# DISAD: POLITICS

#### Reconciliation bill passes now, but Biden’s PC key to moderate’s votes. Solves

**warming**

Emma **Dumain, 11-8**-2021, "Democrats cheer reconciliation vote, but big fights remain," E&E News, https://[www.eenews.net/articles/democrats-cheer-reconciliation-vote-but-big-fights-remain/](http://www.eenews.net/articles/democrats-cheer-reconciliation-vote-but-big-fights-remain/)

Congressional Democrats painted a rosy view this past weekend of the prospects for swift legislative action on their massive, $1.7 trillion climate and social spending package.

From the White House on Saturday, President Biden said without equivocation, “We will pass this in the House, and we’ll pass it in the Senate.”

From Glasgow, Scotland, on a panel at the United Nations climate talks, Sen. Ed Markey (D-Mass.) said his message to the entire international community was that the Senate would ultimately get the votes to advance the reconciliation bill, enabling Biden to meet his goal of achieving 50 percent emissions reductions below 2005 levels by the year 2030.

“We will get this job done,” said Markey of legislation that would invest roughly $550 billion to fight the

climate crisis — the biggest federal investment in the environment in history.

And yesterday, White House chief of staff Ron Klain hammered the point home: “We are going to lead the world in tackling climate change,” he said on on NBC’s “Meet The Press,” adding, “We’re going to pass this bill and have the tools to do it.”

But simmering beneath this optimism are real uncertainties as to how lingering disagreements over the cost and content of the reconciliation bill, known as the “Build Back Better Act,” will get resolved and fulfill the many promises on climate action Democrats intend to tout in Glasgow over the next several days.

This past Friday, progressives finally agreed to clear the separate, $1 trillion bipartisan infrastructure package for the president’s signature, even without ironclad commitments from moderate Democratic Sens. Joe Manchin of West Virginia and Kyrsten Sinema of Arizona that they would vote for the separate, partisan bill. Those commitments had been a hard line that liberals had held on to for weeks.

Meanwhile, another dilemma emerged: House Democratic moderates said they would not support the reconciliation bill until it had received an official cost estimate from the nonpartisan Congressional Budget Office.

House Democratic leadership ultimately culled together the votes to pass the bipartisan infrastructure bill, 228-206, with all but six Democrats supporting and with help from 13 Republicans to make up the shortfall. Moderates essentially promised progressives they’d vote for the reconciliation bill once the CBO score is finalized.

At the same time, Congress took a procedural step, 221-213, regarding the reconciliation bill to bring that measure closer to a final passage vote the week of Nov. 15, when the House returns following the Veterans Day recess.

Rep. Josh Gottheimer (D-N.J.), one of the moderates who insisted the reconciliation bill be scored prior to a vote, said on CNN’s “State of the Union” yesterday he expected the score to be in line with White House projections, in which case he and his colleagues would back the bill as soon as next week.

Party leaders, however, are taking a tremendous gamble that the CBO score will be sufficient. They are now working against a much tighter deadline to resolve intraparty differences on multiple policy proposals by the year’s end, where the final weeks of December will also be consumed by other legislative battles relating to the appropriations process and the debt ceiling.

They are also putting tremendous trust in Biden’s ability to convince Manchin and Sinema to support the larger spending package, about which Manchin has expressed serious reservations while Sinema has stayed mostly mum.

#### Antitrust reform requires PC and trades off with other legislative priorities.

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School, February 2021, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,”

https://[www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-](http://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-) administration-en

1. Similarly, **despite bipartisan murmurs** about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would **have to trade off other goals**, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to **give up stricter competition rules** in order to achieve other legislative priorities.
2. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorneygeneral and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!
3. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest **significant political capital** in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamicallycompetitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Unchecked climate change causes extinction.

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Oh, it could get **very bad**.

In 2015, a study in the Journal of Mathematical Biology pointed out that if the world’s **oceans** kept warming, by 2100 they might become hot enough to “**stop oxygen production** by **phyto-plankton** by disrupting the process of photosynthesis.” Given that **two-thirds** of the **Earth’s oxygen** comes from phytoplankton, that would “likely result in the **mass mortality of animals and humans**.”

A year later, above the Arctic Circle, in Siberia, a heat wave thawed a reindeer carcass that had been trapped in the permafrost. The exposed body released anthrax into nearby water and soil, infecting two thousand reindeer grazing nearby, and they in turn infected some humans; a twelve-year-old boy died. As it turns out, **permafrost** is a “very good preserver of **microbes** and **viruses**, because it is cold, there is no oxygen, and it is dark” — scientists have managed to revive an eight-million-year-old bacterium they found beneath the surface of a glacier. Researchers believe there are fragments of the **Spanish flu virus**, **smallpox**, and **bubonic plague** buried in Siberia and Alaska.

