations based regulatory agencies, and is now also embedded in the institutions and expectations of national agents. However, it is radically unsuited to the forms of international cooperation that are needed for controlling a global pandemic. Indeed, when such a global crisis occurs, the present mode of global regulation can trigger blaming, disorganisation and intensified competition. At the same time, national dependence on the global structure of the neoliberal mode of accumulation is highly destabilising. Specifically, because dependent on the global scale system of accumulation, nation states are in a weak position to be able to sustain themselves locally. This dependence manifests as a direct contradiction between maintaining national economic viability and stopping the pandemic’s spreading into a nation state from off-shore.

Directly contrary to the neoliberal ideology of self-sufficiency, national economic viability under the neoliberal mode of accumulation is dependent on achieving specialised export competitiveness within complex global commodity chains that now ‘are breaking in numerous places’ (Foster & Suwandi 2020: 9; Moody 2020). This dependence on their position within a disintegrating global system is in direct tension with the need to pursue economic localisation in order to stop COVID-19 entering the nation sate. A global crisis thus becomes a local crisis, but also a local economic crisis can have ripple effects across other countries.

The original breakout of a pandemic in one place is in-itself related to the destructive capitalism-led march of humanity into the wilderness (Wallace 2016; Wallace et al. 2020; WWF International 2020). The neoliberal model of development constitutes the perfect environment for the virus to spread rapidly from this particular locality to the whole of humanity because its forms of regulation and accumulation have generated unparalleled movement of people backwards and forwards across the planet. The global flow of things and people unleashed by the neoliberal model of development spreads the virus everywhere. Inversely, because of global market capitalist dependence and corresponding lack of local self-sufficiency, all nation states struggle to – but must – break from this global system if they are to avoid being overwhelmed by the contagion’s local invasion from off-shore.

In sum, this viral-led crisis is centrally related to capitalism’s neoliberal-led global form. On one hand, its intensification of human movement across and within national borders that now engulfs the whole planet is also what spreads the virus everywhere. It only stops spreading when we stop moving. On the other hand, as we struggle to stop moving to halt the virus, the prevailing global form of the capitalist mode of production upon which basic human existence now depends cannot be maintained. The shocking immediate choice confronting political actors is thus between containing the virus’ spread and avoiding economic breakdown. The worst case scenario is where neither goal is achieved, that is, where the spread of the virus is reactivated every time countries are driven to return to ‘business as usual’ before it has been properly stamped out. Thus, economic breakdown follows when a country locks down, and the spreading of the virus follows when a country re-opens.

The extremely unstable and inflexible nature of this form of the capitalist mode of production spreads COVID-19 to the whole world in an uneven process of refracted diffusion. This complicated transmission logic has interacting international, political and class dimensions. The movement of the virus into and within nation states initially spreads most rapidly among industrially advanced capitalist countries where the frequency and distance of human movement is highest. In contrast, spread of the virus is delayed and reduced for the shorter and less frequent moving of people and things that occurs in the non-developed countries of the Global South. With fewer economic reserves and less developed national health systems, non-developed countries have the least structural capacity to respond to this double-headed economic or health crisis. However, they do have the pre-existing advantage of more localised economies and they have time to learn from other national experiences and thereby more chance to implement successfully lockdowns and social distancing rules. Furthermore, regardless of the economic stage of capitalist industrialisation, countries with strong state capacity, decisive political leadership and a collectively responsible citizenry may be able to stop the virus by reducing citizens’ movement outside of their immediate locations while at the same time promoting ‘social distancing’.3

Despite complexly overdetermined form, a class process of diffusion overlaid by cultural inequalities is discernible. The virus is internationally carried, first, by the cosmopolitan members of the capitalist class and middle class who move freely for business and pleasure back and forth across countries. Second, it is carried by low-paid labour forces imported from poorer countries to richer countries to do informal, temporary, unskilled work in the industrial and service sectors of richer countries. Once landing in a new national territory, through cosmopolitan classes and imported labour, the virus spreads towards the local labouring population. In particular, the cosmopolitan classes who tour the world transmit the virus to low-paid service sector workers. Thus, the virus moves towards the strata of the ‘relative surplus population’, which is also overrepresented by subaltern ethnic groups. These strata are very vulnerable due to insecure, close and impoverished living conditions around working, food and housing. In the advanced capitalist countries, the virus spreads towards workers located in vulnerable parts of service and manufacturing sectors, and from there to more desperate segments of the relative surplus population including the homeless and the incarcerated. In the Global South, it spreads towards the street dwelling inhabitants of the city slums.

When the economies of the countries of the Global South are closed to stop the spread of virus, there is rapid loss in the survival capacity of those in the relative surplus population with only daily stores to meet their basic material needs. In this situation, the poor and the dispossessed confront an increasingly precarious double effect. Both as breakdown of their precarious employment based material existence, because living in vulnerable material circumstances without adequate public health, and perhaps already having compromised physical constitutions, these groups become simultaneously exposed and vulnerable to the virus while lacking the means to combat it (Foster & Suwandi 2020: 12; Onyishi et al. 2020).

Descent towards the terminal crisis of western capitalism

In one concentrated conjuncture of viciously interacting crises, the coronavirus brings to the surface symptoms of the terminal stages of the western capitalist project. The global capitalist organisation of material existence spreads the virus while undermining viable local economic responses that can contain it. Simultaneously, closing national economies in response to the virus is bringing on the deepest and most comprehensive economic crisis in human history. These manifesting contradictions that now threaten the whole of Gaia, also bring to the surface the spectre of the original epistemological and ontological contradictions of the western capitalist project’s ‘primitive’ ascendancy that have been reproduced to this day.

Especially in the United States, the present global exemplar and leader of the western capitalist project, all these viciously interacting contradictions are concentrated. The capitalist expression of Enlightenment theories that have legitimated Western capitalism’s absolute exploitation particularly through the destruction of Indigenous civilisations and the brutal industrial scale absolute exploitation of enslaved African peoples, live on to the present. Racist mentalities are reproduced across the major institutional forms centrally including labour market, education and the repressive apparatuses of the state that are also reflected in COVID-19 vulnerabilities (Pirtle 2020). Thus, there is destructive intersection of class and race oppressions (Saad-Filho 2020: 480). The present (as I write) social uprising united under the banner ‘Black Lives Matter’ may lead to a fundamental break with the institutions and mentalities of systemic racism. However, a last gasp backlash White supremacy movement, led in this case by the President, is promoting deepening social division and conflict.

Even more fundamentally, the destructively expansive logic of the capitalist mode of production, legitimated by the western modernist meta-narrative that celebrates human-centred exploitation of the natural world and that has been extended and intensified under the neoliberal model of development, now expresses itself as a steady march towards ecocatastrophe. Today, dynamically expanding material capital accumulation unleashed globally by the neoliberal model of development threatens Gaia as capital scours all the world in search of dwindling raw materials, as species go extinct daily and as the manifold effects of global warming undermine the most basic conditions of life on the planet. At the same time, the human component of Gaia is suffering, more or less, as a result of this ecological destruction, and by the relative-surplus-population-led descent of human civilisation into a chaotically disorganised ‘planet of slums’ ravaged by global viruses and deep social dislocation (Davis 2006, 2020; Foster & Suwandi 2020). In sum, the present conjuncture condenses the manifold contradictions of the western capitalist project in a terminal cycle of interacting crises.

#### Vote neg for global syndicalism – pressures towards socialist state action are building, forces the hand of monopolies.

Cecilia Rikap 21. Professor of Economics and Coordinator of YSI States and Markets Working Group, Institute for New Economic Thinking. “Tilting the Scale Against Intellectual Monopoly Capitalism.” *Capitalism, Power and Innovation Intellectual Monopoly Capitalism Uncovered*. Routledge. 2021. 287-289

Capitalism is a system based on asymmetries and inequalities (of income, wealth, between classes, genders, races, countries and more). Quite striking for a system born from the motto “Liberté, égalité, fraternité”. As time passes by, this broken promise of modernity becomes all the more apparent. Inequalities deepen as knowledge is monopolized, digital surveillance reinforces firms and states control capacities over workers and citizens, and political conflicts never cease – with the US-China tech cold war at the current epicentre.

Social disrupts are an expected recurring outcome, and we have seen them everywhere in the 21st century. The specific motives differed, but there is a common root: people are fed up with capitalism’s growing inequalities, with a stagnant or even declining “middle class” in developed countries for several decades already and the highest gains accumulating at the global level for those in the richest 5% (Milanovic, 2016).

There is another shared feature; demonstrations are increasingly being organized online. The same technology that is used for surveillance, for broadcasting extreme right and even fascist ideas, and that drives the USChina world hegemony conflict, is also being used as a counterbalancing weapon. Internet, particularly social networks, is a powerful tool for the organization of grassroots movements. Workers’ unions can also learn from each other’s experiences online.

The absence or weakness of unions and social movements in some parts of the world has benefited intellectual monopolies rentiership and predation. For instance, hiring workers with a vendor contract not only hides the working relation (see Chapter 10) but also impedes unionization as it currently stands. Still, unions are adapting and workers organizing. In 2018, Google employees managed to stop the company from renewing an artificial intelligence contract with the Pentagon and to cancel its plans for a censored search engine for China. And, in 2020, 2,000 employees urged the company to cease selling technology to the US police after George Floyd’s killing. These initiatives should be taken by workers in other companies and contribute to unionization. Unions should be reconceived as a political actor capable of exercising their influence beyond wage claims. Workers’ organization is indispensable to counterbalance the power of intellectual monopolies, given both their global reach and states’ internal contradictions and limitations.

Peripheral countries should cease competing to attract outsourcing and offshoring by allowing worse wages and working conditions. As mentioned above in this chapter, world cooperation agreements to establish minimum labour regulations, forbidding new and old forms of informality and granting minimum working conditions are urgent. However, these agreements require great social pressures to take place. When it comes to transforming capitalism, social disrupts, grassroots social movements and unions play a crucial role.

To illustrate their paramount importance, let us briefly consider taxes. It is crystal clear that the global taxing system has failed. As pointed out in Chapters 7 and 10, global intellectual monopolies declare profits and IPRs in tax havens and use tax loopholes to minimize paid taxes. Global tax reform should consider the separation between ownership and control. Intellectual monopolies control production and innovation networks beyond their legal ownership and have the capacity to trickle down the burden of taxes. However, the intertwined relationship between global intellectual monopolies and their home (core) states renders highly unlikely to accomplish such global tax reform without intense social pressure. Even the recent US corporate tax reform was not – at least so far – successful in this respect (Clausing, 2020). Then, as far as tax havens are not eliminated, there will still be room for tax avoidance and evasion (Zucman, 2015). Countries acting as tax havens will not comply with a global reform unless huge social disrupt forces them to do so.

Additionally, workers’ protests must be coordinated at the level of the global production network because the production unit is no longer the factory but the network. The same applies to global innovation networks. Intellectual monopolies’ recognized employees have greater bargaining power than workers in subordinate firms, which are precisely those that generally need a more urgent improvement in their salaries and working conditions. “Workers of the world unite, you have nothing to lose but your chains” (Marx & Engels, 1848) can and must become an everyday reality for the French Revolution motto to be more than aspirational.

### 14A CP – 1NC

#### The United States federal government, without changing the scope of its core antitrust laws, should determine that , violates the 14th Amendment.

#### Counterplan solves the case and reinvigorates the 14th Amendment by making it the exclusive basis for decision.

Robert M. Ahlander 17. J.D. candidate, April 2017, J. Reuben Clark Law School, Brigham Young University. “Undressing Naked Economic Protectionism, Rational Basis Review, and Fourteenth Amendment Equal Protection”. BYU L. Rev. 167 (2017). https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=3084&context=lawreview

V. CONCLUSION If the only plausible rationale for a law is to protect a certain group from economic competition, the law should not be upheld. The Fourteenth Amendment states that the government cannot deny to any person the equal protection of the laws. When the legislature denies one person certain economic liberties but grants those same economic liberties to another similarly situated person, and there is no rational basis for the classification, equal protection of the law has been denied, and the classification is a violation of the Fourteenth Amendment’s Equal Protection Clause. On the other hand, if there is some rational basis for the law, including some legitimate government interest, the law does not violate the Fourteenth Amendment, and should be upheld. Finding some rational basis for economic legislation is a very low threshold; however, naked economic protectionism should not be a rational basis for law because (1) Supreme Court precedent is weak and untested when it comes to naked economic protectionism, (2) naked economic protectionism is virtually impossible to negate, and (3) a rational basis for a law should include a government interest that serves (to some extent) the public good, not simply the group receiving economic protection. The Supreme Court has not explicitly endorsed naked economic protectionism as a rational basis under the Equal Protection Clause. In each decision where the Court upheld economic legislation that resulted in an economic benefit to a certain group, the Court upheld the law on other, legitimate rational bases—not naked economic protectionism. Even in the two circuit court decisions that explicitly legitimize naked economic protectionism, the courts relied on some rationale apart from mere economic protectionism of a certain group. Therefore, naked economic protectionism as a rational basis is, for the time being, a legal fiction that has not been tested as an exclusive basis for upholding a law. Naked economic protectionism is virtually impossible to negate. Since every piece of legislation favors some group over another, and courts only need to find some possible reason that the legislature enacted the law, courts could simply hypothesize that the economic legislation was enacted to protect the benefited group. This protection does not even need to be the actual purpose for which the legislature enacted the statute, nor does the law need to show any sign of effectuating that purpose. Barring the potential for legislative animus against the disfavored group, naked economic protectionism is virtually impossible to negate. Rational basis review should include a government interest that serves, at least to some extent, the public interest or the general welfare. In the decisions discussed in this Comment, there is no precedent established for upholding economic legislation that lacks some strand of public interest. Rational basis review provides a low threshold, and the possibilities for a legitimate public interest are many, including consumer protection, consumer safety, public health, economic development, neighborhood preservation, protecting reliance interests, historical preservation, and tourism attraction. While otherwise publicly minded laws may result in the economic protection of certain groups, economic protectionism should not stand as the sole basis for enacting a law. Legitimizing naked economic protectionism as a rational basis for enacting a law may seriously harm the general public. For example, we may see occupational licensing requirements protect certain professions from economic competition in areas where the licensed professional is not specialized, the most skilled, or even qualified. These unfounded protections harm the public by reducing supply, choice, and quality. Courts should not uphold a law when the only basis for the law is naked economic protectionism.

#### 14th Amendment collapsing now – but the counterplan’s expansion of equal protection solves healthcare.

Scott J. Schweikart 21. JD, MBE. “How to Apply the Fourteenth Amendment to the Constitution and the Civil Rights Act to Promote Health Equity in the US”. https://journalofethics.ama-assn.org/article/how-apply-fourteenth-amendment-constitution-and-civil-rights-act-promote-health-equity-us/2021-03

Abstract

Health equity in the United States requires elimination of differentials in access to health services according to race, ethnicity, sex, gender identity, comorbidity, or ability. To achieve health equity, governments can use a variety of tools, including civil rights legislation and constitutional jurisprudence. In the United States, 2 such examples are the Fourteenth Amendment to the Constitution’s Equal Protection clause and Title VI of the Civil Rights Act. While both have the capacity to reduce health disparities, in practice, neither has achieved its full potential because of how the judicial branch has interpreted and allowed these 2 laws to be enforced. How courts adjudicate health-related cases, especially those in which civil rights or other human rights legislation are at stake, is key to the successful promotion of legislative and jurisprudential approaches to motivating health equity and realizing justice for all.

What Is Health Equity?

Health equity has been widely defined as an “absence of socially unjust or unfair health disparities.”1 Equity is different than equality. While both equity and equality focus on notions of fairness, equality emphasizes giving people “the same resources or opportunities” while equity “recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.”2 Health equity in particular “focuses attention on the distribution of resources and other processes that drive a particular kind of health inequality.”1 Health equity is important because health is fundamental to the human experience. As Amartya Sen explains: “health is among the most important conditions of human life and a critically significant constituent of human capabilities in which we have reason to value.”3 Complete health equity is a theoretical ideal; in reality, different nations and governing structures have differing success in achieving health equity. The United States, for example, has stark disparities in health and access to care compared to peer nations like Canada.4 Hence, the drive to effectuate health equity in American society is paramount and key to achieving a more just society, while it would also enhance the quality of human life and its essence.

Legislative Action on Civil Rights

Either by acting “as a provider or guarantor of human rights” or by implementing “policy frameworks that provide the basis for equitable health improvement,” governments can contribute to effectuating health equity.5 With respect to human rights, the United States has no formally codified right to health, nor does it participate in a human rights treaty that specifies a right to health. A prime example of such a treaty is the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides for a specific—though criticized as “vague” and “unrealistic”—right to health.6 The ICESCR has only been ratified and not signed by the United States, thus “making the treaty only morally rather than legally binding on the US.”6 However, as Paula Braveman et al have noted, the values underlying health equity are “rooted in deeply held American social values”7; hence there is scope for government action to effectuate health equity. The United States does have law in the domain of human rights. These laws—nominally known as civil rights—are, on the whole, designed to protect citizens from “discriminatory practices by governments and institutions” and also to “protect citizens from discriminatory practices by other citizens.”8 Indeed, Robert Hahn et al argue that civil rights laws are social determinants of health, as they “causally affect the societal distribution of resources that in turn affect disease, injury, and health.”8 While not as explicit as an international human rights treaty, both the Fourteenth Amendment of the Constitution and Title VI of the Civil Rights Act of 1964 offer examples of civil rights law that attempt to achieve more equitable outcomes in American society. What follows is an exploration of how effective these aspects of American civil rights law are in promoting health equity in America.

Fourteenth Amendment. The Fourteenth Amendment of the US Constitution is famously known for its Equal Protection clause, which states that “nor shall any state … deny to any person within its jurisdiction the equal protection of the laws.”9 With regard to implementing health equity, the Fourteenth Amendment seems a natural place in US law on which to focus. Indeed, “the equal protection clause is generally thought to require government to treat similarly circumstanced individuals in a similar manner.”10 However, there is a history of US courts (the US Supreme Court in particular) not applying a heightened level of scrutiny to equal protection claims regarding unequal access to health care, which has allowed for inequities to continue.10 Throughout its jurisprudential history, the “Supreme Court [has] interpreted the Fourteenth Amendment far more narrowly than many of its drafters intended, most notably by holding that it did not apply to discrimination by private actors.”11 Additionally, the Supreme Court required the “exceedingly difficult” burden that “for a litigant to prevail” in an Equal Protection case, the plaintiff “must prove that the government acted with a ‘discriminatory purpose’” and that simply demonstrating that a “policy or practice has a disparate impact on people of a particular race is not sufficient to prevail on an Equal Protection claim.”11 Because of the narrow and restrictive legacy of court interpretation, the Fourteenth Amendment has been weakened and has not operated as an effective tool to implement civil and human rights. Ultimately, success and actual progress in enforcing civil rights came when the Supreme Court “upheld the Civil Rights Act of 1964, although it relied on Congress’s authority under the Commerce Clause, and not the Fourteenth Amendment.”11

#### That solves disease and bioterrorism – extinction.

John Mecklin 17. Editor-in-chief of the Bulletin of the Atomic ScientistsHow the House health care bill undercuts bioterror and pandemic defenses http://thebulletin.org/how-house-health-care-bill-undercuts-bioterror-and-pandemic-defenses10752

For all sorts of reasons, **the US public health system**—as patchwork as it may be—**is absolutely vital to protecting the United States and the world from bioterrorism and natural disease outbreaks that could turn pandemic**. I could offer a long policy discussion here to support the previous sentence, but I think two words will do the job: Ebola. Anthrax. According to a question-and-answer string generated by the Washington Post, the House health care bill “would eliminate funds for fundamental public health programs, including for the prevention of **bioterrorism and disease outbreaks**, as well as money to provide immunizations and heart-disease screenings” and gut a fund that provides almost $1 billion annually to the Centers for Disease Control and Prevention (CDC). The panic that attended the anthrax letter attacks of 2001 and Ebola cases in 2014—incidents that claimed only a relative handful of victims each in this country—**would pale in comparison to the uproar accompanying a widespread outbreak of serious disease**, whether it were natural in origin or manmade. The systems needed to detect outbreaks early and **forestall pandemic** are exactly the programs that the House health care bill cuts. Many of those systems are run by state health departments, which would lose hundreds of millions of dollars because of cuts in funding for the CDC. At the same time, it seems likely that if the Senate agrees to something close to the House health care bill, millions of Americans will also lose health insurance coverage. This combination—disinvestment in public health and large reductions in the number of people with access to timely medical care—could facilitate the type of pandemic that **causes mass casualties and threatens social order**. Such a level of risk demands an increased level of attention from the media, and from the Senate, as it decides how it will address—and, I hope, greatly change—the House version of health care “reform."

### CFIUS CP – 1NC

#### counterplan: The United States federal government should:

#### 1---define a comity balancing test that does not incorporate foreign interests as a non-antitrust, regulatory threat to national security;

#### 2---allow a private right of action for discovery and prosecution of said threats;

#### 3---expand funding, research and development for graphene extraction, water desalination, smart cities and space elevators.

#### 4---apply a principle of desuetude to all cases effected by the *Motorola* and *Illinois Brick* decisions.

#### cfius solves

Richard M. Steuer 17. Member of the New York Bar. "The Horizons of Antitrust." St. John's Law Review, vol. 91, no. 1, Spring 2017, p. 177-210. HeinOnline.

As described earlier, some countries assign their competition agencies responsibility for assessing and weighing not only consumer welfare, but other goals as well. This can be daunting, but every town council and zoning board routinely faces the challenge of weighing competing goals, usually with far less analytical support.8 ' Nevertheless, the arguments against assigning competition agencies authority for applying other goals are that these agencies are ill equipped to perform non-economic analysis, and that such an approach would concentrate too much discretion within the competition authorities. If, for instance, the Federal Trade Commission were tasked with conducting a "net benefit" analysis, considering all the goals discussed earlier, it would require greater resources. It also would need the political strength to withstand the criticism it would inevitably attract year in and year out from disappointed parties and their supporters. Some countries, such as Canada and Australia, have established authorities separate from competition authorities to oversee foreign investment, applying a wide variety of goals either apart from consumer welfare or, as in Australia, including consumer welfare. 82 A model like that adopted in Australia would contemplate the creation of a foreign investment review board to advise a cabinet member or the president, who in turn would have authority to disapprove foreign investments, applying a "national interest" or "net benefit" test. If such an arm of government were assigned responsibility in the United States for balancing all these goals in the context of foreign investment, who has the breadth of experience, depth of wisdom, and political respect to make such judgments? The National Economic Council, as has been suggested by the Center for American Progress?" Would its determination be subject to judicial review, and under what standard? What about expanding the responsibilities of CFIUS, as proposed under the Foreign Investment and Economic Security bill,' to apply a "net benefit" test to foreign acquisitions of control regardless of whether those acquisitions pose a threat to national security? Under that proposal, the Committee's determination would be subject to review by the President, but otherwise would be nonreviewable. What about creating a new body, modeled on Australia's Foreign Investment Review Board? How would it be composed and who would appoint its members? Would it be modeled on the Federal Trade Commission, with members from more than one political party serving fixed terms or would it be reconstituted by each administration, like the Council of Economic Advisors? Who would have the ultimate responsibility-the Treasury Secretary? The Commerce Secretary? The President? What would be the threshold for review? Would judicial review be possible and, if so, under what standard? The simplest approach might be to expand the mission of CFIUS by defining "national security" to include economic security, or "national interest," and to create a new advisory board, with adequate staffing, to provide the support that CFIUS would need to fulfill a broader mission with respect to acquisitions of foreign control that do not raise issues of national defense or homeland security. Depending upon the scope of this new authority, there might be calls to add provisions to allow judicial review in those instances where neither national defense nor homeland security is involved." It would be easiest to leave well enough alone, of course, but if the American economy truly is being threatened by the current approach, a new assignment of responsibility should be considered. There are several viable alternatives, as just described, each of which has pros and cons. What is clear is that if the present structure in the United States no longer is working satisfactorily, a new structure needs to be considered.

