# Off

## Ftc trade off

#### Antitrust law enforcement has two areas of focus now: health care and big tech. Health care is under the radar.

Levine 8-25-2021, master’s degree from the Columbia University Graduate School of Journalism and a bachelor of arts in English from the University of Pennsylvania. She is also an alumna of the Fellowships at Auschwitz for the Study of Professional Ethics, a program in Germany and Poland that explores the ethics of reporting on politics, war and genocide (Alexandra, “How Biden's tech trustbuster could change health care,” *Politico*, <https://www.politico.com/newsletters/future-pulse/2021/08/25/how-bidens-tech-trustbuster-could-change-health-care-797333>)

Lina Khan’s Federal Trade Commission has its eyes on health care. The agency known for efforts to rein in Big Tech companies like Facebook and Amazon is also enmeshed in high-stakes health care and health tech battles that extend well beyond Silicon Valley. Case in point: The FTC trial that kicked off yesterday examining monopoly concerns in the market for cancer screening technology. (More on that below.) That closely watched antitrust case — involving the giant Illumina and startup Grail — predates Khan’s confirmation as FTC chair. But it underscores how health issues are looming over the agenda, particularly heading into the pandemic's second year. The way health care companies and consumer health apps handle sensitive data “is an area that I'm sure [Khan’s] very, very interested in,” said Jessica Rich, former director of the FTC’s consumer protection bureau, adding that the Biden administration's FTC will also be closely scrutinizing hospital mergers. “I expect her and the commission to take a very bold approach to what constitutes harm for both,” Rich said. “I expect her to pay close attention to algorithms and potential discrimination in health care, both denials and pricing issues which the FTC's laws can address.” The FTC’s jurisdiction touches nearly the entire health economy. While its competition bureau looks at health care mergers like the Illumina-Grail deal, its consumer protection side is focused on health privacy and data security issues, as well as fighting bogus medical claims on everything from weight loss to Covid cures. When Congress passed the Covid-19 Consumer Protection Act last year, the agency was granted new authority to police Covid scams. Although Khan hasn't spoken publicly about her health care agenda, she's likely to take issue with health apps and companies whose business models maximize, incentivize and monetize data collection. Of particular concern is how firms disclose what they’re doing with consumers’ data — and whether it may still be deceptive or unfair.

#### New enforcement priorities trigger a tradeoff from health care

Abbott 21, formerly served as general counsel of the Federal Trade Commission (Alden, “Lack of Resources and Lack of Authority Over Nonprofit Organizations Are the Biggest Hindrances to Antitrust Enforcement in Healthcare,” <https://www.mercatus.org/publications/antitrust-and-competition/lack-resources-and-lack-authority-over-nonprofit>)

Appropriate federal antitrust and consumer protection enforcement is good for the American economy. It promotes enhanced competition and consumer welfare. Regrettably, however, the effectiveness of federal enforcement in achieving these benefits is threatened by insufficient resources. As FTC Acting Chair Rebecca Kelly Slaughter explained in her April 20 testimony before the US Senate Committee on Commerce, Science, and Transportation, FTC employment has remained flat despite a growing workload, with merger filings doubling in recent years. Lauren Feiner reports on that testimony: “The absence of resources means that our enforcement decisions are harder,” [Slaughter] said. “If we think that we have a real case, a real law violation in front of us, but a settlement on the table that is maybe OK but doesn’t get the job done, we have to make difficult decisions about whether it’s worth spending a lot of taxpayer dollars to go sue the companies who are going to come in with many, many law firms worth of attorneys and expensive economic experts, versus taking that settlement.” I can attest to the accuracy of Slaughter’s observation, based on my experience as FTC general counsel in the Trump Administration. During my tenure, the FTC did indeed have to contend with resource limitations that adversely affected merger enforcement decision-making. The problem of resource constraints is particularly acute in the case of healthcare merger reviews, given the increasing consolidation of healthcare institutions. As one noted healthcare scholar stated in 2019, “The Affordable Care Act did not start the consolidation rapidly occurring with hospitals/health systems and medical groups, but it most definitely accelerated the movement to combine. In the last five years, the number and size of consolidations have been at an all-time high.”