Or consider this: as ice sheets melt, they take weight off land, and that can **trigger earthquakes** — seismic activity is already increasing in Greenland and Alaska. Meanwhile, the added weight of the new seawater starts to bend the Earth’s crust. “That will give you a **massive increase in volcanic activity**. It’ll activate faults to create earthquakes, submarine landslides, tsunamis, the whole lot,” explained the director of University College London’s Hazard Centre. Such a landslide happened in Scandinavia about eight thousand years ago, as the last Ice Age retreated and a Kentucky-size section of Norway’s continental shelf gave way, “plummeting down to the abyssal plain and creating a series of **titanic waves** that roared forth with a vengeance,” **wiping all signs of life** from coastal Norway to Greenland and “drowning the Wales-sized landmass that once connected Britain to the Netherlands, Denmark, and Germany.” When the waves hit the Shetlands, they were sixty-five feet high.

There’s even this: if we keep raising carbon dioxide levels, we may not be able to thinkstraight anymore. At a thousand parts per million (which is within the realm of possibility for 2100), human cognitive ability falls 21 percent. “The largest effects were seen for Crisis Response, Information Usage, and Strategy,” a Harvard study reported, which is too bad, as those skills are what we seem to need most.

I could, in other words, do my best to scare you silly. I’m not opposed on principle — changing something as fundamental as the composition of the atmosphere, and hence the heat balance of the planet, is certain to trigger all manner of horror, and we shouldn’t shy away from it. The dramatic uncertainty that lies ahead may be the most frightening development of all; the physical world is going from backdrop to foreground. (It’s like the contrast between politics in the old days, when you could forget about Washington for weeks at a time, and politics in the Trump era, when the president is always jumping out from behind a tree to yell at you.)

But let’s try to occupy ourselves with the most likely scenarios, because they are more than disturbing enough. Long before we get to tidal waves or smallpox, long before we choke to death or stop thinking clearly, we will need to concentrate on the most mundane an d basic facts: everyone needs to eat everyday, and an awful lot of us live near the ocean.

FOOD SUPPLY first. We’ve had an amazing run since the end of World War II, with crop yields growing fast enough to keep ahead of a fast-rising population. It’s come at great human cost — displaced peasant farmers fill many of the planet’s vast slums — but in terms of sheer volume, the Green Revolution’s fertilizers, pesticides, and machinery managed to push output sharply upward. That climb, however, now see ms to be running into the brute facts of heat and drought. There are studies to demonstrate the dire effects of warming on coffee, cacao, chickpeas, and champagne, but it is cereals that we really need to worryabout, given that they supplymost of the planet’s calories: corn, wheat, and rice all evolved as crops in the climate of the last ten thousand years, and though plant breeders can change them, there are limits t o those changes. You can move a person from Hanoi to Edmonton, and she might decide to open a Vietnamese restaurant. But if you move a rice plant, it will die.

A 2017 studyin Australia, home to some of the world’s highest-tech farming, found that “**wheat productivity** has **flatlined** as a **direct result of climate change**.” After tripling between 1900 and 1990, wheat yields had stagnated since, as temperatures increased a degree and rainfall declined bynearly a third. “The chance of that just being variable climate without the underlying factor [of climate change] is less than one in a hundred billion,” the researchers said, and it meant that despite all the expensive new technology farmers kept introducing, “theyhave succeeded only in standing still, not in moving forward.” Assuming the same trends continued, yields would actually start to decline inside of two decades, they reported. In June 2018, researchers found that a two-degree Celsius rise in temperature — which, recall, is what the Paris accords are now aiming for — could cut U.S. corn yields by 18 percent. A four-degree increase — which is where our current trajectorywill take us — would cut the crop almost in half. The United States is the world’s largest producer of corn, which in turn is the planet’s most widelygrown crop.

**Corn is vulnerable** because even a week of high temperatures at the key moment can **keep it from fertilizing**. (“You only get one chance to pollinate a quadrillion kernels of corn,” the head of a commodityconsulting firm explained.) But even the hardiest crops are susceptible. Sorghum, for instance, which is a staple for half a billion humans, is particularly hardyin dryconditions because it has big, fibrous roots that reach far down into the earth. Even it has limits, though, and they are being reached. Thirty years of data from the American Midwest show that heat waves affect the “vapor pressure deficit,” the difference between the water vapor in the sorghum leaf’s interior and that in the surrounding air. Hotter weather means the sorghum releases more moisture into the atmosphere . Warm the planet’s temperature by two degrees Celsius — which is, again, now the world’s goal — and sorghum yields drop 17 percent. Warm it five degrees Celsius (nine degrees Fahrenheit), and yields drop almost 60 percent.