### FTC Disad – 1NC

#### FTC’s increasing enforcement in privacy now – it’s focused on algorithmic bias

James V. Fazio 21. Special counsel in the Intellectual Property Practice Group at Sheppard, Mullin, Richter & Hampton LLP, with Liisa M. Thomas, 3/11. “What Is FTC’s Course Under Biden?” https://www.natlawreview.com/article/what-ftc-s-course-under-biden

The new acting FTC chair, Rebecca Kelly Slaughter, recently signaled that the FTC may increase enforcement and penalties in the privacy and data security realm. Slaughter pointed to several areas of focus for the FTC this year, which companies will want to keep in mind: Notifying Consumers About FTC Allegations: Slaughter referred favorably to two recent cases: (1) the Everalbum biometric settlement from earlier this year (which we wrote about at the time); and (2) the Flo Health settlement over alleged deceptive data sharing practices (which we also wrote about at the time). In drawing on these two cases, Slaughter indicated that in future cases the FTC intends to include as part of any settlement a requirement to notify customers of any FTC allegations. This, she said, would allow consumers to “vote with their feet” and help them decide whether to recommend their services to others. FTC Intent to Plead All Relevant Violations: According to Slaughter, another lesson the FTC is taking from the Flo case is to include in the cases it brings all potentially applicable violations of all relevant privacy-related laws. In the Flo case, Slaughter said the FTC should have pleaded a violation of the Health Breach Notification Rule, which requires that vendors of personal health records notify consumers of data breaches. Focus on Ed Tech and COPPA: Given the explosive growth of education technology during COVID-19, the FTC is conducting an industry sweep of the industry. Related to this, the FTC is reviewing its Children’s Online Privacy Protection Act Rule. This goes beyond the refresh the agency did of their FAQs earlier in the pandemic (which we wrote about at the time). For now, Slaughter reminds companies that parental consent is needed before collecting information online from children under the age of 13. Examination of Health Apps: The FTC will take a closer look at health apps, including telehealth and contact tracing apps, as more and more consumers are relying on such apps to manage their health during the pandemic. Overlap Between Competition and Privacy: Slaughter also indicated that it is worth looking at situations where there may be not only privacy concerns, but antitrust as well. Because the FTC has a dual mission (consumer protection and competition) she notes that it has a “structural advantage” over other regulators in that it can look at these issues, especially since -she states- “many of the largest players in digital markets are as powerful as they are because of the breadth of their access to and control over consumer data.” Racial Equality and AI/Biometrics/Geotracking: Slaughter noted that COVID-19 is exacerbating racial inequities. She pointed to the unequal access to technology, as well as algorithmic discrimination (the idea that discrimination offline becomes embedded into algorithmic system logic). The FTC intends to focus on algorithmic discrimination, as well as on the discrimination potentially embedded into facial recognition technologies. (This mirrors concerns that gave rise to the recent Portland facial recognition law, which we recently wrote about). Finally, Slaughter commented on the use of location data to identify characteristics of Black Lives Matter protesters, and said she is concerned about the misuse of location data to track Americans engaged in constitutionally protected speech. Putting it Into Practice: Companies that operate health apps, that are in the education technology space, or that use algorithms or facial recognition tools will want to keep in mind that these are areas of focus for the FTC. And for everyone, keep in mind that the FTC has indicated it will beef up privacy law penalties and will ask for more notification to injured consumers.

#### Antitrust enforcement saps up FTC resources and personnel, which are finite

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Second, like all antitrust enforcers, Ms. Khan and the FTC will face resource constraints. Bringing antitrust litigation is an expensive and laborious process, often requiring millions of dollars for expert fees and a large army of FTC staff attorneys and taking many months or even years to accomplish. Typically, the FTC can only litigate a handful of antitrust matters at a time. It seems likely that Congress will provide more funding to the FTC in the current environment, but even with these extra resources, the FTC will still have to pick its cases carefully and cannot challenge every deal or every instance of alleged unlawful conduct.

#### That trades off with the necessary resources for privacy enforcement

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The FTC needs more resources to adequately address the nation’s growing privacy concerns. Currently, the FTC oversees both consumer protection—encompassing privacy—and antitrust,249 making the FTC the chief federal agency on privacy policy and enforcement250 and the nation’s de-facto privacy agency.251 The agency has long-standing experience in enforcing privacy statutes252 and also has special privacy assets, such as an internet lab capable of high-quality tech forensics to track invasions of privacy.253 The FTC, however, has failed to keep pace with the massive growth of privacy concerns—a phenomenon also driven by modern technology. Very few Americans feel conﬁdent in the privacy of their information in the digital age.254 According to a 2019 study, over 80% of Americans feel that they have little to no control over the data collected on them by companies and the government.255 To adequately address privacy concerns, the FTC needs more resources.256 The agency has been explicit that it needs more manpower to police tech companies. In requesting increased funding from Congress, FTC Director Joseph Simons said the money would allow the agency to hire additional staff and bring more privacy cases.257 A former director of the FTC’s Bureau of Consumer Protection, which houses the privacy unit, has called the FTC “woefully understaffed.”258 As of the spring of 2019, the FTC had only forty employees dedicated to privacy and data security, compared to 500 and 110 employees at comparable agencies in the UK. and Ireland, respectively.259 Without more lawyers, investigators, and technologists, the FTC will be forced to conduct privacy investigations less thoroughly, and in some cases, forgo them altogether.260 Currently, the FT C’s resources are spread thin across multiple missions, to the detriment of its privacy efforts. Removing the agency’s antitrust responsibilities would reallocate resources from the antitrust department to its privacy unit and other areas of consumer protection. Further, it would free up the scarce time of the commissioners to oversee this essential effort.261

#### Unchecked algorithmic bias risks massive inequality and extinction

Mike Thomas 20. Quoting AI experts including MIT Physics Professors, Senior Features Writer for BuiltIn. THE FUTURE OF ARTIFICIAL INTELLIGENCE: 7 ways AI can change the world for better ... or worse, Updated: April 20, 2020, <https://builtin.com/artificial-intelligence/artificial-intelligence-future>

Klabjan also puts little stock in extreme scenarios — the type involving, say, murderous cyborgs that turn the earth into a smoldering hellscape. He’s much more concerned with machines — war robots, for instance — being fed faulty “incentives” by nefarious humans. As MIT physics professors and leading AI researcher Max Tegmark put it in a 2018 TED Talk, “The real threat from AI isn’t malice, like in silly Hollywood movies, but competence — AI accomplishing goals that just aren’t aligned with ours.” That’s Laird’s take, too. “I definitely don’t see the scenario where something wakes up and decides it wants to take over the world,” he says. “I think that’s science fiction and not the way it’s going to play out.” What Laird worries most about isn’t evil AI, per se, but “evil humans using AI as a sort of false force multiplier” for things like bank robbery and credit card fraud, among many other crimes. And so, while he’s often frustrated with the pace of progress, AI’s slow burn may actually be a blessing. “Time to understand what we’re creating and how we’re going to incorporate it into society,” Laird says, “might be exactly what we need.” But no one knows for sure. “There are several major breakthroughs that have to occur, and those could come very quickly,” Russell said during his Westminster talk. Referencing the rapid transformational effect of nuclear fission (atom splitting) by British physicist Ernest Rutherford in 1917, he added, “It’s very, very hard to predict when these conceptual breakthroughs are going to happen.” But whenever they do, if they do, he emphasized the importance of preparation. That means starting or continuing discussions about the ethical use of A.G.I. and whether it should be regulated. That means working to eliminate data bias, which has a corrupting effect on algorithms and is currently a fat fly in the AI ointment. That means working to invent and augment security measures capable of keeping the technology in check. And it means having the humility to realize that just because we can doesn’t mean we should. “Our situation with technology is complicated, but the big picture is rather simple,” Tegmark said during his TED Talk. “Most AGI researchers expect AGI within decades, and if we just bumble into this unprepared, it will probably be the biggest mistake in human history. It could enable brutal global dictatorship with unprecedented inequality, surveillance, suffering and maybe even human extinction. But if we steer carefully, we could end up in a fantastic future where everybody’s better off—the poor are richer, the rich are richer, everybody’s healthy and free to live out their dreams.”

## Cartels

### Internal Link

#### cartels are better for innovation---best studies prove they shelter sme’s

Harm G. Schröter 13. Professor of Economic History, University of Bergen, Norway. “Cartels Revisited: An Overview on Fresh Questions, New Methods, and Surprising Results.” *Revue Economique* 64(6): 995-997. November 2013. <https://www.jstor.org/stable/42772281>.

One standard argument against cartels claims they obstruct innovation. Indeed, logic asks: why should a cartelized firm invest into R&D when competition is absent? There are also cases confirming this theory. However, in contrast to such assumptions John A. Cantwell and Pilar Barrera found: "cooperative learning [. . .] does seem to have increased innovative activity."23 Most European cartels included organized transfer of innovation24 while with others no measurable impact could be detected. A third group definitely excluded transfer of knowledge (e.g. dyestuffs). However, a cartel member refraining from innovation would endanger its market share: during the periodic renegotiation of one to three years cartel-members evaluate each other's potential market share at an open market. A less than average innovative firm would run danger of receiving a reduced cartel-share. Furthermore, innovation cycles are often longer than these one to three years of cartel's contracts. Consequently a non-innovative enterprise gambling on its cartel-share would undermine its own future. Because cartels exclude competition only on a defined field, the suggested behaviour of reduced investment into R&D is not found widespread in practical behaviour. There are, of course, within long-term cartels exceptional cases where smaller participants slowed their efforts (e.g. dyestuffs-cartel, which was signed for several decades). But any firm participating in an average cartel was badly advised not to be abreast with technologic development.

Margrit Müller detected another effect. Cartelized sectors used to be established ones with no high rates of growth. Participation in such cartels stimulated Swiss enterprise to invest in new innovative sectors which lay outside the cartelized field. Consequently cartelization could lead not to less but to more innovation!25

The question of misuse of economic power: Large firms represent a potential threat to small ones. Did large international cartels exploited small countries more easily than larger states? A first evaluation suggested: no, there was no difference to be found between the dimension of less and more powerful states.26 The question can be re-addressed to large, international cartels and cartel-members situated in small countries: Did such international cartels exploit their members in small nations more easy than large in large states?27 A more detailed evaluation could find no evidence for this thesis. It seems there was no discrimination according to the size of a member's home-land.28

Cartels shelter from competition on the defined fields of the contract. This can make life easier for small enterprise. Evidence shows that cartels did not only safeguard small and medium enterprise (sme), but often SME received a larger share than in open competition.29 Large cartel-players valued order in the market higher than a small share allocated additionally to SME. Knowing this, many SME asked aggressively for a larger share and often received it. According to George Symeonidis, cartels allowed an increased share and/or expansion of small members. These findings show cartels rather foster SME (and consequently potential competition). However, in the case of Swiss watch ma- king the cartel prevented the industry from concentration and expansion abroad, which, according to Pierre-Yves Donzé, undermined the industry's competitiveness.30 Indeed, cartels "freeze" the structure of their industry fore their defined time. From the general point of competition it is appreciated to have as many part-takers in the market as possible. However, from a perspective of a nations's competitiveness more concentration and less national competition may be asked for. In order to strike a balance, several countries allow in certain cases SME forming a cartel, if their combined market-share does not exceed a certain mar-in.31 It is acknowledged that a cartel of SME is different from a cartel made of giant firms. But more important than firm-size is the share in the respective market.

A recent evaluation of cartels versus small states showed surprisingly no negative results concerning the latter.32 Cartels did not exploit customers in small countries more than in large ones. As small members the respective firms enjoyed preferential treatment not only as small firms, but often played the role of supervisor or arbitrator of the cartel. Cartel-partners from small countries were more trusted than from large states. In case large cartel-firms came from small states they did not behave differently from those based in large countries. Finally small states considered in many cases cartels as an indispensable tool for their economy. This is shown by Niklas Jensen-Eriksen in this volume, but applied also to many commodity-cartels (coffee, rubber, tin and so on) of developing countries.33 It seems that being small was not detrimental, neither for firms nor for countries, as long as they were included as independent cartel-members.

#### no private enforcement---too uncertain

Joshua Davis and Robert Lande 13. Associate Dean for Academic Affairs and Professor of Law, University of San Francisco School of Law. Member of the Advisory Board of the American Antitrust Institute; and Venable Professor of Law, University of Baltimore School of Law, and Director, American Antitrust Institute. “Article: Defying Conventional Wisdom: the Case for Private Antitrust Enforcement.” Georgia Law Review 48: 31-33.

iii. Risk Aversion: Private v. DOJ. Another interesting conclusion is suggested by private plaintiffs pursuing litigation independently of public litigation and prosecuting claims under [\*32] the rule of reason rather than just under a per se standard. Private plaintiffs may not be as averse to risk as government litigators. 130 Again, a comparison to the DOJ is illustrative.

In our original comparison of private enforcement and DOJ enforcement, we noted that the DOJ appears to succeed in a very high proportion of its cases. 131 From 2000 to 2009, it won anywhere from thirty-one to sixty-seven antitrust cases and lost four in one year and from zero to two cases in all other years. 132 In its worst year, it prevailed over 90% of the time. 133

We do not know the rate at which private plaintiffs are successful. 134 But almost certainly they prevail at a much lower rate. This conclusion is suggested by the willingness of private plaintiffs to pursue cases other than following a government filing. It is even more powerfully suggested by their pursuit of rule of reason cases. The rule of reason entails a high degree of uncertainty that can readily result in a successful defense. 135 This proposition is confirmed by Michael Carrier's work, which identifies 221 rule of reason cases between 1999 and 2009 in which a court entered final judgments against plaintiffs (and only one in which a court entered final judgment in favor of a plaintiff). 136 Moreover, any plausible model based on expected value would indicate that plaintiffs would pursue claims with a lower chance of success than the DOJ appears to require. This evidence and analysis suggests that private plaintiffs bring riskier claims than government actors, helping to ensure some deterrence effects when behavior is anticompetitive but will not necessarily result in successful prosecution of a claim.

[\*33] 6. Overall Deterrence Effects: A Study. The evidence discussed above is suggestive, but it does not provide a systematic analysis of the deterrence effects of private enforcement. We know of only one such systematic effort, co-authored by one of us. It analyzes seventy-five cartels, assessing the total sanctions that were imposed on the wrongdoers and the total profits they appeared to reap from their illegal conduct. 137 The article also gathers evidence and theory on the rate at which illegal antitrust conspiracies are discovered and successfully prosecuted. 138 The ultimate conclusion of this analysis is that the total sanctions-- public and private--from antitrust enforcement are insufficient for optimal deterrence. 139 In terms of expected value, illegal antitrust conspiracies remain a profitable endeavor--which explains their persistence. 140 Indeed, based on the seventy-five cases, the overall level of sanctions would have to increase at least threefold--and perhaps by as much as ten times--to achieve optimal deterrence. 141 Of course, this analysis applies only to cartel cases and not to other forms of anticompetitive conduct. 142 But as the only effort of its kind, it provides valuable evidence that private enforcement does not result in excessive deterrence effects.

### AT: Graphene

#### Graphene fails – tech is 20 years away, overhyped

Rich McEachran, 18. Journalist/copywriter. Words on business, tech & innovation for at the guardian. “FEATURE: Graphene – the not-so wonder material?” January 2018. https://www.imeche.org/news/news-article/feature-graphene-the-not-so-wonder-material

More than a decade after graphene's discovery, there are still challenges to overcome for the "wonder material" to go mainstream. Graphene was meant to transform everything from the car tyre to the condom. There has never been so much hype around a new material. It’s easy to see why: its sheets of carbon atoms are incredibly strong, super-elastic and conduct heat better than most metals. The problem with graphene, however, is that it has yet to live up to its expectations commercially.  When it was discovered in 2004 by two professors at the University of Manchester, Andre Geim and Kostya Novoselov, graphene was hailed as a wonder material that could disrupt many industries.  The academics, who have since won the Nobel Prize for their work, produced the material during a Friday night experiment by playing around and using Scotch tape to create ultra-thin flakes from a chunk of graphite. And, although graphene proved to be the thinnest material known to scientists and just a single atom thick, it was also found to be 200 times stronger than steel. The latest development is that graphene could revolutionise smartphone batteries. Researchers at the Samsung Advanced Institute of Technology found that, when a lithium-ion battery was coated with the material, its capacity was increased and charging was five times faster – the findings were published in the journal *Nature Communications* in November. However, the researchers admit that the challenge will be mass-production, and it could be some time before people are walking around with graphene-coated batteries in their pockets. While on paper graphene has the qualities that, collectively, should make it an ideal material to work with, the challenge is that defect-free graphene is generally too expensive to make. Accurate data is difficult to get hold of, but the price of the material can vary depending on the production conditions, and the methods for producing it in bulk aren’t entirely cost effective.  “When graphene was first isolated by the team in Manchester, it came from high-quality graphite but was peeled off layer by layer using tape,” explains Krzysztof Koziol, professor of composites engineering at Cranfield University and head of its Enhanced Composites and Structures Centre. “This is a perfectly good method to get a few flakes in a lab environment, but not really suitable for significant volume generation.” *Researcher Antonios Oikonomou at the University of Manchester (Credit: University of Manchester/ NGI)* Although mechanically exfoliated graphene, like that produced by the Scotch tape technique, has the best physical properties, individual flakes acquired through this method are too expensive for bulk production, adds Koziol. One of the main techniques used instead is chemical vapour deposition (CVD), a relatively straightforward process that involves growing the graphene on a substrate, typically copper foil. Here, the price is dependent on the volume of the material being produced, and the cost of transferring it from the substrate. Although industrial technology, such as a patented graphene transfer method developed by leading producer Graphenea, is helping to reduce the cost of the process, CVD also has its flaws. “The problem is that, when you exfoliate graphene mechanically through force or by taking a chemical-based approach, you can introduce defects into the structure of the material,” says Koziol. “With the CVD technique, harmful acids might be used to dissolve the substrate and separate it from the graphene. You can end up creating graphene oxide which is damaged to such an extent that it’s no longer electrically conductive.” A greener graphene In order for graphene to have an impact commercially and be used to develop better-quality products, such as transistors, it not only needs to be cost-effective, but also environmentally friendly. That’s the thinking behind new research from the University of Illinois at Urbana-Champaign’s department of mechanical science and engineering, where academics have discovered a cleaner and greener way to manufacture graphene and isolate it from its substrate. The magic ingredient? Carbonic acid, as found in fizzy drinks and champagne.  “Current strategies to produce graphene use and waste copious amounts of harsh chemicals and also waste high-purity deionised water. Not only that, they expend the copper substrate and contaminate the graphene with chemical residue that needs to be rinsed off,” says Michael Cai Wang, a PhD student who led the research project, the findings of which were published in the *Journal of Materials Chemistry C* earlier this year.  “By using carbonic acid as a conducting solution, this allowed us to delaminate the graphene from the copper substrate. The carbonic acid evaporated away as carbon dioxide and water vapour, meaning that the graphene didn’t have to be cleaned. We were also able to reuse the substrate, which of course could have a big impact on cost savings if the transfer process was ever scaled up,” adds Wang. To prepare the graphene so that the process, which Wang likes to call “pantry chemistry-based manufacturing,” was environmentally friendly, he and his fellow researchers coated the material with a food-grade ethyl cellulose. This biologically-derived coating can be found in pill capsules and is used as an anti-clumping agent in Parmesan cheese.  They found that it could replace the conventional thin film that graphene is normally coated with during the CVD process, and which requires the use of solvents that can be carcinogenic and toxic. In doing so, they also discovered that it was compatible with other materials that aren’t able to tolerate harsh solvents.  Wang hopes that the research shines a spotlight on the need for cleaner transfer processes in graphene production. As demand for graphene increases in the future, so will the need for faster production methods. Yet sustainable manufacturing is also an important factor that should be taken into consideration, he says.  One company that has struck a balance between a production process that is cost-effective, fast and green is Cambridge Nanosystems, which Koziol co-founded in 2012. With the help of a £500,000 grant from the Technology Strategy Board, he and fellow University of Cambridge alumnus, Catharina Paukner, developed a method of creating graphene free of substrates and solvents, using methane gas.  “The process uses a unique plasma reactor to first break the feedstock [methane gas] into hydrogen and elemental carbon atoms, and then these atoms are recombined into graphene sheets by floating them in the hydrogen atmosphere,” explains Koziol. “The time it takes for methane gas to enter the plasma reactor to the point when graphene is formed is less than a second.” According to Koziol, the chemical-free nature of the process results in very pure graphene. “Imagine a snowflake falling on the ground. In our reactors we have pure graphene flakes falling in the collection chamber,” he effuses.  Universal standards needed As the work of Wang and Koziol demonstrates, graphene production is full of opportunities and potential. However, this in itself presents a stumbling block, because different methods of production mean there are varying degrees of quality in graphene being produced. This can be confusing for end users and, to some degree, is hindering uptake of the material.  To address the ambiguity, the National Graphene Institute (NGI) at the University of Manchester has partnered with the National Physical Laboratory to draw up a set of standardised measurements. In November, the two organisations published their first guide, entitled Characterisation of the Structure of Graphene, aimed at informing producers on how to reliably measure the structural properties of the material.  “Standardisation will help accelerate uptake. It will give users assurance over the quality and consistency of the properties of the graphene they’re buying,” says Antonios Oikonomou, who was a research associate at the NGI until September. His work was instrumental in setting the wheels in motion for establishing universally recognised standards. Failing to address the issue could be critical and restrict the use of graphene to the R&D stage.  On the other hand, an awareness of the material’s structure, characteristics and potential defects could give researchers and innovators a much-needed shot in the arm and the confidence to scale-up and bring products to market, says Oikonomou, who has co-founded Eksagon, a company exploring graphene-based energy generation, storage and conversion technologies. *Kostya Novoselov shows former Chancellor George Osborne a graphene light bulb (Credit: University of Manchester/ NGI)* It wasn’t until 2015, more than a decade after graphene was discovered, that the NGI unveiled the first graphene-enhanced commercial product: an LED light bulb. Produced by the aptly-named Graphene Lighting, a company spun out of the institute, the bulb’s filament is coated with graphene, giving it greater conductivity and increased efficiency.  “The main advantage of using graphene lies in its ability to transfer heat more efficiently. LEDs produce a large amount of heat over a small area and, unless this heat is removed, the temperature rises and leads to significant degradation in the LEDs’ performance,” says Stephen Bignell, a director at UK lighting manufacturer Sera Technologies, which recently became one of the first adopters of the graphene technology anywhere in the world. “By transferring the heat away more efficiently, graphene improves the light output of LED lamps and extends their life expectancy.”  Bignell sees no reason why graphene-enhanced bulbs won’t be a commercial success, particularly as they will be sold at roughly the same price as non-graphene models.  As for other products, it could be five, 10 or 20 years before the graphene revolution arrives on shelves for consumers to buy. But they will come, it’s just a question of when. Graphene will not just remould manufacturing processes, says Koziol, it will also improve the performance of everyday objects.