#### Health consolidation collapses public health---specifically rural care

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Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have devastating consequences for public health if industry doesn’t soon execute an about-face. Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples. There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress. Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either. Third, Covid-induced consolidation will only make future progress many times more difficult. The larger an organization is, the more it will struggle to rapidly adapt to healthcare disruptions like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area. The potential impact of continued consolidation on rural patients is especially concerning. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that when a larger hospital or health system purchases a smaller, rural hospital, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. Many eventually decide to close up shop, in some instances reducing or even eliminating rural patients’ options for care delivery. In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and if left unchecked, all of the hospitals in the United States could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality services at lower total cost of care.

#### Strong public health infrastructure prevents bioterror attacks

Kosal 14, Adjunct Scholar to the Modern War Institute at the US Military Academy/West Point, Ph.D. in Chemistry from the University of Illinois at Urbana Champaign, Associate Professor at The Sam Nunn School of International Affairs at Georgia Tech (Margaret E. Kosal, “A New Role For Public Health in Bioterrorism Defense,” Frontiers in Public Health, Volume 2, Article 278)

In thinking about public health infrastructure as an active or passive part of new deterrence strategies, it is useful to think about the role of missile defense. As the presence of a ballistic missile defense system is supposed to be an existential deterrent itself, so could be a strong public health system. Missile defense is both a passive deterrent and, if used, an active deterrent, as it stops something from occurring. A strong public health infrastructure is likely to be the key in reducing the vulnerability to bioterrorism attack, as well as having a potential role in deterring a foreign terrorist group from even considering such an attack. If a biological weapon launched by a terrorist group will have little or no effect on the target country because of a known robust public health sector, then a foreign terrorist may be discouraged from launching a biological weapons attack in the first place. If foreign terrorists are also aware of the weak public health infrastructure with their own borders, and the increased risks to them and their publics in the event of an accident in developing biological weapons and/or spread of an infectious disease that they might launch, this may also deter them from pursuing this work. In addition, even the accidental release of a dangerous pathogen or the spread of an infectious disease via attack will most likely cause disproportional negative effects to nations with limited public health infrastructures and affect tacit and explicit supporters in those states. The role of a robust public healthcare system for its deterrence capacity can be explored through empirically driven case study methods against predominant theories of deterrence in political science (14, 15) and in comparison to other works considering the possibility of deterring bioterrorism (16–20). For example, the re-emergence of polio offers a potentially useful example to think about the effects of a potential bioterrorist attack on the developed and the developing world. Polio is both a contagious infectious disease and transmissible from human-to-human (like smallpox and plague). The poliovirus is highly transmissible with a basic reproductive rate or secondary transmission rate (R0) exceeding most suspected biological agents, e.g., standard estimates of R0 for polio range from 5 to 7 (21, 22), whereas R0 for suspected bioterrorist agents like smallpox (1.8–3.2) (23–25); pneumonic plague (0.8–3.0) (26, 27); and even Ebola (1.34–2.0) (28, 29) are lower. It is not a likely biological terrorism agent, however, due to the low-mortality associated with infection. It is, however, a useful model for thinking about the spread