It’s hard to imagine a topic duller than sorghum yields. It’s the precise opposite of clickbait. But **people have to eat**; in the human game, the single most important question is probably “What’s for dinner?” And when the answer is “Not much,” things **deteriorate fast**. In 2010 a severe heat wave hit Russia, and it wrecked the grain harvest, which led the Kremlin to ban exports. The global **price of wheat spiked**, and that helped **trigger the Arab Spring** — Egypt at the time was the largest wheat importer on the planet. That experience set academics and insurers to work gaming out what the next **food shock** might look like. In 2017 one team imagined a vigorous El Niño, with the attendant floods and droughts — for a season, in their scenario, corn and soy yields declined by 10 percent, and wheat and rice by 7 percent. The result was chaos: “quadrupled commodity prices, civil unrest, significant negative humanitarian consequences . . . **Food riots** break out in urban areas across the Middle East, North Africa, and Latin America. The euro weakens and the main European stock markets lose ten percent.”

At about the same time, a team of British researchers released a study demonstrating that even if you can grow plenty of food, the transportation system that distributes it runs through just fourteen major choke-points, and those are vulnerable to — you guessed it — massive disruption from climate change. For instance, U.S. rivers and canals carrya third of the world’s corn and soy, and they’ve been frequently shut down or crimped by flooding and drought in recent years. Brazil accounts for 17 percent of the world’s grain exports, but heavy rainfall in 2017 stranded three thousand trucks. “It’s the glide path to a perfect storm,” said one of the report’s authors.

Five weeks after that, another report raised an even deeper question. What if you can figure out how to grow plenty of food, and you can figure out how to guarantee its distribution, but the food itself has lost much of its value? The paper, in the journal Environmental Research, said that rising carbon dioxide levels, by speeding plant growth, seem to have reduced the amount of protein in basic staple crops, a finding so startling that, for many years, agronomists had overlooked hints that it was happening. But it seems to be true: when researchers grow grain at the carbon dioxide levels we expect for later this century, they find that minerals such as calcium and iron drop by 8 percent, a nd protein by about the same amount. In the developing world, where people rely on plants for their protein, that means huge reductions in nutrition: India alone could lose 5 percent of the protein in its total diet, putting 53 million people at new risk for protein deficiency. The loss of zinc, essential for maternal and infant health, could endanger 138 million people around the world. In 2018, rice researchers found “significantly less prot ein” when they grew eighteen varieties of rice in high–carbon dioxide test plots. “The idea that food became less nutritious was a surprise,” said one researcher. “It’s not intuitive. But I think we should continue to expect surprises. We are completely altering the biophysical conditions that underpin our food system.” And not just ours. People don’t depend on goldenrod, for instance, but bees do. When scientists looked at samples of goldenrod in the Smithsonian that dated back to 1842, they found that the protein content of its pollen had “declined by a third since the industrial revolution — and the change closely tracks with the rise in carbon dioxide.”

Bees help crops, obviously, so that’s scary news. But in August 2018, a massive new study found something just as frightening: crop pests were thriving in the new heat. “It gets better and better for them,” said one University of Colorado researcher. Even if we hit the UN target of limiting temperature rise to two degrees Celsius, pests should cut wheat yields by 46 percent, corn by 31 percent, and rice by 19 percent. “Warmer

temperatures accelerate the metabolism of insect pests like aphids and corn borers at a predictable rate,” the researchers found. “That makes them hungrier[,] and warmer temperatures also speed up their reproduction.” Even fossilized plants from fifty million years ago make the point: “**Plant damage** from

insects **correlated** with rising and falling **temperatures**, reaching a maximum during the warmest periods.”

# States CP---Negative

### 1NC

**The 50 state governments territories should …**

**State action is effective in every type of antitrust action**

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What State Attorneys General Can Do to Fix America’s Monopoly Problem

State attorneys general can play a crucial role in reversing the rise of concentrated corporate power and its impact on our economy and democracy. They can investigate corporations for abusing their market power, and they have the power to stop harmful actions or break up companies. They can sue to stop corporate mergers that would undermine competition, harming workers, suppliers, rivals, or consumers. But it is more important than ever that they have the tools and resources they need to do that crucial job. The following enumerates both the specific antitrust powers that state attorneys general currently hold and the resources they need to leverage that power more aggressively.