### AT: Space Col

#### Laundry list of reasons---they can’t overcome any of them.

Sukant Khurana 18. Khurana runs an academic research lab and several tech companies. 6-2-2018. "The prospect of escaping earth due to depletion of resources." Medium. https://medium.com/@sukantkhurana/the-prospect-of-escaping-earth-due-to-depletion-of-resources-e5bc92d477f0

Atmosphere Creating a breathable atmosphere is one of the first conditions of building a space settlement. Most of the planets such as Mars (95.2% CO2 and only 0.13% O2 ) [3] possesses a hostile atmosphere for human habitation. Also, the atmospheric pressure is way lower than Earth (At mean radius, Mars has an average atmospheric pressure of 0.058 psi-0.126 psi [3] where on Earth, the mean pressure at sea level is 14.6959 psi ) in most of them. The other concern related to the atmosphere is the freezing cold temperatures in our prospective colonies. Most of them do not have a proper atmosphere to contain the solar energy and some are simply far from the sun. The Martian temperature can reach anything between -60 to -65 degree Celsius [4] and this figure simply go down as we move further from the Sun. Health concerns Another big issue for us can be the difference in gravity in our prospective home. Mars for an example has a surface gravity of 3.69 m/s2 [3], only 37.9 % of Earth’s surface gravity. Such low gravity can have serious effects on the colonists. It may cause osteoporosis and cardiovascular diseases and can even lead to significant decrease of grey matter volume in our brain [5]. Radiation is another threat for a budding colony outside Earth. Planets or moons which do not have a magnetic shield like Earth, can expose the colonists to harmful radiations. Such exposers can lead to serious cognitive disabilities and may affect the fertility of the colonists. Other serious consequences include cardiovascular damages and cancer. For a Mars Mission, the standard risk of exposure induced death in astronauts can jump from 3% to 10% while the chance of morbidity becomes as high as 20% [6]. Severe psychological issues may also develop among the colonist thanks to the isolation they may experience in the early days of the colony. An interesting read in this regard is the article on the mental preparation for mars by Sadie E. Dingfelder. Economical Feasibility To set up a space colony we require a huge initial investment to cover the expenses to set up such a facility millions of miles away. Given the costs of a traditional launch and the amount of payload we need to transfer, it is almost impossible for a government to fund such an attempt without breaking the bank. A hope in this regard can be the recent developments of low-cost crafts such as the SpaceX Falcon 9 but they are still far from what is required to sustain such an ambitious effort. Conclusion From what we have discussed so far, it is clear that even if space colonization can be a solution for the survival of humankind, we are still far away from making it possible due to several factors. Hopefully, with the brilliant minds working in this sector, the day is not far when we will be harness to harness such technologies that will make our voyage towards our new home safer and cheaper. Till then, all we can do it is to try our best to protect and manage our resources so that the future generations can have a better place to live in.

#### Fails. No tech, OST ban, no infinite resources in space

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The world is in the grips of a global pandemic that has altered the daily lives of billions and killed more than 1.7 million people. You might think that that would refocus our attentions on ensuring the health and wellness of people around the globe, but as billionaires’ fortunes have soared, some of their number have kept their focus trained on the stars. On 9 December, SpaceX launched its Starship SN8, a prototype of the spaceship it hopes will one day perform regular trips between Earth and Mars. The test flight ended in flames, but that didn’t stop space enthusiasts from declaring it a success — an important milestone in CEO Elon Musk’s ultimate plan to colonise the red planet. Earlier in the month, after receiving the Axel Springer Award in Berlin (since border restrictions don’t stop billionaires), Musk explained that he expected SpaceX to send a spacecraft to Mars in 2022, followed by humans in 2024 or 2026. Those timelines should be taken with a large pinch of salt, given Musk previously said he planned to send an unmanned spacecraft to Mars in 2018, but that doesn’t mean there aren’t bigger problems for this vision of humanity’s future. The Sci-Fi Space Fantasy Many of the space capitalists who champion space colonisation do so because they were inspired by science fiction. There are countless creatives who inform their visions, but one whose work is frequently cited is author Kim Stanley Robinson, who has published several well-researched novels that imagine various scenarios for human life in space. After all that research into the science of space travel and settlement, though, Robinson has little time for the colonisation visions being advanced by billionaires like Musk and Amazon CEO Jeff Bezos. In 2016, he compared Musk’s plan for Mars colonisation to ‘the 1920s science-fiction cliché of the boy who builds a rocket to the moon in his back yard.’ More recently, in a conversation with Jacobin, he declared that the capitalist visions for space colonisation ‘are fantasies, and billionaire fantasy trips are not going anywhere.’ He called asteroid and Helium-3 mining ‘bullshit’, and even acknowledged his own role when explaining ‘There is no profit in space. It’s just a fantasy of our culture right now, because everybody’s been convinced by science fiction writers, and they’re not paying attention to the numbers game.’ But that fantasy hasn’t only gripped billionaires who have effectively unlimited money to throw after their passion projects. Governments increasingly buy in, too, thereby constructing a barrier to addressing the bigger challenges that humanity actually faces in this moment. State-Monopoly Capitalism in Space On 30 May, while the pandemic was raging and Black Lives Matter protesters were marching in streets around the United States, President Donald Trump joined Elon Musk in Florida to celebrate a dual milestone: one, the first time astronauts had been launched from US soil since NASA stopped using its Space Shuttle; and two, the first time a private company had launched a crewed spacecraft. As Trump declared that ‘a new age of American ambition has now begun’, he further fused Musk’s vision for space exploration to his white nationalist movement to ‘Make America Great Again’, and to the larger effort of projecting American power in an increasingly multipolar world. Even before Trump started the Space Force and signed an executive order to promote space mining, President Barack Obama had begun the process of privatising space exploration and adopting the vision for an American trip to Mars — and it’s sure to continue under President Joe Biden. These moves must be placed in their historical contexts. As Dr. Gabrielle Cornish explained in the Washington Post, the Cold War space race was justified by its presentation as ‘a utopian dream to domestic, civilian audiences, framing it through art, music and pop culture as a romantic escape or glorious future’; the real goal was the projection of military and economic power by competing countries. We see this pattern repeated today. The billionaires driving the modern space race sell it as essential to the future of humanity, either to maintain capitalist ‘growth and dynamism’ or to give humanity a second home in the event of climate apocalypse. The latter is a suggestion that Robinson considers ‘wrong, in both a practical and a moral sense’, because ‘it’s very likely that we require the conditions here on earth for our long-term health’. Indeed, if humans actually lived on Mars they’d probably get cancer. It doesn’t really matter, though, because these justifications only exist to obscure the real incentives behind these projects: increasing American power beyond our home planet, extending capitalist property relations to other celestial bodies, and enabling US corporations to exploit extraterrestrial resources for the mutual benefit of those capitalists and the state — assuming the economics even work. Salon senior editor Keith Spencer compared the ambitions of SpaceX to the history of the East India Company, which ruled colonised areas for the benefit of its shareholders, and in this way it could also be seen as another example of the state-monopoly capitalism observed by Tribune’s Grace Blakeley. These private space companies, despite being funded in part through billionaires’ fortunes, are still highly dependent on public subsidies and contracts – which is why getting the state to buy into their vision is so important. There might not be people to colonise in space, but the consequences go beyond capitalist enclosure. Since 1967, the Outer Space Treaty has recognised that space is a global commons, where ‘national appropriation by claim of sovereignty, by means of use or occupation, or by any other means’ is prohibited. Haris Durani explained in the Nation that while this agreement is often seen as a compromise between the United States and Soviet Union, it’s better to understand it as a product of decolonisation which sought to ensure that ‘all states would collectively govern extraterritorial domains’, instead of allowing major powers to deplete resources because of their technological superiority. The spirit of that agreement is already being breached by the efforts of powerful states to create a legal foundation for the plunder of space resources. Instead of powerful countries enclosing these resources for the benefit of their people, though—which would be bad enough—present trajectory suggests that the riches will be captured by billionaires, whose wealth allows them to ignore the problems of the rest of humanity while directing vast attention and resources away from much more pressing issues. Refocusing on Real Problems Between the climate crisis, various accelerating social crises, and the ongoing pandemic, humanity faces immense challenges that must be tackled in the coming decade. State power will be required to direct resources into building a sustainable economy, reconstructing the crumbling social infrastructure, and ensuring a good standard of living for all — but billionaires have no stake in any of those projects. Space colonisation will do nothing to address these crises, regardless of the promises of billionaires and luxury communists alike. When they talk about how asteroid mining will bring great wealth to be shared with all or to power the green technologies that are heralded as climate solutions free of sacrifice for Western consumers, they’re simply distracting us from the difficult work that must be done if we’re to truly address the social and environmental challenges of our time. We already know that emissions need to be cut in half by 2030. That means our societies need to be radically overhauled long before asteroid mining becomes feasible — if it ever does. Green capitalists like Musk are happy to sell us a false future of electric cars and solar-powered suburbia that allow them to profit in the short-term because they can simply seal themselves off from the rest of the population when the effects of a warming climate accelerate. The capitalist logic of infinite growth that’s driving the desire for space colonisation is the same one that’s created the very problems we so desperately need to solve in the first place, and doubling down on it would be a terrible mistake. We should be particularly wary of aligning ourselves with a coalition that includes billionaires and right-wing politicians who make explicit comparisons to past colonisation projects, too: Ted Cruz, for example, has promoted space as ‘as vast and promising a frontier as the New World was some centuries ago’. That’s not to say that humanity should turn away from the stars. We should continue funding space science, but the expansion of capitalism into space and the exploitation of extraterrestrial resources do not serve those goals. Justifying space colonisation through the need for a second planet is a self-fulfilling prophecy created by people who have little regard for the lives and wellbeing of the global working class — as the pandemic has demonstrated. Capitalism is driving billionaires toward space as it drives the rest of us toward extinction. They must be stopped before it is too late.

### AT: Smart Cities

#### SDGs fail

Anna Aseeva, 18. Faculty of Law, School of General and Interdisciplinary Legal Studies, National Research University Higher School of Economics, Moscow, Russia, "(Un) sustainable development (s) in international economic law: A quest for sustainability." *Sustainability* 10.11 (2018): 4022. P. 1-30.

Last but not least, an absence of a sustainable architecture of public regulation of domestic financial markets as another structural feature of the developmental state (the question mark in the corresponding box of Table 1 is not an omission) was not a mere a difference with the financial strategies of the welfare state (and especially, the Bretton Woods ideal scenario thereof). Crucially, it also, and indeed especially, constituted a lacuna that was decisive in the decline and eventual demise of the developmental state. The severe Asian financial crisis of the 1997–98 also coincided with the **expansion of the neo-liberal ideology** preaching the maximum retreat of the state from domestic regulation, which became prevalent not only globally, but also locally—that is, among state economic bureaucracies of developed and developing countries alike [110] (pp. 222, 230). As a result of the Asian crisis, even the most exemplar developmental states—the Asian ‘miracles’—now needed urgent international assistance, and thus their legal and regulatory systems became the targets of IMF, World Bank, and US Treasury Department’s pressure for neo-liberal reforms [110] (pp. 264–283). **The so-called developmental rule of law has become the Trojan horse of neo-liberal strategies**, **such as enhanced deregulation**, **privatization**, **liberalization**, **export-oriented growth**, etc., and the promotion thereof has become part and parcel of the efforts of the main actors of the Washington Consensus. The paradigm of **sustainable development was supposed to bring in new** and different **dimensions** in the development strategies of the state. Though, **it is very doubtful that it eventually did**. Both the summary of its main findings (Table 2) and the highlights from relevant SDGs (below) rather demonstrate that **the model ‘sustainable development and the state’** **mostly draws on the neo-liberal ideology**, **merely trying to make it** (or sometimes just call it) **more ‘sustainable’**. Among the UN Sustainable Development Goals running till 2030, the **SDG no. 17 advocates to only increase trade and investment liberalization** (**but is silent about**, for instance, **regulating corporate extraction**); **to go on with the food commodity markets** (**but is silent about tackling the financial speculation** on those markets); **and to enhance global macroeconomic stability through ‘policy** **coordination’** (**but is silent about** a need for greater **regulation of financial markets** and tax policies) [113]. The **SDG** no. **8** calls for sustainable growth—specifically, the growth which is inclusive, promoting full employment and decent work—and for a decoupled economy [113]. Yet, it is about growth, which principally means GDP growth. The decoupling promotes an economy able to sustain GDP growth without having a negative impact on environmental conditions [114]. Namely, it focuses on existing technological options for both developing and developed states to accelerate decoupling, hence boost their resource ‘productivity’. That is, to decouple environmental ‘bads’ from economic ‘goods’ and thus bring in both the economic and environmental ‘benefits’ [115]. **Substitutability** **means the methods by which any climate policy could be realized** in equivalent terms **through** the **commodification of**, for example, **pollution** and its subsequent trading, **such as CO2 trading**. I discuss in greater detail the contradictions of SDGs later in this analysis, namely, in Section 5. To sum up, **neither** an increased consumption of imported goods within **the neo-liberal strategy**, **nor** an accumulated productive capacity of **earlier development models** **could mitigate natural resource depletion**, **climate change**, **and** **environmental degradation**. **The new, SDGs**-based, development strategy **does not help either**, **since economic growth**, **even if sustainable**, could slightly increase money incomes of the poor, but the ownership of more consumer goods **could not provide for an improved sustainable national well-being or compensate for ecological degradation**. It is hard to defend development policies premised on the idea that an exhausted natural resource could be compensated by investments in technology and knowledge thus providing an ongoing equivalent income [116] (p. 136).

**No smart cities**

**Gonella 19** (F. Gonella, Dept of Molecular Sciences and Nanosystems, Ca’ Foscari University of Venice; C.M.V.B. Almeida, Paulista University. Post-graduation Program on Production Engineering; G. Fiorentino, Department of Science and Technology, Parthenope University of Naples; K. Handayani, Department of Governance and Technology for Sustainability, University of Twente; F. Spanò, Department of Physics, Royal Holloway University of London; R. Testoni, Dipartimento Energia, Politecnico di Torino; A. Zucaro; Department of Science and Technology, Parthenope University of Naples; “Is technology optimism justified? A discussion towards a comprehensive narrative”, Journal of Cleaner Production, 2019, doi: 10.1016/j.jclepro.2019.03.126) \*edited for language

Several sustainability-related issues based on the development of new technologies have become popular in the public and scientific debate. Among these, a quite actual issue is that of the Smart Cities, cities that use Information and Communication Technology (ICT) to enhance their livability, workability and sustainability (Smart Cities Council, 2013). Internet of Things and Big Data should allow to increase smart operational efficiency (see for example CCCM, 2018), making it possible for citizens to have access to a “culturally vibrant and happy life”. Generally speaking, the effects of innovative technologies – in particular ICT-based ones – in making a city more sustainable seem to be **largely overestimated**, in as much the very meaning of “**sustainable city” is not addressed whatsoever**. For the European Union, sustainability of a smart city is based actually on the presence of more competitive industry and Small-Medium Enterprises (SMEs), as well as on smart energy, smart transportation, and ICT (European Commission, 2012 and 2013). Based on the literature on smart cities, it seems that the main problems of an urban community are traffic congestion and slow internet connectivity, supposedly a major obstacle to the business. As recommended by Industrial Internet of Things (IIoT) global digital publication, “Smart city management models must integrate a new ecosystem of value creators and innovators”, with “innovative spaces” where they are supported in “monetizing new business models” (IIoT, 2018). It is interesting to note how the word “ecosystem” is often rhetorically used to describe a smart city to emphasize its highly interconnected nature, at the same time neglecting most of the components that make a system an “ecosystem”, the living creatures (Odum, 1996). In the smart cities narrative, vegetation is relegated to the role of parks and green areas, without considering the importance of plants for the well-being of all animal species in the city, nor the ecosystemic services in terms of evapotranspiration and temperature regulation (Almeida et al., 2018). Animals presence is never addressed, in spite of their important role in the city overall sustainability: insects guarantee the health of green areas as well as that of birds and migratory species, bats eat mosquitoes, while the communities of dogs and cats provide an enormous service in term of the (human) citizens well-being, in particular that of aged people and children, and so they should be regarded as part of the citizenry for biophysical, systemic and ethical reasons. To neglect this important part of the city system in a policy-planning activity means to be ~~blind~~ [ignorant] of the interconnection network of all social, environmental and economic aspects and problems which the smart city narrative advocates. Interestingly, as a matter of fact, children, animals, and plants do not drive, do not use the internet, do not produce business, and do not participate in the electoral choice game, neither by voting nor by being voted. The narrative on smart cities is very often characterized by a surprisingly high cognitive dissonance. From a systemic point of view, the problem is that the current city smartness is the change, innovation and optimization of processes inside, but without taking into account the necessary change in local stocks and the inflows from the supporting area (Brown and Ulgiati, 2011). In this respect, a quantitative estimation of the resources required from supporting areas to make a city smart is **hardly addressed**, **nor a rigorous systemic approach is proposed** (Ascione et al., 2011). In this conceptual framework, technology is assigned of a power that it has not, that to address and solve the problems of the city community. Under this discourse, the city would survive and operate independently of its surroundings. Besides traffic management, data access and ease of doing business, much more serious problems occur **outside the technological realm**: **poverty**, **unemployment**, **forced immigration**, **pollution**, **marginalization** and **violence** are all aspects of a city life that seem to be **ignored** or **absent from the description** given by the enthusiastic smart city narrative focused on the problem of the traffic congestion, talking about communities that **simply do not exist**. The role of technology in the smart cities issues is therefore highly biased, and the FWFW questions assume a crucial relevance. The Smart City model talked about at the EU level, for example, is clearly a Western World Smart City. In the 256 pages of the report “The making of a smart city: best practices across Europe” by the EU Smart Cities Information System (EU, 2017), the word “mobility” appears 114 times, and the word “business” 67. None of the words “child/children”, “welfare”, “poverty”, “violence”, “disability”, “inequality”, “gender”, “happiness”, “vegetation”, “animal(s)”, are present. Interestingly, the word “green” appears 31 times, but only five of them are related to green spaces or areas. Along with green economy and green growth, these best practices contemplate green energy, green jobs, green power, green buildings, green roofs, green cooling and green heating, green electricity, green research, green contributions (?) and – of course – green mobility and green parking. As a matter of fact, the model is just **not exportable to most world cities**, where most part of [hu]mankind lives. The number of slum dwellers worldwide is **constantly increasing**, forming about one billion people excluded from any participatory political and economic issue of the city they live in. Indeed, it is hard to address “smart interconnectedness” where there is no electricity, or fast-ICT access to sanitary data where there are **no sanitary infrastructures**, or talking of a “culturally vibrant and happy” smart living where the problem is just that of living, or surviving. But this cognitive dissonance when talking about technology and smart cities **might go even farther**: **the plausible failure of the policies addressed by the Paris Accord to keep temperature increase below 2 °C** will make much of the smartness we are discussing about **senseless** even for Western European cities, for example, London, as far as electric public transportation infrastructures are unlikely to be operated in a partially flooded town (Strauss, 2015).

### AT: Grid security

#### Grid is resilient - systems get attacked all the time --- they’re separate from actual operations , this mitigates the impact.

Selena Larson, 17. Covers technology and security. “How a hacker could take down the electric grid.” CNN. July 28. <http://money.cnn.com/2017/07/28/technology/future/crashoverride-black-hat-blackouts-energy-grid/index.html>.

U.S. energy networks are segmented. That means computers on the business side are not connected to the machines responsible for distributing power. So if someone launches an attack against business computers to try and steal credentials or places malware on a computer, it would not be able to jump to the machines controlling the grid.

A secure grid

Cyber intrusions at energy facilities are often means of gathering intelligence or data, and some types, like phishing attacks, aren't unusual. For instance, the government recently warned U.S. energy facilities of a targeted campaign trying to steal credentials, like usernames and passwords, from energy firms' corporate networks.

The Wolf Creek nuclear facility in Kansas was one of the victims of this recent attack. A spokeswoman for Wolf Creek told CNN Tech earlier this month that the attacks did not impact operations at all because the operation systems were separate from the networks that were targeted.

The electric grid is resilient. If the grid in your city was hit with a cyberattack, it would bounce back quickly, Lee said. The actual impact -- or time of electricity going out -- would be a few hours.

## Manufacturing

### AT: China War – 1NC

#### Competition structures conflict with China

Cecilia Rikap 21. Professor of Economics and Coordinator of YSI States and Markets Working Group, Institute for New Economic Thinking. “The Interplays of the United States, China and their Intellectual Monopolies.” *Capitalism, Power and Innovation Intellectual Monopoly Capitalism Uncovered*. Routledge. 2021. 77-80.

As Strange (1996) anticipated, the decline of the state’s power vis-à-vis corporations can be partly explained by the acceleration of technological change, which tilts the scale in favour of corporations. As identified by Feenberg (2010, p. 5) “political democracy is largely overshadowed by the enormous power wielded by the masters of technical systems”. Indeed, we should consider that powerful intellectual monopolies pass over their home states in specific contexts or respects.11 With this in mind we reconceived core states as one of capitalism’s multiple powerful actors.

Beyond explicit confrontations, since intellectual monopolies organize and plan production and innovation networks taking place in different countries, they generate an overlap of political realms with sometimes contradictory rules and norms. Who oversees production and innovation inside the networks organized by intellectual monopolies? The latter or the different states where intellectual monopolies’ production or innovation networks are based? To whom subordinate firms and other organizations are accountable for their actions? Their state or the intellectual monopoly coordinating the network? The simple answer is both. The complicated part is to identify what happens when they are in contradiction, and what are the consequences of this complex set of power structures for workers and subordinated organizations.

Intellectual monopolies have replaced state functions as policymakers. An extreme example recently disclosed is Eric Schmidt, Alphabet’s former executive chairman, advising the US federal government while still managing Alphabet. He was the chair of the US Defense Innovation Board, which recommended the use of artificial intelligence to the US Department of Defense. He also chaired the National Security Commission on Artificial Intelligence which advises the US Congress on analogous topics (Klein, 2020).

The government’s threat over China is – at least to some extent – driven by US data-driven intellectual monopolies’ concern over Chinese rivals like Alibaba, Tencent and Huawei. The CEOs of Google, Amazon, Facebook and Apple made this clear in their testimonies in the 2020 US Congress Hearing. As a remedy, Schmidt had been pushing for more public investment in research related to artificial intelligence and tech-enabling infrastructure (such as 5G) (Klein, 2020). Furthermore, these data-driven intellectual monopolies make their own rules and norms for their digital republics and, to some degree, replace the role of states. Facebook’s founder and chief executive, Mark Zuckerberg, states it clearly

Every day, platforms like Facebook have to make trade-offs on important social values – between free expression and safety, privacy and law enforcement, and between creating open systems and locking down data.12

(Mark Zuckerberg, Feb 16, 2020)

And immediately afterwards, he advocates for more public regulations and informs that Facebook is working together with different governments to that end. A similar claim was raised by Sundar Pichai, arguing that artificial intelligence needs to be regulated.13

The division of power is not clear, given that corporate power and planning capacities go beyond national frontiers and beyond the capital they own. Overall, there is a legal vacuum in the reach of each state’s power and where the power of the intellectual monopoly controlling a portion of global production and innovation begins. This vacuum allows intellectual monopolies to expand their power and profits.

Another source of conflict between intellectual monopolies and core states concerns the relative absence of the usual benefits of being home to big corporations: employment generation and tax payments. Considering their earnings, global leading corporations do not generate in their home countries expected employment due to outsourcing and offshoring (of production and innovation), which is particularly the case of US and also European intellectual monopolies. This has contributed to the rise in inequalities in these regions. The consequent social distress put pressure on stringent regulations. In the US, we referred in Section 2.1 to the 2017 Tax and Jobs Act (Public Law 115-97), but changes have not been significant.

US intellectual monopolies are masters of tax avoidance. As we mentioned before, operations leading to lower tax bills and financialized profits are easier for companies with higher shares of intangible over tangible assets. Offshoring IPRs to countries where corporations are not required to pay taxes for their intellectual property is a mechanism frequently used to divert profits to tax havens (Bryan et al., 2017) (see Chapter 7 on Apple’s case). By the end of 2016, the top ten companies in terms of offshored savings were: Apple, Microsoft, Cisco, Oracle, Alphabet, Johnson & Johnson, Pfizer, Qualcomm, Amgen and Merck (Pozsar, 2018).

In China, whose global intellectual monopolies sprang from the sustained stimulus and protection of its state, the latter’s central planning capacity is starting to find limits vis-à-vis new intellectual monopolies. These corporations were not born as the chosen ones by the state, but still enjoyed the benefits of China’s protectionism. The recent case of Bytedance provides a good example. The company was spending its Chinese profits to expand its unprofitable business in the US when the US government banned its blockbuster TikTok app. Bytedance was not among Beijing’s favoured companies, among others, because of the difficulties in controlling the videos uploaded to TikTok (Yang, 2020). Regardless of the end of the story between TikTok, the US and Chinese governments and US intellectual monopolies as potential buyers for part of TikTok’s business, what the case put forward was a possible surge of clashes between emerging Chinese (data-driven) intellectual monopolies and their state. Indeed, in late 2020 the Chinese state delayed Ant Group’s IPO, followed by the introduction of antitrust regulation for digital companies.