of infectious disease and the importance of a robust public health infrastructure as a deterrence strategy. At the beginning of 2003, the complete eradication of polio appeared to be within the grasp of the World Health Association and its many partners. In 1998, the World Health Organization estimated there were over 365,000 new cases of polio; by early 2003, the rate of infection had declined to <1,000 new cases worldwide due to a vigilant vaccination effort (30). That trend was interrupted, however, when Nigerian citizens refused to be vaccinated after hearing unfounded allegations of contaminated vaccines that would lead to sterility or cause HIV/AIDs. Before 2003, polio had largely been confined to only a handful of countries; Nigeria, India, Pakistan, and Afghanistan accounted for 93% of the world’s cases (31). What started with the refusal of local clerics to allow vaccination led to the reestablishment or importation of the poliovirus to 14 countries that were previously disease-free. Transport of the contagious virus was not limited to neighboring African states. The poliovirus moved through Sudan to Ethiopia crossing the Red Sea to Lebanon and Yemen. The latter was been particularly severely affected, witnessing more than 500 new cases in the first half of 2005. The poliovirus spread as far as Indonesia, where it afflicted more than 150 people in a single year in 2 provinces, predominantly children (32). Prior to this outbreak, Indonesia had been polio free for nine years. Genetic fingerprinting confirmed that the strain imported to Indonesia came from northern Nigeria through Sudan, most closely resembling an isolate recovered in Saudi Arabia in December 2004. A pilgrim returning from Mecca or a returning foreign worker is suspected to have brought the virus to the island of Java, across an ocean and thousands of miles from its source. The polio virus continues to persist in a limited number of states in the developing world, specifically in Nigeria, Afghanistan, and Pakistan, where a ban on vaccination by Islamist leaders in Waziristan remains in place. Since 2013, polio (linked genetically to the strain in Pakistan) has spread from Syria to Iraq (33). Countries that have witnessed the re-emergence of poliovirus outbreaks have some crucial links: social and political challenges that have impeded the development and implementation of appropriate public health infrastructures and measures. Not unexpectedly, there is an inverse relationship between government health expenditure in health and number of polio cases. Looking at the spread of polio can provide us with a lens to think about the impacts of bioterrorism in states with developed public health infrastructures and those who do not. A bioterrorist attack, especially one with a contagious agent like smallpox or pneumonic plague, will likely impact the developing parts of the world substantially more than the US. One only has to look as far as polio’s re-emergence (or more recently the outbreak of Ebola virus disease in West Africa) to see the very real repercussions of a contagious virus and how the most dire causes and effects of infection and spread stem from poor public health infrastructures (34). Creating a new deterrence strategy for bioterrorism is needed. Credibly, communicating the differential capacities to respond and the comparative likely outcomes will require diplomacy, coordination with civil affairs, specialized knowledge of individual states, and regions of the developing world. These are fundamentally interdisciplinary efforts that should leverage small teams from diplomatic, development, public health, and defense communities. One single parochial voice will be inadequate. Further improving the US domestic public health infrastructure would be beneficial and cost effective regardless of whether an outbreak is intentional or natural. The devastating Ebola outbreaks serve as a call for urgent investment in public health infrastructures worldwide, to provide both responsive and proactive actions to deter bioterrorism and to deal with natural disease outbreaks. Public health remains a powerful and often underutilized asset for bioweapons defense through vulnerability reduction; leveraging public health may also enable new approaches to deterring bioterrorism threats. International security scholars would benefit from better understanding of and leveraging the knowledge of the public health community.