Initiate More Investigations and Actions to Stop Monopoly Conduct

States have the power to win a myriad of concessions from corporations that break the law and hurt competition.

They can recover damages suffered on behalf of their residents. They can also use their power to stop

anticompetitive conduct and even break up monopolies that harm residents and competition in their state, using both state and federal antitrust laws.

State enforcers can also band together to carry out broad investigations of monopolies nationwide.[12] This has been crucial work, historically and today. In the monopoly case against Microsoft, state enforcers maintained their case long after the federal agencies dropped theirs, effectively opening markets to new, innovative companies. And today, dozens of state AGs are using their investigative powers to examine whether tech monopolies Google and Facebook have abused their monopoly power over online search and the flow of news and information.[13]

State attorneys general have also used the antitrust laws to protect the rights of workers. More than a dozen states

joined forces to stop fast-food chains, including Arby’s and Dunkin’ Donuts, from imposing no-poach and non-compete contracts on their low-wage employees. These clauses prevented workers from starting a competing business, or from quitting their jobs to work for a rival chain.[14] And a group of state attorneys general have organized to push the federal enforcers to follow their lead and protect workers from the unfair practices of their bosses.[15]

Block Mergers that Threaten Local Markets

Historically and today, a core role of the states in antitrust enforcement has been to stop harmful mergers. Under state and federal antitrust laws, state attorneys general can sue to block a merger if they believe it will undermine competition to the detriment of producers, workers, or

consumers. Over the past 40 years, they’ve done so — sometimes alongside the federal antitrust agencies, and sometimes on their own. While some state-level merger challenges have entailed broad, multi-state coalitions, most involve one or two state attorneys general stepping in to protect competition.[16]

Evidence of states’ importance in merger cases is abundant. Three years ago, the California Attorney General sued to stop the takeover of two oil terminals by Valero Energy, the world’s largest independent petroleum refiner, after finding Valero would be able to raise prices for oil after the merger. The FTC had reviewed the dealand declined to intervene. The companies abandoned it in the f ace of state

scrutiny.[17] And in Colorado, the attorney general moved to alter a health care merger that would have stopped local Medicare patients from accessing doctors — a concern the federal antitrust agencies did nothing to address in their review of the deal.[18]

## ---Solvency Answers

### ---1NC - Antitrust not solve income inequality

#### Antitrust for ag doesn’t solve income inequality

Philip **Watson &** Jason **Winfree, 21.** Watson is an Associate Professor, Agriculture Economics & Rural Sociology at the University of Idaho. Winfree is an Associate Professor of Agricultural Economics and Rural Sociology at the University of Idaho. "Should we use antitrust policies on big agriculture?" Applied Economic Perspectives and Policy (2021): 1-14.

Income inequality has been a primary goal of some advocates of an increase in antitrust enforcement. However, while helping small firms has been an ongoing economic policy goal in the United States, **using antitrust law is likely an inefficient way to achieve income equality** (Shapiro, 2018). In agriculture, this discussion is typically framed as large agricultural firms versus small agricultural firms. While the USDA has implemented numerous programs explicitly deigned to benefit small, beginning, and family farms (Katchova & Ahearn, 2015), there is sharp criticism that large farms are profiting at the expense of small farms (Bruckner, 2016). However, it is not clear whether using antitrust law is the most effectual mechanism to achieve this goal. Even if we are able to shift market shares from large producers to small producers, there are a number of problems in achieving income equality. First, even ignoring consumers, **it is not clear whether protecting small and/or family farms would increase income equality** among agricultural producers. For example, large firms do not necessary [sic] have higher incomes per employee (Brown & Medoff, 1989). Low-income workers may bear some of the burden of breaking up large agricultural firms. In other words, it is quite possible that there is a negative correlation between profit per worker and the size of the farm, in which case **protecting smaller farms may worsen income inequality**. Second, it has been shown that the incomes of small farms are, on average, higher than non- farm incomes (Lusk, 2016). This implies that food consumers are poorer than food producers. Ma et al. (2021) show that for developing countries, consolidation into larger farms can have an overall positive effect while hurting rural households. However, in developed countries, it is not obvious that market concentration exacerbates overall income inequality. It is likely that increasing agricultural output prices to help small farmers will hurt an even more vulnerable population of low income food consumers. If the goal is income equality, certainly the poorest are of the utmost importance. Given Engel's law and the obvious importance of food, changes in the food supply can heavily influence the well-being of the most poor. In this situation, protecting smaller farms will exacerbate rather than alleviate the problem of income inequality. Third, there may be a misconception about what consolidation means. For example, according to the USDA, in the United States in 2019, almost 98% of farms were family farms, and 90% are small family farms with less than $350,000 in gross cash farm income. So, many of the farms that are being consolidated are being consolidated into other family farms. While some of the rhetoric may focus on large corporations in the agricultural industry, policies are likely to have a negative effect on some family farms as well.