Meanwhile, Europe remained focused on increasing regulations on foreign data-driven intellectual monopolies, including different accusations of excessive market power and unfair competition. Unlike previous stages in capitalism, Europe risks playing in the subordinate side, where the peripheries have historically been and generally remain. Germany’s fear of falling behind the US and China’s tech giants should also be read as a broader European concern to lag (far) behind those core economies.14 Overall, Europe and Japan are latecomers of the digital economy, and this space is being filled primarily by China, emerging as a digital technological power (UNCTAD, 2019). Moreover, with a drop of eight companies between March 2009 and December 2019, Europe’s share of global top 100 corporations in market capitalization fell from 27% to 15%. This drop was taken over by the US (PWC, 2020). Regulating the digital economy could thus be seen as Europe’s geopolitical rebalancing move.15

5 Final remarks

In this chapter, we argued that core states and certain corporations built a mutually beneficial relationship. We identified US and Chinese policies that contributed to the emergence and spread of global intellectual monopolies. Likewise, we elaborated on how these corporate leaders sustain and expand their respective countries’ geopolitical power. Nevertheless, we also addressed states’ concerns and the overall tensions of the juxtaposition of power between core states and intellectual monopolies.

The US state cannot afford to lose its intellectual monopolies since its global hegemon power significantly depends on those companies. Likewise, it cannot afford to let its intellectual monopolies be given their consequences for income and wealth concentration resulting in increasing social unrest. From the US state perspective, the technological war with China is necessary to remain the only superpower. Nevertheless, this conflict is also a powerful device to redirect public attention and blame – as it has always been the case of the United States – an “other” of the internal consequences of home (and global) capitalism.

Neither can the Chinese state afford to lose its alliance with its intellectual monopolies. Its national innovation system and geopolitical power are based on a strong partnership – although not without tensions – between China’s state and intellectual monopolies, the only ones challenging the US and its intellectual monopolies.

All in all, the US and Chinese states have benefited from their respective intellectual monopolies to build and reinforce their geopolitical power. Meanwhile, in the rest of the world, knowledge and data extractivisms are further expanding inequalities, diminishing social well-being and curtailing development opportunities (see Chapters 11–13). The resulting world scenario is a ticking bomb.

A missing piece in this puzzle that will be addressed in future research concerns integrating international organizations to our analysis, seeking to understand how intellectual monopolies influence them and their role as arenas of core states’ contest for global hegemony. Let us just point out that each time the US withdraws from international coordination, China moves forward. Remarkably, during Trump’s administration, the US withdrew from international treaties and organizations, putting into question its historical openness. A possible interpretation could be that the hegemon fosters an open world economy but as far as it benefits from it.

To conclude, beyond the focus on the US and China, this chapter has also made self-evident that unfolding the interplay between state and corporate power is always context-dependent. While in some contexts the state rules over global leader corporations, the latter overcome even core states’ power in other contexts. As capitalism develops through the interplay of its powerful actors, it is not possible to anticipate concrete outcomes of such a multifaceted relationship. Neither can we anticipate the counter-hegemonic tendencies that, as Cox (1981) emphasized, generally emerge to oppose the state and world order structures of capitalism. The institutions that will lead the counter-offensive to intellectual monopoly capitalism remains to be seen.

#### No U.S.-China war.

Abraham Denmark et al 20 is director of the Asia Program at the Woodrow Wilson International Center for Scholars and a former deputy assistant secretary of defense for East Asia, April 16, “SAME AS IT EVER WAS: CHINA’S PANDEMIC OPPORTUNISM ON ITS PERIPHERY”, <https://warontherocks.com/2020/04/same-as-it-ever-was-chinas-pandemic-opportunism-on-its-periphery/>

While Washington and Beijing’s overheated rhetoric and mutual recriminations amid the ongoing coronavirus pandemic are grabbing headlines, equally important is what has been playing out across China’s eastern and southern peripheries over the past several weeks. At a moment when the Chinese Communist Party has been touting the generosity of its approach to COVID-19, there has been a marked increase in the number of incidents between China and its neighbors. Beijing has used its naval and paramilitary forces as well as its increasingly sophisticated information operations to ratchet up tensions, probe responses, and see how much it can get away with. This raises the question of what exactly China is up to. Has Beijing truly embraced a new approach of cooperation with its neighbors? Is it trying to take advantage of the COVID-19 mess to assert its interests more aggressively? Or is this simply an extension — albeit an opportunistic one — of its pre-pandemic strategy? BECOME A MEMBER The novel coronavirus pandemic has not curtailed geopolitics — in fact, it seems to be intensifying preexisting tensions. Understanding if and how China’s foreign policy has shifted is critical for assessing what is happening along China’s periphery and what Beijing might do next. Answering these questions is necessary for the United States and its allies to fashion a proper response. This, in turn, demands understanding what Beijing was doing before the crisis and thinking through what might actually signal a significant shift toward a more confrontational foreign policy. How Did I Get Here? China’s Latest Moves Chinese ships and aircraft have been involved in a spate of recent incidents across China’s maritime periphery. While there have been no fatalities, lives were certainly put at risk. Considering these incidents have involved two of China’s primary regional rivals — Japan and Vietnam — as well as Taiwan, the possibility that Beijing may see the COVID-19 pandemic as an opportunity to press an advantage during a time of geopolitical distraction and uncertainty should be considered. In mid-March, a group of People’s Liberation Army (PLA) aircraft crossed the median line in the Taiwan Strait — an unofficial demarcation line between Taiwan and China — in an exercise intended to intimidate Taiwan by demonstrating China’s ability to conduct operations at night while also testing Taiwan’s ability to react. While PLA ships and aircraft have been operating within the vicinity of Taiwan for several years, the pace and assertiveness of these activities have noticeably increased in recent years: The latest incident was the fourth time in two months that PLA aircraft forced Taiwan’s air force to scramble and intercept. Considering the impending second inauguration of Taiwan’s leader, President Tsai Ing-wen, as well as dwindling levels of support in Taiwan for Beijing’s “One Country, Two Systems” formulation, these exercises are likely to grow even more common and assertive. In late March in the East China Sea, a Chinese fishing vessel collided with a Japanese destroyer. The collision ripped a hole in the destroyer, but the ship was able to move on its own, and its crew suffered no casualties. Beijing announced that one Chinese fisherman had been hurt and blamed the Japanese vessel for the incident, calling for Japan’s cooperation to prevent future incidents. It is unclear if the Chinese vessel was a part of China’s “maritime militia,” described by the U.S. Department of Defense as “an armed reserve force of civilians available for mobilization” that plays a “major role in coercive activities to achieve China’s political goals without fighting.” The South China Sea has also seen several recent incidents involving Chinese vessels. In early March, a Vietnamese fishing vessel was moored near a small island in the Paracel archipelago — islands claimed by both Vietnam and China, among others — when a Chinese vessel chased it and fired a water cannon, causing the boat to sink after hitting some rocks. The crew was rescued by another Vietnamese fishing boat, with Hanoi claiming that the fishing boat was rammed by the Chinese vessel. The U.S. State Department issued a statement in early April expressing its serious concerns about the incident and calling on China “to remain focused on supporting international efforts to combat the global pandemic, and to stop exploiting the distraction or vulnerability of other states to expand its unlawful claims in the South China Sea.” The State Department also noted that since the outbreak of the pandemic, “Beijing has also announced new ‘research stations’ on military bases it built on Fiery Cross Reef and Subi Reef, and landed special military aircraft on Fiery Cross Reef.” Most recently, a Chinese coast guard (CCG) ship — one of several Chinese ships that harassed a Philippine commercial vessel in September 2019 — was seen patrolling near the Scarborough Shoal, representing one of many CCG ships that have been patrolling nearly all of the disputed areas between China and the Philippines in the South China Sea. Are these incidents merely a coincidence? Are they a sign that Beijing is distracted by COVID-19 and the resulting historic economic slowdown, and aggressive local commanders are pushing the envelope of their own accord? Or is this merely the result of China fielding more ships and more aircraft, leading to a predictable increase in incidents and exercises? While these explanations are all plausible, a more likely driver of China’s actions is, in fact, continuity. These incidents are not unprecedented and likely do not indicate a new, post-pandemic Chinese strategy. Rather, these incidents are consistent with a Chinese approach to foreign affairs under CCP General Secretary Xi Jinping’s leadership that even before the outbreak of COVID-19 demonstrated flexibility, assertiveness, and a singular desire to exploit opportunities of external weakness and distraction in order to advance China’s interests. For more than a decade, Chinese leaders have come to see their external security environment as generally favorable, representing a “strategic window of opportunity” in which China could achieve its primary objective of national revitalization through economic and social development, military modernization, and the expansion of its regional and global influence. Since the 2008 to 2009 global financial crisis, Beijing has perceived an opportunity to expand its geopolitical power relative to the United States yet does not seek an explicit conflict with the United States or its allies. As a result, Beijing has intensified its use of “gray zone” tactics that seek to gradually advance Chinese interests using ambiguity and tactics that are tailored to not provoke a military retaliation. These activities also serve as “probing behavior” that tests how far China can go before encountering determined resistance. In recent years, Beijing has used this approach to increase pressure on Japan in the East China Sea and advance Beijing’s territorial claims in the South China Sea against the Philippines, Vietnam, Malaysia, and Indonesia. Throughout, Beijing’s approach to regional geopolitics has been adaptive to specific conditions, flexible to broader strategic trends, and opportunistic to perceptions of weakness or distraction in its adversaries. Chinese actions are not the reckless gambles they may initially appear to be. Rather, they are premeditated probes seeking to identify weakness and opportunity. Chinese pressure is carefully calibrated to fit, but not necessarily to exceed, a given situation. This approach reflects a maxim of Vladimir Lenin, whom the Chinese Communist Party continues to revere to this day: “Probe with a bayonet: if you meet steel, stop. If you meet mush, then push.” In multiple instances, Beijing has continued to push when it perceives that its actions are unlikely to cause a significant response. But when Chinese assertiveness has been met with resolute counterpressure, Beijing’s response has not been predictably escalatory.Beijing has demonstrated flexibility when confronted with determined opposition. Examples include Japan’s response to China’s rollout of an air defense identification zone in the East China Sea in 2013 and President Obama’s reported drawing of a red line around Scarborough Shoal to Xi Jinping in March 2016. Moreover, India’s response to Chinese activities in Doklam did not lead to war.

## Illinois Brick

### Internal Link – 2NC

#### Plan’s not key to EU collaboration – alt causes like Brexit and COVID outweigh.

### AT: Apple v Pepper destabilizes US-EU antitrust cooperation

#### Plan doesn’t solve this - Populist European governments will perceive new US antitrust as self-interested, not cooperative.

Robert Ginsburg 1-31-2021. an attorney, risk manager, and political economist who is an expert on all stages of cross- border transactions. “EU Regulation Of US Technology Giants: A Forecast” Forbes. https://www.forbes.com/sites/robertginsburg/2021/01/31/eu-regulation-of-us-technology-giants-a-forecast/?sh=6b71e37430b5

Populism

The global political cycles of 2015 shifted in the direction of right-wing populism. In 2016, the United Kingdom electorate voted through referendum to withdraw from the European Union. Several months later, in the fall of 2016, Donald Trump was elected president on an isolationist, nationalist platform. These are just two examples from a much longer list of political developments that cemented a global push toward populist politics.

As part of its own nationalist agenda, the European Union levied significant fines against US technology giants for alleged violations of regional antitrust, taxation, and industry specific laws.

In one instance, Ireland cut a deal with Apple AAPL -0.8% limiting the company’s tax liability for European operations in exchange for providing jobs and technology. The EU claimed its member states did not have the authority to make such a deal and slapped Apple with a $14 billion fine for back taxes.

Examples of Fines by the EU against US tech companies proliferated in 2016-2018

Apple was fined $14.5 billion in 2016 for not paying sufficient taxes

Microsoft was fined $2 billion for antitrust violations in 2016

Google GOOG -2.4% was fined $2billion and $5billion for antitrust violations in 2017 and 2018

Qualcomm QCOM +0.6% was fined $1.2 billion for antitrust violations in 2018

As the political landscape changes in 2021 and beyond, a few key factors will likely affect how these US companies operate in the EU.

Factor # 1: The Ebb of European Populism

A review of approval ratings for European leaders suggests that the populist wave is ebbing. Domestic disagreements over policy and a disorganized response to COVID replaced the media’s focus on migration, and as a result, far-right leaders saw their approval ratings plummet:

Poland’s Prime Minister Mateusz Morawiecki saw a 34 percent decrease in popular support.

Italian Senator Matteo Salvini’s support has nosedived to 24 percent (down 8 points from a year earlier in 2020).

Hungarian Prime Minister Viktor Orbán Fidesz’s polling numbers have been falling, reaching levels below 50 percent in recent months.

The anti-immigrant Alternative for Germany party has fallen to 9 percent in recent months.

This cyclical movement away from right-wing populism will certainly influence the political economy of the European Union and affect its regulation of US technology giants. The question is: In what way?

Factor # 2: The Biden Presidency

President Joe Biden and Vice President Kamala Harris are considered to be “moderate Democrats,” making them more likely than other democratic politicians to be sympathetic to Silicon Valley. A review of their campaign promises during the Democratic presidential primary reveals they were not as aggressive as their more liberal colleagues, Senators Elizabeth Warren (D-Mass.) and Bernie Sanders (I-Vt.), in calling to break up specific tech giants.

Although most donations came from company employees, the companies themselves also contributed to Democrats in a big way:

Alphabet: $21 million

Amazon AMZN -2.2%: $9.4 million

Facebook, Microsoft and Apple: $25 million each

If the rational actor model—the theory that people will always act in their self-interests—and finance contributions tells us anything, Biden will fight hard against the EU’s attempt to manage the proliferation of US tech giants in Europe.

Factor # 3 Host government discrimination

While host government discrimination against foreign investors is more likely under populist administrations, it is always a viable threat. After an initial period of success, Airbnb’s ventures in Western Europe ran into significant roadblocks. Complaints from hotel owners whose margins were falling and others who were upset about surging rental prices compelled government officials to take action. In Reykjavik, Dublin, Barcelona, Berlin, Hamburg and Munich, politicians passed laws and regulators enforced regulations that actively discourage homeowners from opening their homes to visitors. Even if host governments do not pass regulations that drive foreign investors out of Europe, they will still be motivated to make it difficult for multinational companies to succeed. The political gains of catering to the interests of local, domestic competitors are likely to carry the day.

What’s next?

While all of these factors are likely to affect the dynamic between US Big Tech companies and EU legislators, factors #2 and factors #3 will have the most significant impact. The political interests of politicians at the national and regional levels of government in the US and the EU will drive regulatory outcomes. While political shifts away from populism will impact the EU’s decision making, the interests of Big Tech will trump those whose ideology is more tolerant of foreign investment. More specifically, the decision of government officials are likely to weigh the self-benefits of satisfying companies and local Europeans who are losing business to Big Tech against the costs of disappointing the Biden Administration. Factor #3 will have the most profound effect.

**Apple v. Pepper’s broad application of the Illinois Brick doctrine doesn’t spill over**

**1ac Stylianou 19** [Konstantinos Stylianou, Assistant Professor, University of Leeds, School of Law, “Apple v Pepper: the unintended fallout in Europe,” 2019, *Journal of Antitrust Enforcement*, Vol. 7, Issue 3, pp. 457-465, https://doi.org/10.1093/jaenfo/jnz031, EA]

The effects of Apple are seemingly confined in US antitrust law, since the case concerns a procedural issue of the law’s application. In fact, the standing rule created by Illinois Brick is idiosyncratic even for the USA, both because it contradicts the black letter of the law, and because the rationale underpinning it, namely to guard against complexities of apportioning antitrust harm (and by extension claims to damages) along the value chain, seems today to have been an overstated concern. As a result, one would expect the case not to have direct bearing on other jurisdictions. Indeed, in the EU, the rules for standing are simplified and create a universal right to claim damages regardless of one’s position in the value chain. Article 3 of the Damages Directive provides that ‘any natural or legal person who has suffered harm caused by an infringement of competition law is able to claim and to obtain full compensation for that harm’.16

### AT: Garcia / align AI governance with EU

**Status quo solves AI governance – Emory reads blue**

**1ac Garcia 21** [Denise Garcia, professor at Northeastern University; vice-chair of the International Committee for Robot Arms Control, “Stop the emerging AI cold war,” 05/11/21, *Nature*, Vol. 593, https://www.nature.com/articles/d41586-021-01244-z, EA]

Most nations want governance that controls the use of AI in war. In June 2020, the Global Partnership on Artificial Intelligence was created by the Group of Seven industrialized countries (G7) and called for human-centric development and use of AI. The partnership brings scientific and research communities together with industry and government to facilitate international cooperation. This is the path that the United States should take — with scientists, researchers and industry alike.

The relentless pursuit of militarization does not protect us. It **diverts resources** and **attention** from nearer **existential threats**, such as **extreme** **weather** events. With the world reeling from **COVID-19** — the shock of the century — now is not the moment to hasten towards worldwide confrontation. In 2019 alone, **climate disasters** displaced almost one million people in the United States. China, too, is extremely vulnerable to global warming. This common ground could pave the way to cooperation, including **stopping the emerging AI cold war.** This is no time to embark on an exorbitant and ineffective race.

#### EU and US big data approaches are not out of sync

Ning Lizhi, 21. Director of the Research Center of Intellectual Property and Competition Law, Wuhan University. “Internet regulations conform to global trend.” September 28, 2021. <https://www.khmertimeskh.com/50943005/internet-regulations-conform-to-global-trend/> Accessed: 9/28/21 2:42pm

Moreover, China’s anti-monopoly policies conform to the global trend, as the European Union and the United States have been tightening supervision of the internet industry in recent years. The EU unveiled the Digital Service Act and Digital Market Act in 2020 to break monopolies and eradicate unfair competition. The US House of Representatives issued five antitrust reform bills on June 11, and President Joe Biden signed the Executive Order on Promoting Competition in the American Economy on July 9. And tech giants such as Google, Apple, Facebook and Amazon have been heavily fined and are facing investigations for flouting competition and data protection laws of the EU and the US. Countries such as Japan, the Republic of Korea, India, Turkey and Australia all have strengthened anti-monopoly supervision of the internet industry, in a bid to ensure the healthy development of the sector, which can help boost global economic recovery. As for China, it supports the development of internet enterprises, promotes fair and free competition, protects the rights of consumers and SMEs, and is facilitating the healthy and sustainable development of the online industry. In short, online enterprises are meant to connect people and communities, promote innovation and protect users’ rights and interests. And the moves to check monopolies will help the online enterprises achieve such goals.

### AT: Leonardo / harmonization

#### Attempts to harmonize cartel responses fail

Allison Murray 19. Loyola Law School Juris Doctor, May 2019. “Given Today's New Wave of Protectionism, Is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?" Loyola of Los Angeles International and Comparative Law Review, vol. 42, no. 1. 2019. HeinOnline. Accessed 9/4/21.

Efforts to informally harmonize international competition laws have continued despite the failure of formal international laws. The Organization for Economic Cooperation and Development (“OECD”) and the United Nations Conference on Trade and Development (“UNCTAD”) each adopted codes that outlined negotiations and agreed to competition law principles.135 The codes were completely informal and non-binding.136 Although the OECD’s latest recommendations for antitrust cooperation were revised relatively recently in 1995, the agreement is still a “law . . . of the softest variety.”137 This is in part because Western industrialized nations seek to address anticompetitive behavior, while the burgeoning countries are more concerned with promoting economic development and regulating multinational corporations.138 The International Competition Network (“ICN”) is another institution that encourages cooperative action on antitrust principles.139 However, the ICN, much like other informal networks, does nothing to limit or minimize the protectionist behaviors of countries, which is common in the face of uncertainty and lack of consensus on topics such as antitrust.140 Lack of enforceability aside, these negotiations and cooperative efforts “established a framework that has been reasonably successful and has set the stage for more binding commitments on a bilateral basis.”141 The fact of the matter is that **there is no economic model that is globally or unanimously accepted by all nation-states, so there can be no truly successful global harmonization**.142 To internationalize the law, even in an informal capacity, would require the policy behind the laws to be agreed upon.143 How can one agree to perfect and protect an economic policy that is not itself uniform amongst all nations?144

# 2NC – Navy R2

## Kritik

### Framework – 2NC

#### Interpretation – the AFF is an object of capitalist research. Burden of the NEG is to disprove the research practices of the 1AC. Prefer it:

#### 1 – Realism disad – capitalism only sustains itself through limits on debate – those form realist perspectives that come at the preclusion of anti-capitalist literature – assumes their middle ground – turns case.

Mathieu HILGERS, Laboratory for Contemporary Anthropology, Université Libre de Bruxelles, and Centre for Urban and Community Research, Goldsmiths, University of London, 13 [“Embodying neoliberalism: thoughts and responses to critics,” *Social Anthropology*, Vol. 21, No. 1, February 2013, p. 75-89, Accessed Online through Emory Libraries]

The implementation of neoliberalism goes far beyond the mere appearance of its policies. It cannot be reduced to the application of a programme or to institutional changes. This implementation is deployed within a triangle constituted by policies, institutions and dispositions. This last component has remained at the margins of our debate. If we wish to grasp the depth of the changes that neoliberalism causes, we cannot neglect its effects on systems of dispositions. To analyse this impact, it is necessary to describe the symbolic operations that give rise to government-enabling representations as well as to categories that support neoliberalism and are propagated by it. This task requires accounting for the historicity of the spaces in which policies are put into action, the intentional constructions but also involuntary historical formations in which they become entangled, and the transactions, negotiations, associations, working misunderstandings and chains of translation that give them their flexibility and support their deployment.

Neoliberalism is embodied in the agents and representations through which it is put into action. Through a historical process, the dispositions that it generates become, as Bourdieu would say, durable and transposable, as well as increasingly autonomous from their initial conditions of production. As such, when these conditions disappear or transform, or when policies are modified or abandoned, some of them spread into other social spaces and contexts and take on new meanings. Therein lies the importance of broadening the notion of ‘implementation’, so that we may appreciate the role of culture in the dynamics of neoliberal expansion. It is precisely (but not only) because of the embodiment of neoliberalism emphasized in this paper that at the moment we are nowhere near the end of the neoliberal era. Thus I arrive, by a different path, at the same observation that Kalb (2012) formulated in this debate: today it is capitalism that is in crisis, not neoliberalism.

In some parts of the world, information that helps people to stabilize their perceptions, practices and activities is mainly produced within a neoliberal context, forms and procedures. The figures, statistics, norms, audits and discourses that I evoke in this paper are fashioned by a constellation of institutions; they condition, train and shape a mental and practical space. They impact the way in which one conceives and carries out research. Indeed, academia is not outside of this neoliberal world; on the contrary, it is a centre of development and support for neoliberalism. While many academics are critical of neoliberalism, this does not mean that they have a permanent deconstructionist relation to the world and to themselves. In many parts of academia, a neoliberal way of functioning has become common sense. If neoliberalism is so present in our mind and in the way in which academia is designed and works today, it appears more than necessary for researchers to consider how this shapes their relation to production of knowledge.

If we wish to avoid the eviction of critical perspectives in this time of crisis, if we hope to have some chance to think within but beyond the neoliberal age, if we want to develop alternatives and different horizons, one of the first things to do is to decolonize our mind by objectifying our own neoliberal dispositions. The reflexive return to the tools of analysis is thus ‘not an epistemological scruple but an indispensable pre-condition of scientific knowledge of the object’ (Bourdieu 1984: 94), if we are to prevent the object and its definition from being dictated to the researcher by non-scientific logics, such as the necessity of being visible and marketable in the academy. To achieve a break with neoliberal common sense, anthropologists could follow Bourdieu (2003) in his will to engage in a ‘participant objectivation’.14 It is clearly this kind of objectivation even if not phrased in such terms that has led some researchers to call for a radical change in the academy, supported by new arguments and put into practice through the initiation of a ‘slow science’ movement.15 In some places, academia is still a space of critiques and alternatives.