#### Extinction without early response

Farmer 17 (“Bioterrorism could kill more people than nuclear war, Bill Gates to warn world leaders” http://www.telegraph.co.uk/news/2017/02/17/biological-terrorism-could-kill-people-nuclear-attacks-bill/)

Bioterrorists could one day kill hundreds of millions of people in an attack more deadly than nuclear war, Bill Gates will warn world leaders. Rapid advances in genetic engineering have opened the door for small terrorism groups to tailor and easily turn biological viruses into weapons. A resulting disease pandemic is currently one of the most deadly threats faced by the world, he believes, yet governments are complacent about the scale of the risk. Speaking ahead of an address to the Munich Security Conference, the richest man in the world said that while governments are concerned with the proliferation of nuclear and chemical weapons, they are overlooking the threat of biological warfare. Mr Gates, whose charitable foundationis funding research into quickly spotting outbreaks and speeding up vaccine production, said the defence and security establishment “have not been following biology and I’m here to bring them a little bit of bad news”. Mr Gates will today (Saturday) tell an audience of international leaders and senior officers that the world’s next deadly pandemic “could originate on the computer screen of a terrorist”. He told the Telegraph: “Natural epidemics can be extremely large. Intentionally caused epidemics, bioterrorism, would be the largest of all. “With nuclear weapons, you’d think you would probably stop after killing 100million. Smallpox won’t stop. Because the population is naïve, and there are no real preparations. That, if it got out and spread, would be a larger number.” He said developments in genetic engineering were proceeding at a “mind-blowing rate”. Biological warfare ambitions once limited to a handful of nation states are now open to small groups with limited resources and skills. He said: “They make it much easier for a non-state person. It doesn’t take much biology expertise nowadays to assemble a smallpox virus. Biology is making it way easier to create these things.” The increasingly common use of gene editing technology would make it difficult to spot any potential terrorist conspiracy. Technologies which have made it easy to read DNA sequences and tinker with them to rewrite or tweak genes have many legitimate uses. He said: “It’s not like when someone says, ‘Hey I’d like some Plutonium’ and you start saying ‘Hmmm.. I wonder why he wants Plutonium?’” Mr Gates said the potential death toll from a disease outbreak could be higher than other threats such as climate change or nuclear war. He said: “This is like earthquakes, you should think in order of magnitudes. If you can kill 10 people that’s a one, 100 people that’s a two... Bioterrorism is the thing that can give you not just sixes, but sevens, eights and nines. “With nuclear war, once you have got a six, or a seven, or eight, you’d think it would probably stop. [With bioterrorism] it’s just unbounded if you are not there to stop the spread of it.” By tailoring the genes of a virus, it would be possible to manipulate its ability to spread and its ability to harm people. Mr Gates said one of the most potentially deadly outbreaks could involve the humble flu virus. It would be relatively easy to engineer a new flu strain combining qualities from varieties that spread like wildfire with varieties that were deadly. The last time that happened naturally was the 1918 Spanish Influenza pandemic, which went on to kill more than 50 million people – or nearly three times the death toll from the First World War. By comparison, the recent Ebola outbreak in West Africa which killed just over 11,000 was “a Richter Scale three, it’s a nothing,” he said. But despite the potential, the founder of Microsoft said that world leaders and their militaries could not see beyond the more recognised risks. He said: “Should the world be serious about this? It is somewhat serious about normal classic warfare and nuclear warfare, but today it is not very serious about bio-defence or natural epidemics.” He went on: “They do tend to say ‘How easy is it to get fissile material and how accurate are the plans out on the internet for dirty bombs, plutonium bombs and hydrogen bombs?’ “They have some people that do that. What I am suggesting is that the number of people that look at bio-defence is worth increasing.” Whether naturally occurring, or deliberately started, it is almost certain that a highly lethal global pandemic will occur within our lifetimes, he believes. But the good news for those contemplating the potential damage is that the same biotechnology can prevent epidemics spreading out of control. Mr Gates will say in his speech that most of the things needed to protect against a naturally occurring pandemic are the same things needed to prepare for an intentional biological attack. Nations must amass an arsenal of new weapons to fight such a disease outbreak, including vaccines, drugs and diagnostic techniques. Being able to develop a vaccine as soon as possible against a new outbreak is particularly important and could save huge numbers of lives, scientists working at his foundation believe.

## Ptx

### 1nc – grid

#### Infrastructure will pass, but it will take Biden PC

Will Marshall (opinion editor) 10/12/2021 [“Democrats need a win — now” online @ <https://thehill.com/opinion/finance/576292-democrats-desperately-need-a-win>, loghry]