### ---1NC - Antitrust ag not solve small farms

#### Plan doesn’t solve – alt causes

Connor **Nolan, 20**. J.D. Candidate, University of Arizona James E. Rogers College of Law. “A Cry for Spilled Milk: Fixing the Problems of America Begins with Cleaning Up Dairy's Woes.” Yale Big Ag and Antitrust Conference January 2020. https://law.yale.edu/sites/default/files/area/center/leap/document/yale-big-ag-and-antitrust- conference-guide.pdf

To accomplish these changes, a rise in Antitrust enforcement at the state level is needed. While Antitrust enforcement has traditionally come from the federal level, attorneys in New York, San Francisco, and Washington DC lack the practical knowledge necessary to stop anticompetitive conduct. The promotion of state enforcement, through hiring dedicated Antitrust attorneys, will lead to enforcers having better knowledge of the local market. State enforcement may also have a greater deterring quality.

However, **Antitrust alone is not enough to restore small farms’ vitality**. Creative policy solutions must also be put in place. These solutions should start with procuring schools’ buying power, rebuilding local supply chains, and incentivizing small farmers to diversify production. Schools purchase 8% of the fluid milk market. Utilizing this buying power can keep local farmers in business and diminish the climate impact of purchasing milk from large farms located outside the region. Rebuilding local supply chains can be achieved by bringing rural America’s vacant main streets back to life. Rather than subsidizing large farms’ overproduction, the government should spur market activity by reallocating money into unsubsidized loans or grants that incentivize investment into local grocers and diners. As a condition of the loan or grant, the businesses would purchase goods from qualifying regional farms. Finally, small dairy farmers 23 should be incentivized to diversify their production. Diversifying production creates similar results to supply management but does not have the negative effect of diminishing output.

### ---1NC - Antitrust ag not solve food security/safety

#### Antitrust intervention in ag wrecks food security

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Market control and food security/safety

Others argue that antitrust laws should be used in agricultural markets owing to the amount of control certain firms have in the food supply and the potential effect that this might have on food security and safety (Hendrickson et al., 2017). The market control concern is similar to the arguments being made to break up technology firms such as Google, Twitter, and Facebook, and is again somewhat subject to the scrutiny of contestability. While technology firms often have a large share of the social media market, these markets could be thought of as contestable, and consumers and competitors are free and able to switch platforms. It is difficult to say whether this is comparable in food markets. While many aspects of the food industry might be considered contestable, especially in the long term, large sunk costs may prevent some competition in some markets. Certainly, control of the food supply, or even widespread adoption of technology, can generate risk. For example, in 1970, over 80% of corn in United States was Texas cytoplasmic male sterile corn. This type of corn was susceptible to fungus (Southern corn leaf blight) and caused a drastic reduction in corn yield. If market concentration creates less genetic diversity, it is possible that this is a cost.

However, the association between market concentration and food safety is not entirely clear and using antitrust with this intention would be complex. For example, as previously stated, large firms can often implement safety standards more easily. While controlling the food supply is certainly an incredible responsibility with an

enormous downside potential, it is not clear how much actual power firms have and why this power would harm consumers. This may be an area of research that might help inform this policy process.

#### Food safety standards an alt cause, antitrust intervention doesn’t solve

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Relax food standards

A good example of policies for increasing fixed costs is food standards. Implementing regulations, such as food qualitystandards, can increase the level of market concentration in agriculture because it requires all firms to add costly measures, effectively increasing the fixed costs of production. While some of the costs from regulations, such as food standards, might be variable, research has typically shown that it leads to higher fixed costs (Bovay & Sumner, 2017). If these regulations increase fixed costs, it financially incentivizes firms to become larger. Therefore, when such policies are implemented, policymakers should be cognizant of the pressure of such policies. This is not to say that food safety policies are always unwarranted, but the costs of such policies should be taken into account. So, **while many advocates of antitrust intervention in agriculture cite food safety as a reason in favor of intervention, food safety standards are likely exacerbating consolidation in agriculture and encouraging larger firms.**

### ---1NC - Antitrust in ag fails - general

#### Antitrust applied to ag regulation fails, gets circumvented

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4 Food safety and environmental protection

These areas are much more regulated. At the same time, we can see regulatory purposes conflict. Regulating relations methods in agriculture are extremely diverse, they can be aimed at achieving different goals (environmental protection, labour safety, product safety, support for farmers, **antitrust regulation**, etc.). Each direction of regulation, defined by a corresponding goal, is considered to be risk management, and different regulators may be responsible for it. For any of these goals it is necessary to achieve compromises. In addition, it is sometimes difficult to say which of the goals is more important.