#### 3 – Reciprocity disad – the middle ground interp fails – treat this as a link to their use of fiat.

Detlev ZWICK 13, Associate Professor of Marketing at Schulich School of Business, York University, Toronto [“The myth of metaphysical enclosure: A second response to Adam Arvidsson,” *Ephemera*, Vol. 13, No. 2, May 2013, p. 413-419, Accessed Online through Emory Libraries]

My initial response to Adam Arvidsson's excellent and provocative essay entitled 'The Potential of Consumer Publics,' was met by the author with a thoughtful response in which he provides, I think in very helpful ways, some clarification about the politico-ideological underpinnings of his notions of the productive consumer public and the reputation (or ethical) economy (see also Arvidsson, 2008; Arvidsson, 2009). As his defense against my charges illustrates, Arvidsson represents a position that, with Zizek, we could call 'Fukuyamaist'. This position holds that the collapse of the Communist Bloc put an end to the competition between ideological and economic systems, with the result that

liberal-democratic capitalism is accepted as the finally found formula of the best possible society; all one can do is to render it more just, tolerant and so on. The simple but pertinent question arises here: if liberal-democratic capitalism is, if not the best, then the least bad form of society, why should we not simply resign ourselves to it in a mature way, even accept it wholeheartedly? (Zizek, 2009: 52)

Is this not exactly the question Arvidsson is posing in his response? Is he not asking us to accept the reality of neoliberal capitalism and get on with it? At his Fukuyamaist best, Arvidsson suggests that to keep criticizing what cannot be changed constitutes little more than the immature trolling of Utopian dreamers and tenured radicals, especially when unaccompanied by a clear description of the solution to the problem. In principle, there are two main charges leveled by Arvidsson against my critique of his argument.

First, he rejects my critique for being naïve and Utopian, but he does so not because I suggest that his productive consumer publics reproduce neoliberal capitalist logic. On the contrary, Arvidsson himself seems to agree with my assessment that his concepts of reputation economy and productive consumer publics are at the same time both product and producer of communicative capitalism. What he objects to is the anti-capitalist position from which I state my critique, because, as already mentioned above, Arvidsson has concluded that the rule of capitalism cannot be changed; it is, to put it in Zizek's terms, the real of our lives, a real so powerful that, as Fredric Jameson (2003: 73) puts it, 'it is easier to imagine the end of the world than to imagine the end of capitalism'.

Second, Arvidsson faults my response for articulating a critique without at the same time providing my own constructive vision. In other words, criticizing his neoliberal fantasies is fine as long as it is constructive, which for him means accepting his Fukuyamaist position and thus focusing one's criticism on how to make capitalism more humane and tolerable. After having been too Utopian in my anti-capitalist critique, here I am not Utopian enough for Arvidsson because I refuse to develop a vision of a more just, democratic, tolerant and environmentally sustainable capitalism.

Before I formulate a short response to these two charges, I would like to emphasize that as far as the assessment of Arvidsson's original argument is concerned, we actually do not have a substantial disagreement. My main claim has been that in his essay Arvidsson is advancing a conservative notion of social change that celebrates the global subsumption of digital labour as some kind of postmodern capitalist communism; an argument and vision that very much recalls Hardt & Negri's (2004) notion of the multitude as the new positive form of economic and social productivity and new radical political subjectivities. For Negri (2008), value forms created by autonomous digital collaboration and co- creation by the multitude - or as Arvidsson puts it, 'by putting common resources to work in processes that unfold beyond the direct control of markets and hierarchies' - are already just one small step removed from communism. No matter that the capitalists appropriate autonomous labour, commodify all forms of life and make the rules of the new productive game. Capitalists here are mere parasites leeching off the labour of the multitude and they can, at any moment, be cut off from the various forms of collaboration and common consumptive production, bringing about something we could 'call commonism if we want, or simply an "informational mode of production" to use a less loaded term'.

As I wrote in my earlier response, I see many problems with this theory of informational communism outside markets and hierarchies, not least being that the most convincing examples presented by Arvidsson of such an informal mode of production rely for their continuous existence and viability on markets and hierarchies. But again, the main point here is not that I believe Arvidsson's theory of the productive consumer public is inconsistent and in the final analysis misguided and naïve1. The main point I was trying to make in my initial response was that despite all his anti-capitalist language, Arvidsson is in actuality presenting a conservative vision of social change that takes for granted the continuation of neoliberal capitalism, albeit a version of neoliberal capitalism that over time somehow learns to accommodate and tolerate other forms of economic production and political subjectivities. In short, a neoliberalism with a human face (which is good enough for Arvidsson to move 'beyond neoliberalism', as if just saying it will make it so). And it turns out that Arvidsson, in his reply, admitted that much. Along similar lines, Arvidsson repeatedly states his disappointment about my refusal to

recognize that notions like peer-to-peer production, high-tech gift economies and the like have the power to mobilize the energies of the subjects that are most likely to become the pioneers of a new political vision - today's version of the skilled workers that have taken the lead in most modern political movements. Even though the social theory that they produce might be shallow and imperfect... we cannot simply dismiss these versions as mere ideologies to be replaced by our theoretically more refined ideologies.

I can assure you that I have no difficulty recognizing the real existence of the self- branding, entrepreneurial competitor who, via skilled knowledge work, hopes to change the world. There are plenty of them in my classroom. And I am not concerned about the depth and perfection of the social theories driving their visions for the future. What I am concerned about are the processes that constitute these students as neoliberal subjectivities in the first place and subsequently limit their desire for a better world - a desire that, of course, we should encourage and not dismiss a priori - to variations on neoliberal capitalism (variously called social entrepreneurism, corporate social responsibility, conscious capitalism and so on).

Thus, my point was not at all to moralize about the effects of communicative capitalism but to decry two things: first, that Arvidsson elevates this neoliberal subject to be the legitimate historical subject of radical transformation, and second, that Arvidsson seems to believe that the radical transformation ushered in by this subject is one we should desire. It is one thing to acknowledge the current hegemony of neoliberal governmentality. I have no problem with that. That neoliberalism is a radical social force is plain for all to see. It is something different entirely, however, to suggest, as Arvidsson appears to, that the competitive, self-branding and entrepreneurial subject is the only possible subject we can imagine today - that this subject should be allowed to create the future world. Here, we have to become normative and demand alternatives.

### AT: Perm Do Both---2NC

#### No Perm Do Both.

#### 1 – Double Bind. Either severing justification for anti-trust reform is a moving target that is a voter for fairness, or the framework and link debate means even if actions aren’t functionally competitive, epistemic disagreement is sufficient for exclusivity.

#### 3 – Any combination poisons the alt.

William Curran 16. Editor for the Antitrust Bulletin. Commitment and betrayal: Contradictions in American democracy, capitalism, and antitrust laws. Antitrust Bulletin. 2016. 61(2): 246

Scholars now link antitrust with distributional values. 11 Professor Anthony B. Atkinson wants antitrust to value the individual,1 12 recognizing as Hand did in Alcoa1 13 that "among the purposes of Congress in 1890 was a desire to put an end to great aggregations of capital because of the helplessness of the individual before them." 1 14 And it is the individual-rich and poor, but especially the poor-whom Atkinson wants to protect from the inequities of the marketplace.115 Atkinson sees as Senator John Sherman did in 1890 that the "problems that may disturb [the] social order ... none is more threatening than the inequality of condition of wealth, and opportunity that has grown within a single generation out of the concentration of capital into vast combinations to control production and trade to break down competition." 11 6 Sherman's and Hand's worries were certainly not Bork's. Hand said it best in Alcoa, "[W]e have been speaking only of the economic reasons which forbid monopoly ... [but] there are others, based upon the belief that great industrial consolidations are inherently undesirable, regardless of their economic results.",1 1 7 Bork-regardless of destructive results to democracy-would never find efficient economic results inherently undesirable. Bork would likely find democracy a "cornucopia of social values, all rather vague and undefined but infinitely attractive."iiS A definition that was surely meant to disparage, fails. What makes democracy attractive is its socially related values. 11 9 What makes it infinitely attractive are its regenerative capacities and potential for self-definition. 120 Bork blocked democracy's values so as not to tempt liberal judges. He worried needlessly. An antitrust solution to wealth's severe inequality is simply not plausible. 121 Antitrust has always been the heart of capitalism's ideology. 122 In truth, antitrust's distribution of wealth for the wealthy is more than ideology-it is heartless reality. So was Bork right? Are the fates of capitalism and antitrust intertwined? 123 And if antitrust were repealed? Professor Atkinson wants antitrust saved and used for citizens.124 But like Professors Stiglitz, Krugman, and Reich, he has fallen headfirst into antitrust's heartless ideological trap. And like the other three he would resurrect TR's trust-busting for the twenty-first century. Piketty avoids ideological traps. He learns the facts of history-unencumbered by ideologies like Bork's-and has an unobstructed vision 125 of the unequal and democratically destructive wealth of capitalism. Bork's antitrust is the wrong policy tool for a nation presumed to be dedicated to serving citizens equitably. 126

### Anti-Trust Link – 2NC

#### 4 – Boom & Bust: Market competition inevitably creates economic busts and proves capitalism’s contradiction.

Alan Maass 21. Communications staff for Rutgers AAUP-AFT. Marxism Shows Us How Our Problems Are Connected. Jacobin. 1-5-2021. https://jacobinmag.com/2021/01/marxism-capital-socialism-capitalism-book-review

When Things Fall Apart

Marxist economics explains not only how capitalism works but why it regularly doesn’t — during the periodic economic busts that inevitably follow the booms. As Marx and Engels wrote:

Society suddenly finds itself put back into a state of momentary barbarism; it appears as if a famine, a universal war of devastation had cut off the supply of every means of subsistence; industry and commerce seem to be destroyed. And why? Because there is too much civilization, too much means of subsistence, too much industry, too much commerce.

Of course, in a world where billions go without enough food, there’s no such thing as “too much means of subsistence.” There’s only too much from the point of view of the capitalists — too much to sell their products at an acceptable profit.

Thier introduces the chapters on capitalist crisis by unpacking a long quotation from Engels that ends: “The contradiction between socialized production and capitalistic appropriation is reproduced as the antagonism between the organization of production in the single factory and the anarchy of production in society as a whole.”

Under capitalism, production within workplaces is generally highly regimented, but the economy as a whole is a free-for-all. Businesses make their investment decisions behind closed doors, each hoping to get a leg up on the competition — by introducing the most popular model, the new product, the next trend. Success means a greater share of the market and therefore more profits.

All the important questions for society as a whole — how much food should be produced, how many homes to build, what kind of drugs to research and manufacture, how to generate electricity — are decided by the free market.

In economic good times, success seems contagious. Companies make ambitious investments, produce more and more, and watch the money roll in. But when enough companies jump in, the market gets saturated, sales slump, debts grow, and the record profits start to sink. The effects spread from part of the economy to the next, as Thier explains, using the example of oil:

If refineries sit idle because there is an overproduction of oil, the workers are laid off, and the creditors, who financed the investment, are dragged down as well. But as future oil extraction and refining projects are pulled back, so too is demand for the raw materials (steel, concrete, plastics, electricity, etc.) and engineering necessary for the production of oil rigs, pipelines, and so on. The construction business and service and retail companies, which had benefited from the springing up of oil boomtowns, suffer as well.

Because of the complexity of the international capitalist economy, the boom-slump roller-coaster ride can look and feel different each time around. Thier devotes a chapter to analyzing the crash last time: the Great Recession of 2008–9. She explains why and how the parasitical realm of banking and finance was the detonator of this slump but looks beyond popular left explanations about “financialization” to reveal the underlying crisis of global overproduction.

Among Marxist economics writers, there are some disagreements about the details here, specifically about “which aspects of Marx’s writing — falling profitability, overproduction (or in some cases, underproduction), disproportionality among branches, the role of credit — are emphasized and how these pieces fit together,” Thier writes.

In her account, Thier tends to stress overproduction, to the disappointment of those who emphasize falling profit rates. This focus on overproduction crucially emphasizes how an organic mechanism of capitalism — inevitable in a system driven by exchange, exploitation, and competition — repeatedly causes crisis.

Regardless of their ideology or morality (or lack thereof), capitalists are inevitably driven to reduce costs, they inevitably see an advantage in producing more for less, and this inevitably leads to frantic overproduction that undermines profitability and ultimately slams the economy into reverse.

In other words, capitalism stops working not because of a mistake or failed policy, but because it’s been working the way it’s supposed to. As Thier writes:

Competition is the mainstay of capitalism. It can’t be made friendlier or softer because it requires an accumulation of capital at any cost, in order to get ahead or get left behind.… These same processes of accumulation necessarily lead to contradictions that threaten the very profits that capitalists seek. Every contradiction for capitalism is both a great hazard to our lives — since we are made to pay the price — and also an important crack in the system. Every periodic crisis is a potential point around which to organize.

### AT: Perm Double Bind – 2NC

#### 2 – Neoliberalism is governmentality through conduct---you can’t distinguish neoliberalism in competition policy against the broader system we’ve criticized. Competition as a site of universality/rationality is what we’ve critiqued, it invades every other domain of the social order.

David Lebow 19. Lecturer on Social Studies at Harvard University and lawyer, “Trumpism and the Dialectic of Neoliberal Reason,” Perspectives on Politics 18(2):380-398, doi:10.1017/S1537592719000434.

I. Neoliberal Reason

As Michel Foucault and others have argued, neoliberalism entails far more than an economic doctrine favoring deregulated markets.4 It is a novel form of governmentality—a rationality linked to technologies of power that govern conduct, not just through direct state action but through liberty itself.5 Not isolated to the traditionally demarcated sphere of economics, neoliberal society entails a whole economic-juridical order.

The central program of neoliberal governmentality is the absolute generalization of competition as a universal behavioral norm. Whereas in liberal thought, the root principle of capitalism was exchange of equivalents, for neoliberal reason it is competition entailing inequality. The key result of market processes goes from specialization to selection. The competitive market is the exclusive site of rationality. It processes information, indicated by price, and is the only mechanism of producing knowledge, defined as what is profitably utilizable. Because consumers are free to refuse inferior goods or services, the price mechanism of the market system ensures optimal solutions and maximal satisfaction of preferences.

Liberal capitalism, as Karl Polanyi argued, required the construction of “fictitious” commodities like land and labor.6 These abstract, exchangeable factors of production had to be disembedded from concrete non-market social relations, norms, and values. Instead of merely disembedding commodities, neoliberalism intervenes to make competitive mechanisms regulate every moment and point in society. It strives to build an empire of market choice that invades every domain of life, and deposes all other social, political and solidaristic institutions and values.

Neoliberalism does not allege that markets are natural; competition must be constructed. Rather than endorsing laissez-faire overseen by a night watchman, it stipulates a strong state engaged in permanent vigilance, activity, and intervention to maintain artificial competition. It must not plan outcomes, which would upset the market’s innate rationality, and must be insulated from political disturbances. Economic interventionism leads down the road to serfdom; fascism an

d unlimited state power are its necessary results. A “minimum of economic interventionism” on the “mechanisms of the market” must be accompanied by “maximum legal interventionism” on the “conditions of the market.”7 Fixed, formal rules make up an economic constitution that inhibits planning, repulses political disruptions, and impartially safeguards competition. The state is the executor of the market and growth is the basis of public legitimacy. Governance depoliticizes public power, promotes ostensibly post-ideological technical problem-solving by experts, and relies on “best-practices” that dissolve the distinction between public and private organization.8

Unlimited generalization of competition yields an enterprise society in which calculations of supply/demand and cost/benefit become the model of all social relations. Neoliberal reason renders homo economicus, based on this model of the enterprise, the exhaustive figuration of human subjectivity. The center of economic thought shifts from labor and processes of production, exchange, and consumption to human capital and rational decision-making under conditions of scarcity. Capital is everything that can generate future income; wages are reconceived as income from capital. Labor is no longer comprehended as a commodity exchanged for a wage, but as a combination of human capital (the worker’s education and abilities) and the income stream it generates. This neoliberal subject is an aggregate of human capital who invests in his own income-generating abilities.

Neoliberalism replaces the invariant identity of the moral person as a rights-bearing citizen with a formally empty receptacle filled up through enterprising choices. It brushes aside models of freedom as self-rule achieved through moral autonomy or popular sovereignty.9 In the neoliberal “democracy of consumers,” individual consumers together constitute the sovereign that monopolizes the issuance of legitimate commands.10 Sovereign will is expressed not through political channels, but by choices in the “plebiscite of prices.”11 Whereas producers have particular interests like protectionism, consumers have a consensual and common interest; all favor the impartial functioning of market processes. In the neoliberal free society, consumers exercise their right to choose in complete independence.

II. From Keynesian State Capitalism to Neoliberal Deregulation

Situating the 2008 crisis in a historical account of American political and economic development clarifies its broader significance. The early twentieth-century Progressives were disdainful of what they took to be the chaos and waste of fin de siècle laissez-faire society. They strove to build a new American state that would replace the structural and rights-based formalisms of the nineteenth century with direct democracy and expert administration. It took the Great Depression and New Deal to bring into full bloom the Progressive commitment to pragmatic rationality. Thereafter, the “policy state” was authorized to pursue designated social goals and develop the means to accomplish them.12 The slew of New Deal innovations included state oversight of labor negotiations, invigorated antitrust, Keynesian countercyclical deficits to stimulate demand and increase purchasing power, an expansive public sector sheltered from the business cycle, aggressive banking regulation, and social insurance. Regulation and redistribution ensured the conditions necessary for an economic system based on capital accumulation, private property, and corporate profit to endure.

To many, the differences between the New Deal and Nazi political economies appeared less significant than their common response to monopoly capitalism. Both erased boundaries between state and society by politicizing the private sphere and authorizing public bureaucracies to rationalize crisis-prone economies. Frankfurt School member Friedrich Pollock suggested that this common “state capitalism” had solved the contradiction between the forces and relations of production, and thus overcome the economy’s crisis tendencies. It seemed to him that management had become merely technical and “nothing essential” had been “left to the laws of the market.”13 Worries abounded that the private law sphere of property and contract was necessary for individual freedom. Despite salient differences between Nazi and New Deal state capitalism, many feared that intervention into society was a waystation to domination. Unease about the specter of American despotism motivated development of mechanisms to ensure that interventionism did not devolve into arbitrary rule.14 Expertise was one justification and limitation of the policy state. Authority could be safely delegated to a new corps of public-spirited administrators because their scientific knowledge would not only make them effective, but also counsel restraint. Enduring misgivings led later to new laws of administrative process. The procedural state was legitimated by its defenders as being a substantively value-neutral and instrumentally rational machine serving goals set by society. Regulatory decision-making was shunted into the abstruse procedures of courtrooms and bureaucracies. Defenders of the state emphasized that its processes of allocating authority were neutral, impartial, and open to all. The balanced accommodation of all interest groups seeking to exercise influence would yield an equilibrium corresponding to the public interest.15

The intermeshing of state and society through interest groups, agencies, and professionalized parties marginalized the public. The sovereign public opinion that Progressives had hoped would rationalize government gave way to the rationality supposedly inherent in processes of public law, public-private negotiation, and regulated markets. The state was endowed with a diffuse legitimacy in exchange for a growing economy, broad distribution, and ongoing household capacity to consume.16 The Keynesian welfare settlement pacified the working class, protecting the market economy from more radical political pressures. Newly available, mass-produced commodities encouraged leveled-down notions of citizenship as welfare clientelism and privatistic consumption. As the state expanded and routinized, the initial politicization of private property relations through public intervention developed into depoliticized economic management by lawyers and social scientists organized by administrative and judicial processes.

The terms of the social contract preserving the coexistence of capitalism and democracy had been set. In exchange for a pacified citizenry and depoliticized regulatory authority, the policy state promised to deploy instrumental reason to sustain both capital accumulation and widely distributed capacity to consume (supported, always, by the exclusion of African Americans). During the decades of postwar growth, these twin responsibilities seemed attainable and compatible. Capitalism functioned smoothly enough and potentially delegitimating inequality was clipped by inflation, tax-based welfare, and collectively negotiated wages. But in the late 1960s and early 1970s, weakening growth, stagflation, trade deficits, and the collapse of Bretton Woods revealed that state capitalism had not solved the problems of economics. As the Great Depression had enabled construction of the instrumentally rational policy state, economic disturbances in the 1970s opened the breach into which neoliberal reason entered to reconfigure the political economy. Rather than shielding rational policy-making from political pressure and assuring broadly distributed welfare, neoliberalism promised growth driven by depoliticized markets freed from regulation and downwards redistribution. Believing in the optimal rationality of competitive markets, neoliberals sought to reinvigorate capital accumulation through deregulation, lowered taxes, financialization, privatization, and market expansion.

Liberating accumulation from the restrictions and obligations incurred under state capitalism might have imperiled capitalism’s peace treaty with democracy. For deregulation to proceed without impairing the system’s legitimacy, the quid pro quo—depoliticization for consumption—had to continue. Over the ensuing decades, as Wolfgang Streeck explains, the state “bought time” by finding new ways to generate illusions of widely distributed prosperity that prolonged the capacity of the lower and middle classes to consume.17 Each successive attempt exhausted itself, leading to new and escalating disturbances. In the 1970s, inflation safeguarded social peace by compensating workers for inadequate growth until stagflation ended this mode of buying time. A subsequent reliance on public debt enabled the government to pacify conflict with borrowed money. Rising debt and balking creditors delimited this phase, which was brought to a definitive close with the Clinton administration’s social spending cuts and balanced budgets. In a final stage that dawned in the 1980s but grew increasingly paramount over time, debt-based support of purchasing power was privatized. Household spending was financed through mortgages, student loans, and credit cards. This “privatized Keynesianism” buoyed consumption up through 2008, despite cuts to social spending, falling wages, and tightening employment markets.18

Each device for upholding spending maintained the legitimacy of the depoliticized political economy, even as liberalization continued to strip the wage-dependent population of regulatory and redistributive safeguards. The end of the inflation era brought structural unemployment and weakened trade unions. The passing of the public debt regime meant cuts to social rights, privatization of social services, and a trimmed public sector. Growing private debt enabled people to hold on despite lost savings, and rising under- and unemployment. At every step, the neoliberal project was “dressed up” as a consumption project.19 Continuing consumption ensured legitimacy long enough to enact total transformation of the political economy.

The state could not buy time indefinitely. The 1970s had already witnessed the beginning of the transition from a manufacturing, production-oriented economy that exported surpluses to an import-based, finance and services economy focused on consumption. As the United States went from creditor to debtor, a system of “balanced disequilibrium” took hold.20 With impunity granted as the world’s reserve currency, the United States ran mounting budget and trade deficits. To finance them, it absorbed surplus capital from abroad, much of which wended its way to Wall Street. Banks used these profits to extend credit to the working- and middle- classes. Household debt funded consumption of imported goods, returning the surplus capital abroad, and completing the circuit of global trade. This system depended on the unsustainable condition of ever-increasing debt-based consumption. Consumption was notoriously reinforced by secondary markets in what was essentially private money (securitized derivatives and collateralized debt obligation) that was much riskier than assumed. Because increasingly irresponsible lending was integral to continuing the consumption that stabilized the macroeconomic system, it became a sort of vicious collective good that progressively magnified the scale of the inevitable crash.21 When in 2008 the debt finally proved unserviceable and the housing bubble burst, the private money disappeared and the disequilibrated global economic system fell into crisis.

Consumption based on private debt had provided an unstable bridge over the yawning inequality brought about by deregulation, financialization, globalization, and the diminished welfare state. When the 2008 crisis dried up credit, it revealed a divided “dual economy.”22 On one side is the primary sector of elite, highly-educated professionals who are collected in coastal urban centers and tied in to corporate management, technological innovation and oversight of global capital flows. On the other is the secondary sector of low-skilled workers primarily fixed in the heartland, for whom deregulated competition has brought under- or unemployment, job instability, depressed wages, exploding debt, and diminished prospects.

Unable to buy more time, the state’s breach of the postwar social contract has been exposed. The neoliberal system of capital accumulation was entrenched at the expense of broad and sustainable consumption. The results have been the politicization of defrauded citizens and a political economy plunged into legitimation crisis. Time has belied the premature conclusion that contradiction and crisis potential had been overcome by state capitalism. Contradiction was relocated into cross-cutting imperatives for the state to enable capital accumulation and distribute consumption. In hindsight, we find only a window of stabilization of an enduring crisis potential built into capitalist political economy. As Nancy Fraser puts it “on the one hand, legitimate, efficacious public power is a condition of possibility for sustained capital accumulation; on the other hand, capitalism’s drive to endless accumulations tends to destabilize the very public power on which it relies.”23 The political fallout from the 2008 crisis marks the end of the postwar social contract that had established conditions ensuring the continued coexistence of capitalism and democracy.

### unsustainability v2---2nc

#### 2 – Shareholder value maximization ensures green assets can’t solve.

Katharina Pistor 9/21. Professor of Comparative Law at Columbia Law School. “The Myth of Green Capitalism.” Project Syndicate. 9/21/2021. <https://www.project-syndicate.org/commentary/green-capitalism-myth-no-market-solution-to-climate-change-by-katharina-pistor-2021-09>

NEW YORK – Heat waves, floods, droughts, and wildfires are devastating communities around the world, and they will only grow more severe. While climate-change deniers remain powerful, the need for urgent action is now recognized well beyond activist circles. Governments, international organizations, and even business and finance are bowing to the inevitable – or so it seems. In fact, the world has wasted decades tinkering with carbon trading and “green” financial labeling schemes, and the current vogue is merely to devise fancy hedging strategies (“carbon offsets”) in defiance of the simple fact that humanity is sitting in the same boat. “Offsetting” may serve individual asset holders, but it will do little to avert the climate disaster that awaits us all. The private sector’s embrace of “green capitalism” appears to be yet another gimmick to avoid a real reckoning. If business and finance leaders were serious, they would recognize the need to change course drastically to ensure that this planet remains hospitable for all of humanity now and in the future. This is not about substituting brown assets for green ones, but about sharing the losses that brown capitalism has imposed on millions and ensuring a future even for the most vulnerable. The notion of green capitalism implies that the costs of addressing climate change are too high for governments to shoulder on their own, and that the private sector always has better answers. So, for advocates of green capitalism, public-private partnership will ensure that the transition from brown to green capitalism will be cost-neutral. Efficiently priced investments in new technologies supposedly will prevent humanity from stepping over into the abyss. But this sounds too good to be true, because it is. Capitalism’s DNA makes it unfit to cope with the fallout from climate change, which in no small part is the product of capitalism itself. The entire capitalist system is premised on the privatization of gains and the socialization of losses – not in any nefarious fashion, but with the blessing of the law. The law offers licenses to externalize the costs of despoiling the planet to anybody who is smart enough to establish a trust or corporate entity before generating pollution. It encourages the off-loading of accrued environmental liabilities through restructuring in bankruptcy. And it holds entire countries hostage to international rules that privilege the protection of foreign investors’ returns over their own people’s welfare. Several countries have already been sued by foreign companies under the Energy Charter Treaty for trying to curb their carbon dioxide emissions. Two-thirds of total emissions since the Industrial Revolution have come from just 90 corporations. Yet even if the managers of the world’s worst polluters were willing to pursue rapid decarbonization, their shareholders would resist. For decades, the gospel of shareholder value maximization has reigned supreme, and managers have known that if they deviate from the orthodoxy, they will be sued for violating their fiduciary duties. No wonder Big Business and Big Finance now advocate climate disclosures as a way out. The message is that shareholders, not managers, must spur the necessary behavioral change; solutions must be found through the price mechanism, not through science-based policies. Left unanswered is the question of why investors with an easy exit option and plenty of hedging opportunities should care about the disclosure of future harm to some companies in their portfolio. There is obviously a need for more drastic changes, such as carbon taxes, permanent moratoria on extracting natural resources, and so forth. These policies are often dismissed as mechanisms that would distort markets, and yet they idealize markets that don’t exist in the real world. After all, governments have lavishly subsidized fossil-fuel industries for decades, spending $5.5 trillion (both pre- and post-tax), or 6.8% of global GDP, in 2017. And should fossil-fuel companies ever run out of profits to offset these tax breaks, they can simply sell themselves to a more profitable company, thereby rewarding their shareholders for their loyalty. The script for these strategies has long been written in the law of mergers and acquisitions. 1 But the mother of all subsidies is the centuries-old process of legally encoding capital through property, corporate, trust, and bankruptcy law. It is law, not markets or firms, that protects the owners of capital assets even as they saddle others with enormous liabilities. Advocates of green capitalism are hoping to continue this game. That is why they are now lobbying governments to subsidize asset substitution, so that as the price of brown assets declines, the price of green ones will rise to compensate the asset holders. Again, this is what capitalism is all about. Whether it represents the best strategy for ensuring the planet’s habitability is an entirely different question. Instead of tackling such questions, governments and regulators have once again succumbed to the siren song of market-friendly mechanisms. The new consensus focuses on financial disclosure because that path promises change without having to deliver it. (It also happens to generate employment for entire industries of accountants, lawyers, and business consultants with powerful lobbying arms of their own.) Not surprisingly, the result has been a wave of greenwashing. The financial industry has happily poured trillions of dollars into green-labeled assets that turned out not to be green at all. According to a recent study, 71% of ESG-themed funds (supposedly reflecting environmental, social, or governance criteria) are negatively aligned with the goals of the Paris climate agreement. We are running out of time for such experiments. If greening the economy was really the goal, the first step would be to eliminate all direct subsidies and tax subsidies for brown capitalism and mandate a halt to carbon “proliferation.” Governments should also place a moratorium on shielding polluters, their owners, and investors from liability for environmental damages. Incidentally, these moves would also remove some of the worst market distortions around.

#### 3 – semiconductor shortages---filters aff offense

David Atkins 6-19. President of the Pollux Group, a Qualitative Research Firm. The Semiconductor Crisis Is a Failure of Modern Capitalism. Washington Monthly. 6-19-2021. https://washingtonmonthly.com/2021/06/19/the-semiconductor-crisis-is-a-failure-of-modern-capitalism-it-may-require-new-answerTop of Form

Bottom of Form

But there’s increasingly an argument to be made that a just-in-time lowest-cost supply system may not just be bad for the climate or for domestic employment. It may also in many cases be bad for business. The semiconductor crisis tells an exemplary tale. As information technology becomes essential to daily life in developed countries, semiconductors are essential for making the world go round. Phones, computers, gaming consoles and automobiles all require increasingly sophisticated semiconductors. And most of them are made by a single company: Taiwan Semiconductor. Indeed, Taiwan Semiconductor is so dominant in the field that few competitors can match them, and they’re falling farther behind.

Analysts say it will be difficult for other manufacturers to catch up in an industry that requires hefty capital investments. And TSMC can’t make enough chips to satisfy everyone—a fact that has become even clearer amid a global shortage, adding to the chaos of supply bottlenecks, higher prices for consumers and furloughed workers, especially in the auto industry.

The situation is similar in some ways to the world’s past reliance on Middle Eastern oil, with any instability on the island threatening to echo across industries. Companies in Taiwan, including smaller makers, generated about 65% of global revenues for outsourced chip manufacturing during the first quarter of this year, according to Taiwan-based semiconductor research firm TrendForce. TSMC generated 56% of the global revenues.

Being dependent on Taiwanese chips “poses a threat to the global economy,” research firm Capital Economics recently wrote.

The semiconductor shortage is harming vehicle production lines. It’s why the next generation gaming consoles that were supposed to be available last Christmas are still in vanishingly short supply. It is starting to impact smartphones and personal computers as well.

There are many correlated aspects to this problem. It’s partly a matter of national security: what does the global economy do when it relies so heavily on a single actor in a location of geopolitical instability? It’s partly a problem of monopoly: is the market truly free or stable if so many essential products depend on the fate of a single company? How can there be genuine competition if the cost of entry makes establishing new competition prohibitive? It’s partly a matter of the pandemic: Taiwan Semiconductor and other manufacturers have been struggling to meet production targets due to reduced capacity from COVID restrictions.

We have seen global supply chain failures hurt consumers frequently, especially when domestic production of essential goods are eliminated in favor of easily disrupted or costly global trade. Haiti, for instance, has been particularly victimized by the destruction of its domestic food production as the U.S. subsidized its own rice exports. The blocking of the Suez Canal by the Ever Green earlier this year was in part the result of larger and larger ships being forced through waterways that were not built to sustain them.

But the scale of the semiconductor issue raises the question of whether unregulated global capitalism is really the best way to run essential services in a world economy. Consider these staggering numbers from the same Wall Street Journal story:

Semiconductors have become so complex and capital-intensive that once a producer falls behind, it’s hard to catch up. Companies can spend billions of dollars and years trying, only to see the technological horizon recede further.

A single semiconductor factory can cost as much as $20 billion. One key manufacturing tool for advanced chip-making that imprints intricate circuit patterns on silicon costs upward of $100 million, requiring multiple planes to deliver.

TSMC’s own expansion plans call for spending $100 billion over the next three years. That’s nearly a quarter of the entire industry’s capital spending, according to semiconductor research firm VLSI Research.

#### 4 – Inflation and crypto bubbles make reform ineffective in oncoming crisis – makes boom and bust inevitable.

Nick Beams 21. Member of the International Editorial Board of the World Socialist Web Site and former longtime national secretary of the Socialist Equality Party in Australia. "Rampant Wall Street speculation: The fever chart of a terminally diseased system." World Socialist Web Site. 5-6-2021. https://www.wsws.org/en/articles/2021/05/07/pers-m07.html

Over the past year, the global financial system, above all Wall Street, has been in the grip of a speculative mania, the like of which has never been seen before in economic history. Two questions therefore immediately arise: how has this situation come about and what are its implications?

In March 2020, as the COVID-19 pandemic began to make its effects felt and workers undertook wildcat strikes and walkouts to demand health measures to protect their lives and those of their families, the financial markets plunged.

Wall Street was concerned that any effective health measures to contain the spread of the pandemic would result in a collapse in the bloated price of financial assets, above all stocks, that had been boosted by the trillions of dollars poured into the financial system by the US Federal Reserve and other central banks following the crash of 2008.

The US government and the Fed rode once again to the rescue of Wall Street. The Trump administration organised a multi-billion-dollar bailout of the corporations under the CARES Act while the Fed stepped in to provide trillions of dollars of support for all areas of the financial system, including for the first time the purchase of stocks.

Since then, on the back of this $4 trillion intervention and rising, as the Fed continues to purchase financial assets at the rate of more than $1.4 trillion a year, the world has seen an unprecedented orgy of financial speculation.

Wall Street’s main stock index, the S&P 500, has risen by some 88 percent since its March 2020 lows, reaching record highs on multiple occasions throughout the past year. Margin debt, used to finance the speculation in shares, has reached record levels, and the yield on the lowest-rated corporate junk bonds—barely one step away from default—has fallen to historic lows.

But the most egregious expression of the speculation has been the rise of the cryptocurrency market. Over the past year the most prominent cryptocurrency, Bitcoin, has risen by 600 percent, rising from about $7,000 per bitcoin to $54,000, reaching a high of $65,000 in the middle of last month.

Last month Coinbase, a trading exchange for cryptocurrencies, launched itself on Wall Street with a floatation that put its market value at $85 billion, compared to its valuation of $8 billion in 2018, exceeding that of some of the world’s major banks and the valuation of the NASDAQ exchange on which it was launched.

However, in recent days, even the level of bitcoin speculation has been put in the shade by another cryptocurrency, Dogecoin.

It was created in 2013 as a joke. Whereas the promoters of Bitcoin insist that it has some intrinsic value because it may be used to organise financial transactions without the intervention of a bank or some other third party via a blockchain ledger system, no such claims are made for Dogecoin.

Despite being worthless, Dogecoin has risen in price 11,000 percent this year alone. This week its market value reached $87 billion compared to $315 million a year ago. And as one cryptocurrency enjoys a rapid rise, speculators start a search for the next “big thing.”

The Dogecoin phenomenon is not an isolated event. It seems to be an expression of what could be described as a new operating principle in the world of speculation—the more worthless the so-called asset, the higher its price.

A little sandwich shop in Paulsboro, New Jersey, with sales of just $13,976, has made financial news after it was revealed that its parent company, Hometown International, achieved a market valuation of $100 million last month. Two of its biggest shareholders are Duke and Vanderbilt universities.

The rise of Dogecoin also reveals the high-level intervention of hedge funds and other financial institutions seeking to take advantage of its price momentum.

Then there is the case of non-fungible tokens (NFTs). These are images of pieces of art, a sports photo, or even a tweet—the first ever tweet issued by Twitter founder Jack Dorsey was sold as an NFT for $2.9 million—that are stored on a blockchain ledger. They are like a collector’s item but are not stored physically but digitally.

The class dynamics of this speculative orgy, fuelled by the endless supply of virtually free money by the Fed, are revealed in the escalation of the wealth of the world’s billionaires.

In the last year, as COVID-19 brought untold pain, suffering and economic distress for billions of the world’s people, the combined wealth of the global billionaires rose by 60 percent, from $8 trillion to $13.1 trillion. The number of billionaires rose by 660 to 2,775—the highest rate of increase and the largest number ever.

In the US, Amazon CEO Jeff Bezos and Tesla CEO Elon Musk have wealth of $177 billion and $151 billion respectively.

The speculative frenzy has extended into the broader economy. The prices of major industrial commodities, such as steel, lumber, copper, and soybeans, which feed into inflation for workers and consumers, are rapidly rising.

But the financial authorities, having created this frenzy by the endless outflow of cheap money since the crash of 2008 and the near collapse of March 2020, are caught in a trap of their own making. They fear that any move to try to bring it under control, with even a slight tightening of the financial spigots, will set off a financial crisis.

The extreme nervousness over such an outcome was revealed earlier this week when US Treasury Secretary Janet Yellen, a former Fed chief, raised the prospect that the central bank may have to tighten interest rates at some point. Almost immediately, fearing market reaction, she walked back the comment saying she was neither advocating nor predicting a rise in rates.

The incident has cast a revealing light on one of the most significant developments in the US—the open advocacy of unionisation of the workforce by the Biden administration.

Last month in an executive order, Biden created a “White House Task Force on Worker Organizing and Empowerment” which includes as members Yellen, Defense Secretary Lloyd Austin and Homeland Security Secretary Alejandro Mayorkas. The “empowerment” of government-sponsored unions takes place under the direction of cabinet officials responsible for military operations, economic policy and domestic repression.

The administration is fearful that the pent-up anger in the working class over the pandemic and the enrichment of the financial oligarchy at the expense of hundreds of thousands of lives, will be further fuelled by the escalation of inflation, leading to an uncontrolled eruption of the class struggle that will come into headlong conflict with the institutions of the capitalist state.

In times past, the Fed would have moved to contain such an upsurge by lifting interest rates and inducing a recession. But that road is now fraught with danger because even a relatively small increase threatens to bring down the speculative financial house of cards.

Hence the Biden administration has moved to set up a state-sponsored industrial police force, based on the trade unions, to carry out an organised suppression of the working class in the interests of finance capital.

The rampant speculation of the past year and the accelerated siphoning of wealth to the upper levels of society amid death and economic devastation must be the occasion for the drawing up by the working class of a balance sheet of the experiences through which it has passed.

There is no prospect for reform of the present capitalist socio-economic order towards meeting social need—the illusion peddled by the Democrats and their ardent supporters in the pseudo-left organisations. The past year has demonstrated that everything in society—including the very right to life itself—is subordinated to the insatiable demands of finance capital.

The present speculative bubble, like all others before it, is destined to burst. The financial oligarchs have already prepared their exit plans and golden parachutes as they have done in the past. The working class, however, has no escape. The collapse will bring an even greater economic disaster on top of what has already taken place.

The only viable, realistic solution to the terminal disease that has gripped the capitalist socio-economic order is the fight for a socialist program to wrest the commanding heights of the economy and its financial system out of the hands of the present-day ruling class and begin the economic reconstruction of society to meet social needs.

### AT: Green Tech

#### 4 – too small, failed tests, funneled money to petro capital

Black 21 [Emma, Educational Background in continental philosophy and is a member of Socialist Alternative. Capitalism’s fake solutions to the climate crisis. 5-23-2021. https://redflag.org.au/article/capitalisms-fake-solutions-climate-crisis]

While the disappearance of the outright climate denialism of the Trump era might seem cause for celebration, the new trend for spruiking the magical power of technology to solve the climate crisis is cause for serious concern. When you look beyond the headline-grabbing announcements of increased long-term ambition, the Earth Day summit amounted to little more than another case of government greenwashing of the business as usual of fossil-fuelled capitalism.

Instead of detailing the changes to be made in the here and now to reduce emissions, Biden and other world leaders instead promoted faith in the capacity of science and technology to come to the rescue at an indeterminate point in the future.

Australian Prime Minister Scott Morrison was among them. While the media highlighted the supposed gulf between a progressive, “green” Biden and the conservative, fossil-fuel-loving Morrison, they both promoted the same faith in the powers of technology. Like Biden, Morrison has vowed to invest tens of billions of dollars in developing carbon capture and storage technologies, “clean” hydrogen, “blue” carbon and “green” steel—among other colourful innovations.

In May’s federal budget, the Coalition allocated more than half a billion dollars to developing the first two of these technologies—$263.7 million for carbon capture and storage (CCS) and $275.5 million for “clean” hydrogen.

CCS mostly involves capturing C02 emissions at their source—in mines, power stations and so on—and pumping them deep underground (so the theory goes) to be permanently stored in appropriately porous and stable rock formations. But despite politicians and business leaders spruiking CCS as an easy fix for the climate crisis for decades, it has never been shown to work on anything near the scale required.

Australia already boasts the world’s largest, supposedly functional, CCS facility at Chevron’s Gorgon gas project in Western Australia. However, according to the Climate Council, “the Gorgon CCS trial has been a big, expensive failure ... capturing less than half the emissions needed to make CCS viable”. In what is only the latest in a series of problems since it became operational in 2019, Michael Mazengarb reported in Renew Economy earlier this year that pumping equipment required to clear water from the undersea formation into which the C02 is to be injected had become clogged with sand.

However, while CCS may be useless for addressing climate change, it remains an extremely useful political tool for the government—providing it with green cover while it continues to funnel money to Coalition supporters in the coal and gas industries. And of course, it’s also useful for those companies on the receiving end of the government’s “green” largesse.

Bernard Keane was right in his assessment of it as a scam in Crikey. “Fossil fuel interests”, he wrote in 2019, “sense the opportunity to extract some taxpayer funding from a government worried it might have to pretend it believes in climate change”. With this year’s budget, they hit the jackpot.

But if CCS is a scam, what about “clean” hydrogen? In his speech to the Earth Day summit, Morrison vowed to rival US innovation by investing billions in high-tech “hydrogen valleys”. “In the United States you have the Silicon Valley”, he said. “Here in Australia we are creating our own ‘Hydrogen Valleys’, where we will transform our transport industries, our mining and resource sectors, our manufacturing, our fuel and energy production.”

Hydrogen is potentially a clean energy source, but only if it’s produced using renewable energy. And to be produced at the scale required to transform the economy in the way Morrison is implying would require a lot of electricity.

In his recent contribution to the Quarterly Essay, Australia’s former chief scientist, Alan Finkel, calculates that to produce the equivalent volume of hydrogen to what Australia currently exports in liquefied natural gas would require “approximately 2,200 terawatt-hours” of electricity. This, Finkel notes, “is about eight times Australia’s total electricity generation in 2019”.

If Morrison genuinely believes the “hydrogen boom” he envisages will be based on production of renewable energy on that kind of scale, the government would have provided increased funding for renewables in the budget. None was forthcoming.

The reality is that Morrison sees the talk of “hydrogen valleys” as a way of greenwashing the same old “gas-fired recovery” he was promoting last year. The government doesn’t envisage producing hydrogen with electricity from renewables, but rather from gas. The focus on CCS gives the game away. The “hydrogen valleys” of the future will be criss-crossed with pipelines and peppered with gas-fired power stations with (we’re supposed to believe) the magic of CCS ensuring that the whole operation can nevertheless be run green and guilt-free.

“Clean” hydrogen then, just like CCS, turns out to be just another technological chimera designed to greenwash capitalism’s continuing addiction to fossil fuels.

What then of the other technological solutions being touted? Perhaps the most headline grabbing of them has been Biden’s proposed US$174 billion investment in the infrastructure for electric vehicles and their production. On the surface, again, this might sound like a good idea. Who wouldn’t want to live in a world in which we can all drive around in sleek, silent, powerful and “green” electric vehicles like Teslas?

Again, however, this is just another fake technological “fix” to the climate crisis that will help perpetuate the environmentally destructive status quo. A genuinely sustainable society won’t be built around the kind of car culture that exists today. What’s needed, among other things, is a massive investment in public transport and the transformation of cities to reduce the need for long commutes.

The promotion of electric vehicles as part of a technological “green” utopia is designed to forestall this kind of change, to protect as much as possible the car makers and other big business interests that profit from the status quo.

Elon Musk personifies this. In his authorised biography, Elon Musk: Tesla, SpaceX, and the Quest for a Fantastic Future, Ashlee Vance revealed that Musk’s California “hyperloop” proposal was aimed at quashing plans for a high-speed rail link between Los Angeles and San Francisco. “Musk had dished out the Hyperloop proposal just to make the public and legislators rethink the high-speed train”, wrote Vance. “He didn’t intend to build the thing ... With any luck, the high-speed rail would be cancelled. Musk said as much to me during a series of emails and phone calls leading up to the announcement.”

For those who can afford it (a base-level Tesla will set you back an eye-watering $73,900 in Australia today), driving an electric car might make you feel like you’re doing something to help save the planet. This is an illusion.

Even if your car is charged from electricity produced by renewable energy, you also have to consider all the emissions produced in the construction and maintenance of the roads and freeways on which you drive. Then there’s the material of the car itself, and the lithium needed for the battery. Already, the skyrocketing demand is causing major environmental problems for major lithium producers like China, Chile and Bolivia. Tellingly, Musk has already devised the ultimate escape plan for himself—moving to Mars. This is not an option for most people.

The long list of fake technological fixes to the climate crisis is nothing more than a delaying tactic, designed to create the impression of change to ensure the profits bonanza of the fossil fuel economy can continue for as long as possible. Only a total transformation of society, in which technological production is rationally designed and democratically organised and controlled, can ensure that we are able, in Marx’s words, “to bequeath the Earth in an improved state to succeeding generations”.

#### 5 – De-coupling fails.

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As societies get richer, they consume more resources. That also means they generate more pollution, driving climate change and destroying natural ecosystems.

We need to somehow break this link between material wealth and environmental catastrophe. That’s why financial institutions and governments have been focused on the idea of ‘decoupling’ GDP growth from resource use.

The idea of ‘decoupling’ is driven by the recognition that to stay within the ‘safe limit’ of 1.5 degrees Celsius, we have to dramatically reduce our material consumption of Earth's resources.

The assumption is that it is possible to continue growing the global economy while reducing our actual resource use and material footprint, perhaps by shifting to renewable energy.

This notion has been most recently articulated in the book More From Less: The Surprising Story of How We Learned to Prosper Using Fewer Resources—and What Happens Next, by Andrew McAfee, principal research scientist at the MIT Sloan School of Management. Financial and other data, McAfee argued, shows we can actually easily reduce our material footprint while continuing to grow our economies in a win-win scenario.

But new scientific analysis by a group of systems scientists and economists who have advised the United Nations seems to pull the rug out from under this entire enterprise. The new research indicates that the conventional approach is based on selective readings of statistical data.