Thus, we need tools through which it is possible to reach compromises and make reasonable decisions. The cost-benefit analysis is one of such tools. Margot J. Pollans argues that interagency cooperation or executive oversight are also used as tools [10]. In fact, there are much more such tools. For example, the Conservation Stewardship Program (USDA) is used as payments to farmers for implementing environm ental practices. However, it is noted that such programs are not popular among farmers [11]. The program of labelling products as environmentally friendly, introduced in 1990, was promising. The Organic Foods Production Act, similar programs are now being introduced in o ther countries, too. However, their implementation shows ambiguous results [12, 13]. We can make examples when the regulator actually imposes certification and labelling of products as environmentally friendly on manufacturers. The environmental damage caused by agriculture as a result harms agriculture itself, making risks of soil erosion, water scarcity, and reduced resistance to pests and diseases [14]. But measures to counteract these consequences increase production costs such as crop rotation and reducing the use of pesticides. The report of the US Environmental Protection Agencynotes that farmers are aging, their average age is 57 years old, and they are not going to give their business to their children and grandchildren, and this is reflected in their behaviour and interest in environmental protection [10]. The USDA has significant power to set standards for dairy products, meat, and poultry. Its structure includes the Food Safety Inspection Service, conducti ng inspections of farms and enterprises. Other agricultural products are regulated by the FDA [15]. In 2010 FDA got more power to e nsure products safety and began to implement proactive regulation instead of the traditional surgical intervention after detecting a violation[16]. In accordance with the FSMA, adopted by the US Congress in 2011, the FDA’s power was further expanded, its focus in food safety was shifted to prevention.

According to the law manufacturers and importers of food products must to make the risk analysis, develop the preventive HARPC control plans (improved HACCP, aimed at critical points) [17]. In addition, the law ordered the FDA to develop safety regulations for fresh food production, approved in 2015 and called as the FSMA. The regulatory structure introduced by the USDA in the 1990s obliged regulated organizations to develop plans to reduce the risk to food safety and to implement production control. It is the "hazard analysis and critical control points" ("HACCP") system. This is an example of the transition from a command and control style of regulation to a promising "management-style regulation" [18]. Regulators all over the world, regardless of the areas of regulation, gradually abandon the command and control model of regulation based on deterrence with the threat of sanctions, and this is not accidental – empirical studies show that in realitypeople behave more honestly [19]. As for the USDA, the implementation of the management-based regulation in the form of HACCP was supposed to be successful, since its activity is limited to the production only of meat, poultry and milk, and its inspectors always visit ed factories, but the regulation was unsuccessful because of the lack of trained specialists with knowledge about potential sources of microbial contamination. The plans of the enterprises turned out to be formal, and their revision needs long work. The USDA is not able to cover all the enterprises with inspections. Despite this, the tests showed a significant reduction of salmonella in meat in c omparison with the basic data for a few years of the HACCP program implementation. And the CDC surveillance prese nted an overall reducing morbidity of tracked pathogens for five years. The program also affected environmental issues. During this time, we can see a decrease in the use of toxic pesticides. In this case, the principle of mutual learning and competition of regulated persons is used. Companies introduce new techniques it makes it possible to save on fertilizers, pesticides, and fines for pollution. Neighbours quickly adopt this experience and it becomes widespread. The current Food Safety Act provides for the approval of the FDA performance standards, supporting the best manufacturing practices (GAP) and providing flexible regulation and the right for farmers to choose ways of reaching requirements set by these standards. Howev er, the problem is complicated by conflicting requirements, high costs that farmers often are not able to do. For example, the requirement to sterilize the soil from pathogenic bacteria can lead to the microbial diversity loss and the decrease in soil productivity and the need to use more fertilizers [20]. The Marketing agreement Act of 1937 concluded by manufacturers and sellers is an interesting example of the regulation of leaf salad safety after the outbreak of intestinal disease in California in 2006 The LGMA Marketing agreement i s an obligation of the parties to complywith the standards of the agreement to undergo the procedure of voluntary certification and obtain the right to use the conformity mark. The California Department of Food and Agriculture (CDFA) has the power to make i nspections from time to time for compliance with LGMA standards. The parties formed the Leafy Green Products Handler Advisory Board, managing the voluntary agreement between the firms and, on the basis of a contract with the CDFA, conducts an external audit of the leafy salad production [21]. It should be noted that the LGMA has almost reached the universal acceptance of its standards in California Excessive enforcement may be due to the behavioural characteristics of the regulator's employees. The transition to management-style regulation makes their work more complicated, increases the qualification requirements. The field employee is not always able to understand the individual management decision of the farmer. In addition, farmers themselves often understand purposes of regulation and their role in it in different ways. Taking into consideration that product safety requirements are more strict, than environmental ones, that the FDA supervision is primarily focused on achieving the first goal, farmers are left to their own in prioritizing, it can be assumed that they will pay more attention to product safety. Pollans notes that the Food Safety Act includes several trade-off management tools such as the cost-benefit analysis, the National Environmental Policy Act ("NEPA") compliance requirement, and the notice-and-comment in rulemaking procedure, but they do not work properly [10]. The co-regulation, the creation of non-state control organizations and the partial delegation of the inspection process to such external auditors is another promising tool [9]. However, in connection with this there is a problem of ensuring the proper supervision by the regulator. This problem can be solved before the rule-making procedure beginning, during the development and the adoption of standards, during their validity period.