McAfee argues, for instance, that as we are increasing wealth, the productivity motor of capitalism is driving us to greater heights of efficiency due to better technologies. This means we are able to make stuff faster and smaller using less materials and in some cases less energy. And that in turn implies we are causing less pollution. The problem is that this story, according to the new research, ignores how greater efficiency in certain regions or sectors is not slowing down the overall consumption machine. Within the wider system these efficiencies are enabling us to consume even greater quantities of resources overall.

That’s why decades of data on material flows confirm that there are “no realistic scenarios” for such decoupling of economic growth from resource use. Combing through 179 of the best studies of this issue from 1990 to 2019 further reveals “no evidence” that any meaningful decoupling has ever taken place.

“The goal of decoupling rests partly on faith,” conclude the team from the BIOS Research Institute in Finland, an independent multidisciplinary scientific organisation studying the effects of environmental and resource factors on economy, politics, and culture.

The BIOS team previously advised the UN Global Sustainable Development Report on the risk that endless economic growth under capitalism would be undermined due to intensifying “biophysical” limits. A combination of diminishing returns from energy extraction and increasing costs of environmental crises are already undermining growth, and require us to rewrite the global economic operating system, the scientists concluded in a powerful background report to the UN.

In two new, peer-reviewed research papers published in June, their analysis goes further. Capitalism’s drive for maximising profits means that the economy is structured around continued economic growth: if it doesn’t grow, it collapses. This means that huge technological efficiencies tend to empower capitalism to grow faster and bigger.

Narrowing the window

The first study, published in Environmental Politics, points out that the environmental impacts and resource use of many national economies is unsustainable. If the economy is to continue growing or even remain at the present level, in order to stay within the planetary boundaries of resource use we have to ‘decouple’ it from these environmental impacts.

Yet the authors conclude that many of the accounting measures used to conclude that decoupling is happening systematically obscure or exclude critical data.

“The existence of decoupling in a bounded geographical area or economic sector does not, as such, mean that decoupling is happening in a wider context,” argued the BIOS team:

“Well-known and widely studied phenomena such as Jevons’ paradox, rebound, and outsourcing show that sectoral and local decoupling can co-exist with and even depend on increased environmental impact and increased resource use outside the analysed geographical or sectoral unit,” they wrote.

### ---AT: Pooley

#### Pooley evidence:

### ---AT: Welch

#### Welch evidence:

### AT: Space Col

#### Space col isn’t offense against the alt---

#### 2 – [wallis]

Victor Wallis 21. Professor of Liberal Arts at the Berklee College of Music. “Technology and Ecosocialism.” *Perspectives on Global Development and Technology* 20(1): 13-29. DOI: 10.1163/15691497-12341580.

How will the battle of the contending technologies – capitalist and ecosocialist – play itself out in practice? As we have already noted, the ecosocialist approach has no choice but to take capitalist technology as its point of departure. It will then selectively embrace, add to, or reject the various specific technologies bequeathed by capital. The technologies themselves are in turn defined only in part by particular physical devices; more important is the way the various devices, together with their spatial and physical infrastructures, fit into a larger configuration, which determines how they will be deployed (in what quantities, in what proportions and with what implications for the natural environment and for social life).

Transportation technology is a case in point. Every type of device, from bicycles to cars to trains to planes, is already in existence,4 but system-configuration based on market pressures and corporate lobbying is sharply skewed – especially in the United States, where capital is least restrained – to favor planes and cars over trains and bikes. Any move to invert this pattern would necessarily involve shifts not only in the spatial layout of human settlements, but also in the cultural assumptions guiding both public policymaking and personal choices. There is a long tradition of debate on these issues, going back to early critiques of the automobile (Mumford 1963), extending forward to unmasking the ideological agenda behind suburbanization (Baxandall and Ewen 2000), and now, in recent years, surveying significant steps taken in certain locales to implement healthier, safer, and less wasteful approaches based on free public transit

#### 5 – We straight turn.

Jocelyn Wills et al 20. Professor of History, Brooklyn College, CUNY. Joseph Entin, Professor of American Studies, Brooklyn College, CUNY. Richard Ohmann, Professor Emeritus of English, Wesleyan University. “’Resist, Rethink, and Restructure’: Teaching About Capitalism, War, and Empire in a Time of COVID-19.” *Radical Teacher* (117): 2-4. DOI: 10.5195/rt.2020.792.

As we sat down, corona-cocooned, to write this introduction to Radical Teacher’s special issue on “Teaching About Capitalism, War, and Empire” during May of 2020, we agreed that the five thought-provoking essays that follow have never seemed more on point, and teaching to the theme more urgent. As if we needed more evidence, COVID-19 has once again exposed both the systemic fragility, inherent instability, and doubling-down cruelty of the capitalist system, as well as the limits of American power and the dysfunctional, destructive, and deadly ways in which the United States and members of its military-industrial-intelligence complex have long responded to global crises: employing code words such as freedom, individual liberty, patriotism, entrepreneurial innovation, mobility, democracy, and especially defense, U.S. business elites and their government allies have always had as their ultimate goal the demolition of any and all alternatives to the expansion of capitalism as an economic system and article of faith, no matter the cost.

Coveting the riches of the continent long before independence, the United States made war central to its political-economy and imperial project from the start. Reducing all social relations to the profit motive, settler- colonists saw the indigenous people of the Americas as nothing more than a barrier to expanding the market economy to the Pacific coast and beyond, and African slave labor a means for accumulating wealth for further expansion. Nikhil Pal Singh and others have described this reality as a social and political process that drove Indian removals, settler in-migration, and nativist restrictions, as well as the “afterlives of Atlantic slavery” as the animating features of the United States’ rise as a capitalist world power long before the 20th century. Although the United States did not invent capitalism and war, it achieved its independence through the violence of both, and was the first nation-state to enshrine private property rights and a blueprint for empire-building within its founding documents.1

Reading the U.S. Constitution as an economic document, it becomes obvious that the nation’s founders perceived the world through imperial eyes, had the interests of capital ever in view, and codified collaborations with business through a commitment to funding technological innovations, expansion, and war. Thus, rather than freeing slaves or including protections for labor and democratic impulses, the Constitution and its tertiary land ordinances framed the competitive posturing, real estate speculation, and land grabs that would guide what Marx and Engels described as capitalism’s “war of each against all,” both among individuals as well as into U.S. domestic and international policies. By the 1820s, those policies included treaties designed to trick and cheat Native Americans into selling their lands when possible, and through force when all other avenues failed. The federal government also sanctioned slave codes and the funding of technologies to enforce them. By the 1840s, it also underwrote and devised land giveaways for railroads—the 19th-century’s first modern corporations and high-technology empire builders—and encouraged the development of the telegraph to gather information and surveil dissenters. Federal, state, and local governments, as well as railroads, additionally sent immigration agents, first to Northern Europe, then elsewhere, to lure vulnerable populations who could assist with the American imperial project, drive down wages, and pit racial and ethnic groups against each other just as the founding fathers had pitted poor whites against members of the African diaspora, whether free or enslaved, during the revolutionary era.

From the United States’ inception, American policies have ensured constant economic booms and busts, ones that have allowed larger firms to gobble up weaker ones when technology and real estate bubbles inevitably burst. By the 1840s, they had also armed railroads and other corporations with the military might to quell labor and civil rights protests. Regardless of the costs, in human lives and environmental degradation, by the time the U.S. had connected the east with the west coast during 1869, members of the government and their corporate allies had already cast their gaze farther afield, into territories they could use as re-fueling stations for more expansion. On the force of that project during World War II, which by then included the development of the computer, more lethal technologies, and the use of nuclear weapons as other imperial powers crumbled, the United States finally achieved the hegemonic status its elite had craved since the nation’s infancy.2

The United States’ post-World War II “Super-Power” status also created an opportunity for business elites, the government, and a new throng of technocrats to sell a more fervent and destructive mantra of “American exceptionalism,” one that privileged whites over people of color, whether native born or immigrant. Perceiving the world as a zero-sum game, where anyone’s gain must come at the expense of someone else, the U.S. government and its corporate allies employed patriotic propaganda so that the government could continue to intervene in the economy to shore up capital, providing unending rationales for increased production, technological innovation, and military spending, as well as upgrades to surveillance capabilities and the creation of corporate-research university clusters, all to serve the country’s agenda to remain the dominant economic and military power on Earth.

The Sputnik humiliation during 1957 then provided a rationale for the U.S.’s “heavenly ambition” to militarize and dominate Outer Space. Thus, throughout the second half of the 20th century, the United States launched military, communications, and earth resources satellites into Space, began the process of systems integration, and engaged in warfare (including proxy wars) that continued to threaten the environment as well as kill and displace millions of people, including but not limited to more than a million civilians who died in the War of American Aggression in Vietnam, Laos, and Cambodia during the “Cold War.” Learning lessons, about the limitations of the draft and the roving reporters who documented American atrocities, U.S. policymakers ended the first and began plans to “embed” the latter in future wars. An “all-volunteer” military force then allowed the federal government, as well as its members of the military-industrial complex, to target the poor, particularly in communities of color, with recruiting stations. Following the formal dissolution of the USSR on 26 December 1991, the federal government then moved swiftly to commercialize the Internet, deregulate communications and financial industries, and assist in the further liberalization of the global economy, all of which the U.S. planned to control as its systems contractors integrated war, space exploration, surveillance capabilities, and empire- building into larger digital networks. Fast-forward to the 21st century.

While the United States’ forever wars began long before the terrorist attacks of 11 September 2001, that pivotal moment in history, and the U.S. response to it, has become intimately intertwined with both an economy as well as a culture dominated by death. Rather than engaging in diplomacy and other non-military responses to the terrorist attacks of 9/11, the United States rushed to war, and has already spent more than $6.4 trillion on endless wars and occupations, both of which have killed more than 800,000 people (at least 310,000 of them civilians), displaced millions (the vast majority of them the world’s most vulnerable—indigenous populations, people of color, women and children, the poor), devastated entire regions (through both warfare as well as resource extraction, labor exploitation, and environmental destruction), and helped to fuel the climate crisis (with its carbon “bootprint” the largest in the world). In 2015, the Pentagon received 54% in federal discretionary spending (or $598.5 billion), while Medicare and Health as well as Education netted a paltry 6% each, Energy and the Environment a mere 4%, Science but 3%, and Food and Agriculture just 1%. Four years into the Trump administration, austerity continues at a rapid clip, health and environmental protections have evaporated, and the Pentagon’s discretionary budget has increased.3 In the fiscal year 2020 budget, the Pentagon will receive at least $750 billion in public funding, where it employs more than 600,000 private contractors both domestic and international. By contrast, spending on global health has declined to about one-seventieth of that number, or just $11 billion. A recent article in Forbes also notes that, despite the focus on Pentagon spending as an economic stimulus, spending on either green infrastructure or healthcare would create nearly two times as many jobs as the military or its private contractors create. Other studies additionally find that spending on education (and the arts) would create even more.4

In a society governed by politicians whose knee-jerk reaction to environmental catastrophes, healthcare crises, poverty, and other non-military challenges is a call to war and who view peaceful protests yet another barrier to the interests of capital, it should come as no surprise that, in the middle of a global pandemic, imperialism remains a higher priority than human health, that global competition has hindered the cooperation necessary to save lives, and that the United States has acquired the dubious distinction of being “first in military spending” and “last in our COVID-19 response.” While war profiteers were among the first to receive bail-outs, and American billionaires have continued to increase their wealth on the profits of disaster capitalism, by the first week of May, news outlets reported that at least 38 million Americans had lost their jobs (and healthcare), food and housing insecurity had mounted at alarming rates, and COVID’s death toll in the United States alone had already surpassed the number of American lives lost in 9/11 and the wars in Iraq and Afghanistan combined by more than a factor of four. As deaths in the United States neared 100,000 over the Memorial Day weekend, TrumpDeathClock.com reported that some 59,000 of those deaths occurred due to the Trump administration’s inaction, dithering, and distractions. The U.S. failure to act in ways appropriate to the pandemic is not just about “us”: it has had ripple effects across the globe, where millions have suffered and will continue to die from the adverse consequences of the U.S. obsession with capital accumulation, war, and empire, no matter the cost. So much for the “greatest economy” and “nation” on Earth.5

A recent article in Forbes also notes that, despite the focus on Pentagon spending as an economic stimulus, spending on either green infrastructure or healthcare would create nearly two times as many jobs as the military or its private contractors create.

Rather than prioritizing coronavirus briefings centered on the language of health and well-being, compassion and empathy for the victims (disproportionately found in communities of color and among Native Americans and the working poor), and the need for international cooperation, robust physical distancing, and solidarity with front-line workers while scientists seek a cure, U.S. policymakers, government officials, and members of the mainstream media quickly followed the lead of the White House, invoking age-old “war” tropes to talk about meeting the COVID-19 challenge (a framing as inappropriate as previous U.S. Wars on “Poverty,” “Drugs,” and “Climate Change,” to name but three). They have also hailed capitalist production and consumption as the only way forward: that “return to normalcy” that government officials and business elites have long sold. Initially calling the virus a “hoax,” then something that would magically disappear, Trump quickly pivoted to the virus as the “invisible enemy” that came from the “other” in China, an “enemy” of the U.S. economy.

Side-lining epidemiologists and other health specialists, particularly when they reminded all of us about U.S. incompetence, Trump trotted out the usual suspects— military commanders, corporate CEOs, and himself, none of whom have any expertise in finding a cure but who promise to “wage a war” against the pandemic so everyone can “get back to work.” Trump, then Congress, also invoked a “Cold War” relic: the “Defense Production Act,” to “mobilize” the nation to make up for shortages in medical supplies and personal protective equipment that the government failed to provide and no large U.S. corporation seemed able to produce because it had few incentives to do so. The U.S. military proved itself incompetent as well. Among other things, the Pentagon and its agencies and departments have spent millions of dollars on fly-overs to salute doctors and nurses rather than helping them, steaming ships to ports that did little more than take up dock space, conducting raids on vulnerable populations, keeping children in cages, and attempting to silence those who alerted top commanders that COVID-19 was overwhelming and killing military personnel. Trump once again doubled down: unveiling “Operation Warp Speed” and a new flag for his “Space Force,” embracing NASA’s latest space launch as a “MAGA moment,” and signaling that his administration plans to conduct the United States’ first nuclear test since 1992. Although the U.S. media has criticized some of these moves, they continue to applaud space exploration, obscuring its linkages to the U.S. military and its war-making and surveillance contractors. Over the past fifty years, that “exploration” has both escalated the commercialization and militarization of Outer Space, as well as created dangerous orbital debris. Together, these too threaten the sustainability of the Earth and its people.6

Such posturing, mismanagement, and inabilities to focus on the pandemic have confirmed to the world that the U.S. is a hegemon in a downward trajectory, one that can still inflict great violence across the world and beyond but remains ill-equipped to meet its domestic never mind international obligations. If ever there was a time to teach the fraught and interconnected themes of capitalism, war, and empire, it is now.

### ---AT: Milne

#### Milne is completely irrelevant – says we have to secure nukes when collapse inevitably happens – it’s a k of accelerationism.

2AC Milne 17 [Emory in blue] (Drew Milne works at Cambridge in comparative drama, poetry and critical theory, with an emphasis on modernism and its legacies in contemporary writing, especially Samuel Beckett, and aspects of Renaissance drama, such as Shakespeare in performance. Current research projects include studies of: ecological poetics and politics; performance and performance criticism; modernist poetics; Shakespeare in performance; Marxist literary theory; contemporary poetry and poetics; and recent British drama. "NUCLEAR THEORY DEGREE ZERO, WITH TWO CHEERS FOR DERRIDA," https://www.tandfonline.com/doi/full/10.1080/0969725X.2017.1387358)

In Marxist circles, an “accelerationist” is someone who thinks that the collapse of capitalism will be hastened by allowing reactionary forces to speed up capitalism’s self-destruction. There are occasions when such an argument has validity: nothing about the form of the argument makes it inherently or structurally wrong. There are revolutionary moments when allowing capitalism to collapse in order to rebuild a socialist society is a better path than propping up a failing capitalist regime.The judgement is political rather than philosophical. In most contexts, however, the accelerationist argument, especially as a political principle, is deeply dangerous. It would be better, for example, to preserve a failing US capitalist regime while building social forces to take it over, than to allow the nuclear weapons of the United States to fall into the hands of a suicidal military rearguard or some counter-revolutionary terrorist organisation. Preserving the possibility of human life might involve propping up collapsing capitalist institutions, not least the nuclear safety inspectorate, rather than allowing humanity to be swallowed up by some death spiral of presidential dictators in fear of being toppled. These are critical judgements that could arise at any moment, with real risks that poor judgements will hasten a nuclear confrontation that leads to mutually assured annihilation. The formal shape of an accelerationist argument needs to be understood strategically and politically if it is to address nuclear questions. The accelerationist view that the deepening of capitalism could hasten its self-destructive tendencies and lead to its collapse is not inherently suicidal, but consideration of what the collapse of capitalism might mean for the global stock of nuclear weapons and nuclear power stations indicates dangers. Amid the collapse of capitalism, securing the safety of nuclear resources is a fundamental priority, and preparing a decelerationist strategy is an essential political position for any radical formation serious about nuclear safety.Against the horizon of nuclear crisis, we rely on workers to know how to manage and decommission nuclear weapons, silos and power stations.This requires “good” science and ongoing struggles to control the decision making around weapons and energy systems. Concrete consideration of what happens to ageing nuclear systems in an imploding political system has been tested in the fall of the Soviet Union. Imagine the retrenchment of reactionary forces around nuclear installations threatening suicidal political terrorism on a global scale. The risks of a collapsing capitalist system taking the world down with it are clear. Chernobyl and Fukushima, moreover, stand as metonyms of the risks involved in systems that were apparently functional and yet spiralled out of control even in what might be called peacetime. The risks of the US or the Chinese nuclear androids imploding involve different decisions. Again, the need is for nuanced political judgements and strategies, involving scientific expertise along with solidarity between scientists, workers and new social formations.

## Cartels

### PROA Fails – 2NC

#### 1 – Spending asymmetries outweigh.

Erik Hovenkamp 20. Professor of Law, USC School of Law. “Asymmetric Stakes in Antitrust Litigation.” *Georgetown Law Review*: 3-4. <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=3268&context=facpub>.

Consideration of endogenous effort in litigation is particularly apropos in the antitrust context, where discovery is often very broad-sweeping and complex and the parties spend large amounts on economic consultants and expert witnesses for both liability and damages. Economic evidence plays a significant role in the outcome, and the parties can spend an enormous amount on econometric studies and simulation models, and on rigorous critiques of each other’s analyses. The judge, meanwhile, is unlikely to be well-versed in the relevant economic issues and methodologies. This means that a firm’s spending on economic experts can be very fruitful, for the court is likely to rely heavily on the parties’ experts to understand the complexities of the case.

We also analyze the interplay between asymmetric stakes and settlement. We show that, in most other areas of private litigation, asymmetric stakes do not lead to any inefficient distortion in the equilibrium probability that the plaintiff will prevail; this result is very general and occurs because of the way that the prospect of ex post (post-judgment) settlement influences incentives at the litigation stage. But antitrust law generally prohibits otherwise-profitable settlements in which a losing defendant pays the plaintiff for the right to continue a practice that has just been declared anticompetitive. As a result, the prospect of ex post settlement does not prevent the firms’ asymmetric stakes from distorting litigation outcomes in equilibrium. We further consider ex ante (pre-judgment) settlements, and show that the distortion created by asymmetric stakes translates into settlement outcomes that are less competitive than they ideally would be.

As we show, one way to countervail the distortion created by asymmetric stakes is to modify the plaintiff’s evidentiary burden. We do this by considering judicial reliance on presumptions, which act to predispose the court toward one outcome or the other. We compute the optimal presumption, which may be influenced in part based on the court’s priors about the nature of the defendant’s conduct—namely, its propensity to cause anticompetitive effects. Finally, we consider whether the problem of asymmetric stakes can be avoided when the plaintiff is a class of injured consumers. However, based on certain externality and principal-agent problems, we conclude that the asymmetry is likely to persist in these cases. The remainder of the article is organized as follows: following a review of related literature, Section 2 formulates the model, explores its properties and shows why damages are unlikely to correct the bias in trial outcomes. Section 3 analyzes settlements. Section 4 shows how the bias can be corrected by adjusting the evidentiary standard with a corrective presumption. Finally, Section 5 considers extensions involving class action litigation and fee shifting.

1.1 Related Literature

Our analysis contributes to the literature on the economics of private litigation. Cooter and Rubinfeld (1989) and Spier (2007) discuss some of the major issues in this literature. While some papers give special attention to inter-party asymmetries, the most common one by far is an asymmetry between the parties’ beliefs about who is more likely to win, which is an important factor in determining whether the parties will settle (e.g. Priest and Klein, 1984; Waldfogel, 1998; Lee and Klerman, 2016). Some papers make litigation effort endogenous, in which case the parties’ investments can be modeled as a game (e.g. Choi and Sanchirico, 2004). However, such papers typically do not focus on any particular field of law, whereas our analysis incorporates various phenomena that are specific to antitrust.

The asymmetric stakes in inter-competitor antitrust litigation arise because it is more profitable to preserve monopoly power than to invigorate competition. In their seminal paper, Gilbert and Newbery (1982) considered the same profit disparity in the context of R&D competition. By contrast, we explore its impact on antitrust enforcement via litigation with endogenous effort, which similarly involves a kind of investment game between rivals.

### Cartels Good – 2NC

#### 1 – Cartels are a resilience strategy even if they’re toxic---assumes their offense.

Jeffrey Fear 06. Professor of International Business History, University of Glasgow, U.K.. “Cartels and Competition: Neither Markets nor Hierarchies.” <https://www.hbs.edu/ris/Publication%20Files/07-011.pdf>. 2006. 26-27.

We need better comparative studies about cartels’ relationship to politics, political culture, and law for “clearly cartels, directly or indirectly, served different national objectives” (Great Britain’s Board of Trade 1944). They provided a form of social policy (employment, sunset industries, regional industrial policy), risk management (an attempt to manage macroeconomic fluctuations during downturns, limit volatility), and development policy (export promotion, technology transfers, knowledge dissemination, infant industry protection). Today, governments or hedge funds have usurped many of these functions, but historically—or in poorer countries with limited state capacity—cartels provided one (biased) means of addressing these issues.

We should place the cartel question into a wider framework of regulation rather than conspiracy, which had major effects on the strategy and structure of firms. As networks, they may help scholars understand more legitimate, softer, more positive forms of cooperation (Mariti and Smiley 1983). Depending on the cartel objectives, they often provided joint services rather than just rate hikes; the more non-price objectives, the more durable they appear to be. The rise and fall of cartels reminds us that a fluid, international division of labor based on comparative advantage and competition is entirely dependent upon peace and cooperation among nations. This is not a trivial consideration given the history of the 20th century as rising nationalism disfigured world markets, often forcing firms to cooperate to survive. Given the world of intense rivalry that limited the extent of the market, cartels formed a disappointing but perhaps appropriate second-best strategy. International cooperation helped dispel economic cooperation among firms after 1945—slowly.

Finally, studying cartels opens the intriguing question when is competition essential to efficiency and innovation? The cartel question highlights the tradeoffs between costs of stop-go, boom-and-bust volatility under capitalism and the benefits of moderate stability and risk management, between price and quality, between consumer and producers—tradeoffs not easily answered. Graham and Richardson (1997: 6) noted, “while competition is familiar to most, few reflect deeply on cooperation. Almost all market competitors are firms—business organizations (social groupings) that are, for the most part, internally cooperative, not competitive.” Cartels provide one forum for reflecting on how and when cooperation can be efficient and innovative.

### Graphene fails – 2NC

#### 2 – Funding for graphene has dried up – no one will cartelize it bc its not profitable

Richard Collins, 21. PhD, is a Research Director at IDTechEx with specialist knowledge in advanced materials, thermal management, materials informatics, electric vehicles, and additive manufacturing. “Has the Funding for Graphene Dried up?” July 1, 2021. https://www.idtechex.com/en/research-article/has-the-funding-for-graphene-dried-up/24173

Since its discovery, graphene has endured an extensive period of hype. There was not a problem on earth (or beyond!) for which graphene was not proposed as a solution. That narrative has, thankfully, shifted to targeting more appropriate value-add applications that are beginning to gain commercial success. However, practically no graphene manufacturer is making significant revenue, let alone a profit, so continued funding will still be essential - but is there still enough cash being injected? [IDTechEx forecast](https://www.idtechex.com/en/research-report/graphene-market-and-2d-materials-assessment-2021-2031/789) the market for graphene material to be at a tipping point with notable orders beginning to arrive. However, those orders are not arriving for everyone, and a period of consolidation is expected over the next 5-10 years as clear market leaders emerge; looking at equivalent mature industries there will not be space for more than a handful. In fact, it is more sensible to see graphene powders and nanoplatelets as options within a broad family of advanced carbons that include MWCNTs, SWCNTs, thin graphite, and carbon black. In their leading, unbiased market report [Graphene Market & 2D Materials Assessment 2021-2031](https://www.idtechex.com/en/research-report/graphene-market-and-2d-materials-assessment-2021-2031/789), IDTechEx provide global analysis of the manufacturers, applications, and materials. This gives the [reader](https://www.idtechex.com/en/glossary/reader/219) key insights into the graphene industry and a realistic outlook for the market potential. As mentioned, revenues are still low to modest for graphene manufacturers, and profitability is almost non-existent outside of a few; for a full breakdown see [the market report](https://www.idtechex.com/en/research-report/graphene-market-and-2d-materials-assessment-2021-2031/789). This is unsurprising given the time it takes for an advanced material to gain adoption in anything more meaningful than a branding exercise. However, this does bring the challenge of funding, which will remain essential for companies to carry on until the profitable booming market arrives. Funding was not an issue 10-years ago, there were numerous new graphene companies with many raising some significant money and/or going public to further support this. Despite the pandemic, for many emerging technologies the previous 12-months has seen a flurry in early-stage funding and significant money raised with companies going public (mostly via SPAC), but **the same cannot be said for the graphene industry.**

### Smart cities – 2NC

#### 3 – REM shortage –uwreck all industries.

Nafeez Ahmed 18. .A. in contemporary war & peace studies and a DPhil (April 2009) in international relations from the School of Global Studies at Sussex University. We Don't Mine Enough Rare Earth Metals to Replace Fossil Fuels With Renewable Energy. No Publication. 12-12-2018. https://www.vice.com/en/article/a3mavb/we-dont-mine-enough-rare-earth-metals-to-replace-fossil-fuels-with-renewable-energy

A new scientific study supported by the Dutch Ministry of Infrastructure warns that the renewable energy industry could be about to face a fundamental obstacle: shortages in the supply of rare metals.

To meet greenhouse gas emission reduction targets under the Paris Agreement, renewable energy production has to scale up fast. This means that global production of several rare earth minerals used in solar panels and wind turbines—especially neodymium, terbium, indium, dysprosium, and praseodymium—must grow twelvefold by 2050.

But according to the new study by Dutch energy systems company Metabolic, the “current global supply of several critical metals is insufficient to transition to a renewable energy system.”

The study focuses on demand for rare metals in the Netherlands and extrapolates this to develop a picture of how global trends are likely to develop.

“If the rest of the world would develop renewable electricity capacity at a comparable pace with the Netherlands, a considerable shortage would arise,” the study finds. This doesn’t include other applications of rare earth metals in other electronics industries (rare earth metals are widely used in smartphones, for example). “When other applications (such as electric vehicles) are also taken into consideration, the required amount of certain metals would further increase.”

Demand for rare metals is pitched to rise exponentially across the world, and not just due to renewables. Demand is most evident in “consumer electronics, military applications, and other technical equipment in ind

ustrial applications. The growth of the global middle class from 1 billion to 3 billion people will only further accelerate this growth.”

But the study did not account for those other industries. This means the actual problem could be far more intractable. In 2017, a study in Nature found that a range of minerals essential for smartphones, laptops, electric cars and even copper wiring could face supply shortages in coming decades.

# 1NR

## CFIUS

### Kick

#### Concced perm---test of comp---no offense

#### New c/a – new answers bc not predictable

## 14 CP

### Kick

#### Concced perm---test of comp---no offense

#### Other theory is reason to reject arg not team for deterrence

### No add on

#### No add on --- go away --- cap turns, but

#### 1---there’s no warrants for extinction or scenario---we get new answers

#### 2---privacy loss is inevitable---its about all animals---a rodent is gonna get its home destroyed in nyc and lose its privacy

#### 3---people are gonna find homes and clean them---solves---or homeless people take out the IL

#### 4---other countries thump---they don’t set global things

#### 5---overpopulation inevitable---population will increase---they’ve read no evidence to the contrary

#### 6---no perception stuff from cx---population doubling in the last 50 years should be enough to take it out

### Condo

#### Conditionality is good: 1. NEG Flex: it’s impossible without an escape hatch. Burden of the NEG is to test the 1AC; anything else makes it impossible to win because of testing AFF args. Impact is fairness; anything else makes being NEG structurally impossible because there’s no way to counterbalance inherent AFF advantages. 2. Innovation: allows for further argument testing through exit strategies; anything else moots clash and makes debate impossible.

#### 3. Aff Strat: makes the 2ac pick and choose it’s best offense; increases critical thinking. 4. Err NEG: infinite prep, first and last speech, they pick the topic, elim win rate, antitrust is underlimited, etc. mean it’s try or die for NEG offense.

#### 5. Skew’s inevitable---da, t, speed 6. Their interp doesn’t solve: no stable definition, teams can force planks to perm, and doesn’t give eng flex

## FTC

#### Conceed FTC is overwhelmed now—burke says its never gonna have funds, overwhelmed eterinally for years---takes out the link turn or offense

#### Harrington is about freeing up doj resources---not our scenario

#### No ev they collaborate---if they read it we get new answers bc its an uncarded assertion rn

#### Deterrence is just about the aff’s harms---doesn’t matter if those aren’t whats overwhelming it

#### Next thing is about the doj---go away

#### Modelling is just about the aff’s harms, not freeing up ftc resources if its overwhelmed now

## T

### o/v---2nc

#### strongly err neg on a topic with no clear external limit---our interpretation is aff remedies can only be structural---the aff introduces behavioral remedies like [example]---voter for…

#### limits---allows aff infinite offense on behavioral adaption---functionally allows affs like “force facebook to publish zines because it’s too big” or “create new behavioral remedies” that are impossible to prep against

#### and causes bidirectionality---or circumvention

Jo Seldeslachts et al. ‘7. Professor of Industrial Organization at KU Leuven and a Senior Research Fellow at DIW Berlin, with Joseph A. Clougherty and Pedro Pita Barros. “Remedy for now but prohibit for tomorrow: the deterrence effects of merger policy tools.” https://www.ssoar.info/ssoar/bitstream/handle/document/25862/ssoar-2007-seldeslachts\_et\_al-remedy\_for\_now\_but\_prohibit.pdf;jsessionid=A244005110FDB5816E0347D9F1B75436?sequence=1

We can now look at the causal relations between the variables of primary interest: the relationship between antitrust actions and merger frequencies: Prohibitions has a statistically-significant negative impact on future merger behavior in five out of the six regression equations (excluding only the OLS estimation in regression #1). The consistent significance and strong impact of this variable suggests that spikes in the use of Prohibitions seem to send a very clear signal of toughness by antitrust authorities—a signal that significantly reduces future merger proclivities.

Remedies, on the other hand, seem to positively influence future Mergers; though, the coefficient estimate is only significant in three regression equations—regressions’ #1, #2, & #4. Accordingly, we can interpret these results as suggesting that the effect of remedies coming at the expense of prohibitions (a lowering of antitrust toughness) is stronger than the effect of remedies coming at the expense of clearances (an increase in antitrust toughness). In other words, we have some evidence that firms seem to interpret spikes in remedies as indicating softer behavior on the part of antitrust authorities. Such an interpretation should be cautioned by the fact that the remedies coefficient estimate is not significant in the fixed- effects estimation (regression #3); thus, suggesting that the remedies effect may only be capturing cross-jurisdictional variation. Nevertheless, the important point here is that the application of Remedies does not seemingly involve a significant deterrence effect.

#### ground---key to fairness because it balances win chance---avoids burnout---behavioral remedies moot regs counterplan offense and avoid “break up big x” which is key to link uniqueness on a topic with no disads

#### our interp solves best---ensures best of both worlds by allowing experimentation while forcing better antitrust key warrants

### 2ac 1

#### violation debate:

#### yes they do---treble damanges and the result of privte suits---topical affs increase structural penalties that prohibit particular practices---they increases behavioral remedies---that’s different---it regulates anticompetitive business practices without making them impossible---that’s 1nc seldeslachts and macintosh

#### imposing requirements is behavioral

Lisl Dunlop 18. Partner in the New York office and co- chair of the firm’s antitrust and competition practice group of Manatt, Phelps & Phillips, September 2018. “Current Themes in U.S. Merger Control.” https://www.manatt.com/getattachment/311dc3d1-8754-447e-91d2-01bbead87763/attachment.aspx

Two related themes that have emerged over the past year are an increased hostility toward remedies that result in ongoing supervision or monitoring by the agencies (known as “behavioral” remedies) and a sharper focus on vertical merger enforcement. The two are closely related in that the typical “fix” for competition concerns in vertical transactions is often a behavioral remedy—the imposition of requirements that the merged firm act in a certain way after consummation of the transaction, such as an obligation to continue to give access to competitors. In the absence of such a resolution, the agencies are faced with a decision to permit the transaction to proceed, look for a structural solution or challenge the transaction in its entirety.

there’s a precise difference

John E. Kwoka 12. Neal F. Finnegan Professor of Economics, Northeastern University, with Diana L. Moss, Vice President and Director, American Antitrust Institute. “Behavioral merger remedies: Evaluation and implications for antitrust enforcement.” THE ANTITRUST BULLETIN: Vol. 57, No. 4/Winter 2012. ProQuest.

C. Preference for structural remedies in the United States and other major jurisdictions

As noted, the 2004 Remedies Guide expressed a clear preference for structural remedies, citing “speed, certainty, cost, and efficacy” as key factors by which the potential effectiveness of a remedy should be measured.19 By way of explanation, the 2004 Remedies Guide stated that structural remedies were preferred to behavioral remedies because “they are relatively clean and certain, and generally avoid costly government entanglement in the market. A carefully crafted divestiture decree is ‘simple, relatively easy to administer, and sure’ to preserve competition.”20 This preference for structural remedies was illustrated in countless merger cases both before and after issuance of the 2004 Remedies Guide.

In this approach, U.S. policy was consistent with the enforcement posture in Canada, the European Union, the UK, and Canada. In 2001, the European Commission stated:

Commitments that are structural in nature, such as the commitment to sell a subsidiary, are, as a rule, preferable from the point of view of the [Merger] Regulation’s objective, inasmuch as such a commitment pre- vents the creation or strengthening of a dominant position previously identified by the [European] Commission and does not, moreover, require medium or long-term monitoring measures.2

The UK Competition Commission expressed a similar preference in 2008 in this way:

In merger inquiries, the [Competition Commission] will generally prefer structural remedies, such as divestiture or prohibition, rather than behav- ioral remedies because: (a) structural remedies are likely to deal with [a substantial lessening of competition] and its resulting adverse effects directly and comprehensively at source by restoring rivalry; (b) behavioral remedies may not have an effective impact on the [substantial lessening of competition] and its resulting adverse effects, and may create significant costly distortions in market outcomes; and (c) structural remedies do not normally require monitoring and enforcement once implemented.22

### 2ac 2

#### No plan text in a vacuum

#### First – justifies shifting– hold them to their 1AC, 2AC and CX articulation – allowing shifting ruins neg strat by spiking out of offense post 1NC – anything else is arbitrary

#### Second – moral hazard – untopical affs can slap substantial onto a plan text to meet – incentivizes fringe affs

#### Third – extra T – plan can be structural or behavior remedies – that’s a voter for clash – justifies unpredictable aff ground which kills all neg prep and in-depth debates

#### Fourth – presumption – can’t access the non-topical parts of the aff so they can’t solve

### 2ac 3

#### Per se doesn’t matter---not our violation

### 2ac 4

#### counterinterpretation debate- extended above---

#### links to ground---behavioral remedies can’t be clarified---ensures no access to regs offense because plan’s functionally a regulation

#### moral hazard disad---no precise evidence for their inclusion is functionally no limits---that’s worse than either interp because it incentivizes teams to say “only our aff is t”

### 2ac 5

#### precision debate:

#### precision is a threshold---we meet that threshold---prefer it, something can only be sufficiently precise, not comparatively better---any other standard is tautological, arbitrary and encourages a race to the bottom which turns their offense---macintosh is good ---antitrust writ large bc it does a wholesale review of it---that is the article

#### Their ev is bad---garner isn’t about antitrust---only ours is

#### Breyer only has a intent to define for anticompetitive---then mentions business practices---it’s also only about one decision and has no intent to exclude or include

#### our evidence is better:

#### a---intent to define and exclude---that’s 1nc **seldeslachts and…**

PEDIAA 15. “Difference Between Prohibited and Restricted”. https://pediaa.com/difference-between-prohibited-and-restricted/

Main Difference – Prohibited vs. Restricted

Prohibited and Restricted are used in reference to limitations and prevention. However, they cannot be used interchangeably as there is a distinct difference between them. Prohibited is used when we are talking about an impossibility. Restricted is used when we are talking about something that has specific conditions. The main difference between prohibited and restricted is that prohibited means something is formally forbidden by law or authority whereas restricted means something is put under control or limits.

What Does Prohibited Mean

Prohibited is a variant of the verb prohibit. Prohibited can be taken as the past tense and past participle of prohibiting as well as an adjective. Prohibited means that something is formally forbidden by law or authority. When we say ‘smoking is prohibited’, it means that smoking is not allowed at all, there are no exceptions. Prohibit indicates an impossibility. This gives out the idea that it is not at all possible under any condition or circumstance. The term Prohibited goods is used to refer to items that are not allowed to enter or exit certain countries. For example, the government of South America lists Narcotic and habit-forming drugs in any form, Poison and other toxic substances, Fully automatic, military and unnumbered weapons, explosives and fireworks as prohibited goods. The following sentences will further explain the use of prohibited.

Inter-racial marriages were not prohibited by the government.

He was proved guilty of using prohibited substances.

No one was allowed to enter the grounds; entry was prohibited.

Prohibited imports are the items that are not allowed to enter a country.Difference Between Prohibited and Restricted

What Does Restricted Mean

Restrict means to put under limits or control. Restricted can be either used as the past tense of restrict or as an adjective meaning limited. When we say something is restricted, it means that limits or conditions have been added to it. It does not mean that it is completely impossible. For example, Restricted goods are allowed to enter or exit a country under certain circumstances. A written permission can help you to import or export that item. Likewise, a restricted area does not mean that people are not allowed to enter; it means that a special permission is required to enter the place. Restricted information refers to information that are not disclosed to the general public for security purposes.

The new regulations restricted the free movement of people.

The club was restricted to its members and their family members.

Only the highest military personnel had access to the restricted area.

American scientists had only restricted access to the area.Main difference - Prohibited vs Restricted

Difference Between Prohibited and Restricted

Meaning

Prohibited means banned or forbidden.

Restricted means limited in extent, number, scope, or action

Possibility

Prohibited means that there is no possibility of doing something.

Restricted means that something can be done under certain conditions.

Adjective

Prohibited functions as an adjective derived from prohibit.

Restricted functions as an adjective derived from restrict.

Past tense

Prohibited is the past tense and past participle of prohibit.

Restricted is the past tense and past participle of restrict.

#### b---authors…state scotus agrees

Hiram E. Hadley 1909. Judge, McPherson v. State, 174 Ind. 60, Supreme Court of Indiana, December 1909, LexisNexis

In the majority opinion it is conceded "that there is a marked difference" between unqualified prohibition of the sale of intoxicating liquors and the regulation of such sale. It is said in the opinion that "to regulate, restrict and control the sale implies that the sale shall go on within the bounds of certain prescribed rules, restrictions or limitations." Citing Sweet v. City of Wabash (1872), 41 Ind. 7; Duckwall v. City of New Albany (1865), 25 Ind. 283; Loeb v. City of Attica (1882), 82 Ind. 175, 42 Am. Rep. 494.

"Prohibition," states the majority opinion, "as applied to the liquor traffic, implies putting a stop to its sale as a beverage; to end it fully, completely and indefinitely. So, if the purpose of the act in question is to authorize the exercise of unqualified prohibitory power, as usually understood by the term, the act is void because its subject is not expressed in the title." The court might properly have further said [\*\*\*45] that if the act under its provisions is not one to regulate the sale of intoxicating liquors it is void, for the reason that it does not meet or respond to the subject as expressed in its title.

#### AND common meaning

Dictionary.com “Inhibit vs. Prohibit”. https://www.dictionary.com/e/inhibit-vs-prohibit/

Prohibit is a transitive verb that means to forbid or prevent. Unlike inhibit, the word prohibit means that an action is being completely prevented. For example: “Angie’s coat was so tight, it prohibited any arm movement.” In this case, Angie isn’t able to move her arms at all. Prohibit is often used to describe the actions of authority figures. It can explain a rule or law. For example, “School rules prohibit cellphone use during class.” A street sign may say “Parking prohibited,” while a sign in a building lobby might say “Smoking prohibited by law.” All of these cases mean that cell phone use, parking in a certain area, or smoking are completely forbidden by their given authority figures, and can’t be done at all.

#### Clear brightline---if the business practice described by the aff can still legally occur post-plan, it is not prohibited.

Martin G. Vallespinos 20. LLM, University of Michigan Law School; Manager at Ernst & Young Detroit, “Can the WTO Stop the Race to the Bottom? Tax Competition and the WTO,” 40 Va. Tax Rev. 93, Lexis

Prohibited subsidies, as described in Article 3 of the SCM Agreement, are disallowed outright, and WTO members can unilaterally impose countervailing measures against the country sponsoring them. This category [\*146] includes (i) subsidies that are contingent, in law 237or in fact 238upon export performance 239and (ii) subsidies that are contingent upon the use of domestic over imported goods.

Export contingency can be "de jure" or "de facto." De jure export contingency derives from "the very words of the relevant legislation, regulation[,] or other legal instrument constituting the measure." 240De facto export contingency is met when "the facts demonstrate that the granting of a subsidy ... is in fact tied to actual or anticipated exportation or export earnings." 241The WTO jurisprudence regarding "de facto" contingency, however, is not uniform and WTO panels have set forth various alternative tests. In Australia-Automotive Leather II, the Panel established a standard of "close connection" between the grant of a subsidy and export performance. 242In Canada-Aircraft, the Panel and the Appellate Body ("AB") implemented the so called but-for test, which interprets the "tied to" language to be equivalent to a relationship of "conditionality" between the grant of a subsidy and export performance. 243Therefore, de facto contingency is met when "the facts demonstrate that the tax benefit would not have been granted ... but for anticipated exportation or export earnings." 244In the same case, the AB clarified that "it does not suffice to demonstrate solely that a government granting a subsidy anticipated that exports would result." 245This means that, in the AB's view, the granting authority's expectations on exports may not be sufficient to meet the standard, so the subsidy must be objectively contingent upon export [\*147] performance. 246In pursuit of a more objective criteria, the AB suggested that, "where relevant evidence exists, the assessment could be based on a comparison between, on the one hand, the ratio of anticipated export and domestic sales of the subsidized product ... and on the other hand, the situation in the absence of the subsidy." 247But both the Panel and AB further clarified that an assessment based on ratios is incapable by itself of establishing that a given subsidy is de facto contingent on export performance "in the absence of any meaningful analysis regarding how a subsidy's design and structure contributes to the presence of an incentive for a recipient to [favor] export sales over domestic sales." 248

With respect to domestic use contingency, Article 3.1(b) contains no reference to contingency in law or in fact. Nevertheless, the AB has found that Article 3.1(b)'s scope covers both de jure and de facto contingency. 249Also, both the Panel and the AB have concluded that the general guidance regarding evaluations of de facto export contingency should be applicable to de facto domestic use contingency. Finally, it should be mentioned that the Panel and AB decisions are not binding precedential authority but rather can be only strongly persuasive authority. Therefore, countries should be aware of all these alternative tests when designing their tax policies, as there is no certainty as to which criteria WTO decision makers may apply in the event of a dispute (e.g. but-for test, close connection test, assessments based on ratios, etc.).

A subsidy that is not considered "prohibited" can still satisfy the specificity criteria and become an actionable subsidy if it meets the two following requirements:

(1) Specificity: an actionable subsidy is considered specific when the eligibility to receive the benefits is limited to certain enterprises, industries, or areas; 250and

(2) Adverse effect: an actionable subsidy is considered adverse when it produces a serious prejudice to the interests of another member, an injury to its domestic industry, or a nullification or impairment of benefits accruing directly or indirectly to other members under the GATT. 251

#### Behavioral remedies are impossible to negate---they’re inherently vague and uncertain

Carrie C. Mahan 19. Partner at Weil, Gotshal & Manges LLP, where her antitrust practice focuses on mergers, antitrust class actions and private litigation, with Natalie M Hayes, associate at Weil, Gotshal & Manges LLP. “MERGER REMEDIES GUIDE SECOND EDITION,” eds. Ronan P Harty & Nathan Kiratzis. https://www.weil.com/~/media/files/pdfs/2019/nonstructural-remedies.pdf

Criticisms

While non-structural relief can help agencies preserve the procompetitive benefits of a trans- action while protecting against the risk of potential competitive harm, conduct remedies are still vulnerable to criticism. In contrast to structural remedies, which are generally ‘simple, relatively easy to administer, and sure’ to preserve competition,46 behavioural remedies raise various concerns,47 including the following:

• They are difficult to draft and clearly define. The agencies acknowledge that when design- ing conduct remedies, ‘displacing the competitive decision-making process widely in an industry, or even for a firm, is undesirable.’48 Accordingly, ‘effective conduct remedies are tailored as precisely as possible to the competitive harms associated with the merger to avoid unnecessary entanglements with the competitive process.’49 This can be easier said than done; however, because ‘the behavior that such remedies seek to prohibit or require is often difficult to fully specify.’50 It may also be challenging to determine the appropriate duration of a conduct remedy given the difficulty in assessing how long it will take new entry or expansion to occur.

• The outcomes are uncertain. It is no easy task to design a conduct remedy that will appro- priately replicate the competitive dynamics of a particular market. Even when well-crafted, conduct remedies ultimately set static rules that do not fully account for changes in the market. Thus, conduct remedies may eventually distort the market because they may restrict the merged firm from engaging in conduct that would be pro-competitive as the market changes.51

### 2ac 6

#### No aff ground---this is incoherent---if they explain what subsets even means we get new answers

#### 1---no reason it’s a subsets violation if that’s what they mean----no warrant---we don’t make you do a whole sale law banning it across all industries---just say you have to break up companies and such---stop reading your per se 2ac shell

#### 2---theory stops pics, literally just prepping solves---no warrant why it makes it impossible to be aff

#### 3---case list checks---break up industries or companies---ltierally any---go ahead---or change antitrust like to a workers welfare standard with break ups as punishment

#### 4----neg ground outweighs –- this topic is ENORMOUS and the literature base is EXTREMELY aff biased –they only have to prep a little more---deep, focused research on a few affs is key to clash

### 2ac 7

#### Our interp is not about bidirectionality---

#### 1---regs isn’t a ko, there’s tons of warrants against it---most affs are specifc about antitrust remedies

#### 2---Functional limits can’t solve – there are none – topic generics don’t exist – small affs are a drop in the bucket and don’t meaningfully change antitrust

#### 2ac 8---not about per se---affs need ev about structural remedies--- if its re explained we get new answers

#### 2ac 9---Prefer competing interpretations –

#### First – limits prove their interp isn’t reasonable

#### Second – prevents a race to the fringes – no bright line – sum of all reasonable affs ensures topic explosion

#### Third – ensures judge intervention by determining what is enough – that takes debate out of the hands of the debaters and makes it subjective – motos the point of the activity