Before the rule-making process beginning, it is necessary to determine two important things on which the success (or failure) of regulation depends. These are how the legislator distributes the subjects of competence and powers of regulators, and how extensive the powers will be given to them. There are risks connected with insufficient attention of the agency, ignoring related aspects and threats because of its own problems, and duplication of powers (tunnel vision). It is possible to reduce the number of these risks by establishing mandatory consultations with other regulators and executive oversight by OIRA, by other means provided for by the Administrative Procedure Act, Regul atory Flexibility Act, etc. Limited information on the basis of which the agency makes regulation is also the reason of risks in the rule-making process.

Researchers note selective influence when the regulator pays more attention to one of the areas of its activity. Pollans gives an example with Forest Service. Forest Service has to provide environment protection and regulate forest resources extraction, but it is accused of ignoring environmental problems [10]. The notice and comment process provided by the Administrative Procedure Act also plays an important role. The Administrative Procedure Act makes it possible to take into consideration own opinions of farmers and all the interested groups of the population, whose interests may be affected bythe developed solutions. At last, after the final adoption of the rules, it is also possible to manage trade-offs. The important role in this process belongs to courts, but a regulator that remains committed to flexible regulation can do more by using performance standards, which only set goals, and the regulated persons can choose the most effective and convenient ways for achieving such goals. Although new strategies appear in regulatory practice, the competition of regulatory objectives is still an unsolved problem, which is more and more compounded by the competition of regulatoryagencies. 5

Conclusion

We in brief presented some challenges faced by regulators trying to ensure the development of agriculture, protect farmers, t he environment, and the rights of consumers to food safety. Of course, because of the limited scope of the article, we could not investigate all the issues and means of regulation which coincide modern ideas about the forms, methods and limits of state interference into the private se ctor of the economy, such as agriculture. We did not investigate mandatoryinsurance, taxation, farm subsidy programs, the involvement of external auditors and industry associations, and we did not concern the analyses of the internal threats (lack of information, scarce resources, unclear goals, lack of mission understood and accepted by employees, low qualifications of employees, lagging behind in the development of technology, the economy digitalization, bureaucratic obstacles, regulatory capture and corruption). According to our analyses regulatory agencies are forced to make decisions in difficult conditions of information lack, unpredictable changes, high probability of diseases spread, changes in supplyand demand, political processes which the regulator cannot always influence, large territories where regulated persons operate. The regulation of agriculture is also extremely difficult for other reasons because simultaneously several regulatory agencies regulate this industry, and each of them strive to achieve several competing goals. In these conditions, regulators can no longer act the old-fashioned way. This is expensive and inefficient. They are forced to develop new regulatory strategies, involve regulated persons in this activity, using management-based regulation technology, carryon trilateral negotiations, and take into consideration opinions of interested parties at the notes and comments stage in administrative procedures during developing rules and standards. Thus, the post-ante analysis of regulation and the obtained results, the identification of problems and shortcomings, training based on this information, and the adjustment of regulatorymodels and strategies are very important components of the regulatory p rocess. The regulator should be responsible for the results of this activity to politicians, society and regulated persons.

## ---Industrial Ag Advantage Answers

### ---1NC – Big Ag Inevitable

#### Population size means there is no alternative to Big Ag

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In the popular bourgeois imagination, the idealized farm looks something like the ones that sell produce at local farmers markets. But while small farms like these account for close to half of all U.S. farms, theyproduce less than 10 percent of total output. The largest farms, by contrast, account for about 50 percent of output, relying on simplified production systems and economies of scale to feed a nation of 330 million people, vanishingly few of whom live anywhere near a farm or want to work in agriculture. It is this central role of large, corporate, and industrial-style farms that critics point to as evidence that the food system needs to be transformed. But U.S. dependence on large farms is not a conspiracy by big corporations. Without question, the U.S. food system has many problems. But persistent misperceptions about it, most especially among affluent consumers, are a function of its spectacular success, not its failure. Any effort to address social and environmental problems associated with food production in the United States will need to first accommodate itself to the reality that, in a modern and affluent economy, the food system could not be anything other than large-scale, intensive, technological, and industrialized. AT Capper- Volstead is Modeled

*Capper-Volstead is not modelled currently in a single developing country, and the aff can’t fiat that the developing countries adopt rulings modelling it – Emory reads blue* **1ac Barnes 21**—(\*JD from George Washington University; \*\*JD from Fordham University, former Vice-Chair of the ABA Antitrust Section’s Joint Conduct Committee). Donald M. Barnes & Jay L. Levine. April 2021. “Farmer Cooperatives "Take Cover": The Capper- Volstead Exemption is Under Siege”. Arkansas Law Review, Volume 74, Number 1.

Accessed 10/2/21.

The **U**nited **S**tates is **not the only country** to have **adopt**ed an **ag**ricultural policy designed to afford certain **protect**ion to farmers; under the European Union’s common agricultural policy, certain behavior and practices by agricultural producer organizations, which might otherwise be considered as anticompetitive, are excluded from the scope of the European Union’s competition rules.188 It is not surprising, therefore, that current attempts to **undermine and weaken** the American farmers’ **antitrust exemption** couldeasily have **international implications**. Numerous foreign countries **already** use the **U**nited **S**tates’ antitrust law as a model,

|  |  |  |
| --- | --- | --- |
| and several have adopted **antitrust exemptions** for agricultural cooperatives similar to | | the **Capper** |
| **Volstead** Act | 189 | |

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[Begin Footnote 189]

189. For example, **Japan**’s Anti-Monopoly Law of 1947, following the **example** of the **Capper- Volstead** Act, exempts certain agricultural **coop**erative**s** from its application. See Hiroshi Ashino, Experimenting with Anti-Trust Law in Japan, 3 JAPANESE ANN. INT’L L. 31, 31 (1959); Hiroshi Iyori, A Comparison of U.S.-**Japan** Antitrust Law: Looking at the International

Harmonization of Competition Law, 4 PAC. RIM. L. & POL’Y J. 59, 66 (1995). Agricultural **coop**erative**s** in **Europe** are **similarly exempted** from liability under Article 81 of the European Community (“EC”) Treaty—Europe’s analog to the Sherman Act—by Regulation 26, adopted by the EC Council in 1962. Arie Reich, The Agricultural Exemption in Antitrust Law: A

Comparative Look at the Political Economy of Market Regulation, 42 TEX. INT’L L.J. 843, 849-50 (2007). The **U**nited **K**ingdom’s Competition Act of 1998 contains an exemption for agricultural cooperatives patterned on the EC’s Regulation 26. Id. at 856. And **Israel**, which

regulates competition under its Restrictive Trade Practices Law of 1988, provides an exemption to **ag**ricultural cooperatives under Article 3(4) of that Law. Id. at 857-58.

[End Footnote 189]

Farmers in have faced or will **eventually** face the **same challenges** as those

**developing economies**

that confronted **American farmers** at the time the Capper-Volstead Act was passed.190 They deserve the same **protection**. Their governments could **easily** adopt **restrictive rulings** from **U**nited **S**tates courts,191 which could keep their farmers from **achieving effective collective bargaining power**.

[Begin Footnote 191]

191. Indeed, foreign courts **often** find U.S. case law instructive in interpreting **their own antitrust laws**. See, e.g., Rural Press Ltd. v Australian Competition and Consumer Comm’n, (2003) 216 CLR 53, 88 (Austl.) (holding market-sharing arrangements per se invalid under the Australian Trade Practices Act, citing favorably to United States case-law holding such arrangements to be per se violations of the Sherman Act); R. v. Bugden’s Taxi