In politics, success tends to beget success. That truism apparently eluded leftwing Democrats on Sept. 30 when they refused to vote for President Biden’s $1.2 trillion bipartisan infrastructure bill. Instead of basking in accolades for having passed a second landmark achievement to go with Biden’s $1.9 trillion American Rescue Plan, Democrats are treating the public to an extended exhibition of their inability to forge the internal consensus necessary to govern. Even as clogged U.S. ports and long delays in delivering goods of all kinds underscore the urgent need for upgrading the nation’s economic infrastructure, the Congressional Progressive Caucus vows to persist in blocking the bill if they don’t get their way on a follow-on reconciliation bill that would spend trillions more on new social entitlements and climate protection. That’s sewn anger and mistrust among moderate House Democrats, who were promised a vote and stood ready to pass the infrastructure bill last month. House Speaker Nancy Pelosi (D-Calif.) set a new deadline for a vote — Halloween, fittingly enough. To arrest the administration’s faltering momentum, Democrats need a big political win, and soon. Buffeted by vaccine hesitancy and the delta variant’s surge, as well as the chaotic U.S. exit from Afghanistan, the president’s approval ratings have tumbled by 10 points since June. That’s a worry for Democratic candidates, especially former Virginia Gov. Terry McAuliffe, who’s locked in a tight race for a second term in a state Biden won by 10 points in 2020. The impasse over infrastructure is odd in two respects. First, progressives claim they too want to spend big on nation-building at home. But it doesn't seem to be their top priority. Their message couldn’t be clearer: Redistributing wealth takes precedence over strengthening the economy. Is that really the message Democrats want to run on in next year’s midterm elections? Even more perplexing, the White House, and sometimes the president himself, seemed to encourage leftist obstruction as a way of pressuring two moderate Democratic senators, Joe Manchin (W.Va.) and Kyrsten Sinema (Ariz.), into supporting the $3.5 trillion reconciliation bill. The strong-arm tactics haven’t worked, and have left bruised feelings among not only the senators but also many moderate House Democrats who also don’t support the entire progressive wish list. Now the fate of both bills is uncertain as the White House belatedly struggles to broker a compromise that balances the needs of both leftwing and centrist Democrats. What we’ve witnessed is anything but a deft exercise in coalition management. Despite all the heady rhetoric about ushering in “transformative change,” it was never likely that Democrats would pass changes on a New Deal scale with razor-thin majorities in the House and Senate. What’s more, Democrats representing battleground districts and states face electorates that are skeptical of the left’s big tax and spending ambitions. Since they make the difference between their party being in the majority or out of power, their values and interests also must be accommodated. Nonetheless, it’s hard not to sympathize with President Biden’s desire to “go big” in helping Americans hit hard by the long COVID-19 pandemic and recession. That’s a tribute to his empathy, and fortunately for him and the country, it’s a goal he can still achieve. The imperative now is to get both bills unstuck by persuading progressives to compromise on a reconciliation package with a price tag between $1.9 trillion and $2.3 trillion. Democrats need to fashion a more disciplined and focused reconciliation package that aims at doing a few things right rather than throwing money at a plethora of new entitlements. A blueprint at the Progressive Policy Institute, where I serve as president, sets three core, progressive priorities: supporting working families and children, combating climate change and expanding access to affordable health care for those in need. It would cost roughly $2 trillion and could plausibly be paid for by raising taxes on the wealthy and strengthening federal tax compliance. A Build Back Better package totaling between $2 trillion and $3 trillion for both bills is within striking distance for Biden and his party. Only on the dreamscape of democratic socialism can spending of that magnitude be considered chump change. By historical standards, it’s big change. The left’s latest gambit is to pass all the programs in their original $3.5 trillion grab bag but set them to expire after a few years so they appear less expensive in the Congressional Budget Office’s official 10-year score. This is bad policy that would make it easier for a future Republican Congress to simply let programs expire rather than trying to abolish them, as Republicans failed to do with ObamaCare. “For President Biden’s legacy, it’s important to make these longer-term investments and not have short-term cliffs,” said Rep. Suzan DelBene (D-Wash.), leader of the mainstream New Democrat Coalition. The “haircut” gimmick is also dubious politics, because it’s harder to communicate to voters a clear rationale for a jumble of smallish or temporary new programs than a few big initiatives with real power to change lives. Democrats control the White House and, however tenuously, Congress. They don’t have the luxury of endless negotiations aimed at appeasing the left. To regain political momentum, Democrats need a win. The best way to get one is to pass the infrastructure bill as soon as possible and work on a pragmatic reconciliation bill that better reflects their philosophically diverse coalition.

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

Peter C. Carstensen 21, the Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law 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-administration-en

14. 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.

15. 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 attorney general 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!

16. 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 dynamically competitive 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.

#### Infrastructure bill is key to revitalize grids and cybersecurity.

Riley ’21 — Tonya, Researcher and reporter at the Washington Post. "The Cybersecurity 202: Democrats' new infrastructure bill highlights cybersecurity concerns." Washington Post. 3-12-2021. https://www.washingtonpost.com/politics/2021/03/12/cybersecurity-202-democrats-new-infrastructure-bill-highlights-cybersecurity-concerns/. accessed 3-17-2021 //ART

The House's new $312 billion infrastructure bill, as part of that push, aims to secure the country's most critical infrastructure – and increase the cybersecurity of essential services, including hospitals, broadband, and the electric grid. A recent string of high-profile cyberattacks pushed long-neglected cybersecurity issues to the center of national policy discussions. “The infrastructure in the United States is in sore need of updates and the fact that Congress is now recognizing the importance of upgrading not just physical infrastructure, but cybersecurity infrastructure is a sign of a new importance and awareness of cybersecurity,” says John Gilligan, president and CEO of the Center for Internet Security, a cybersecurity nonprofit. Key cyberse'curity-related investments in the bill include $10 billion to help hospitals guard against cyber criminals and roughly $3.5 billion for electric grid security. Mounting high-profile cybersecurity incidents have made the problem hard to ignore. “Over the last year, we’ve seen the devastating results of inaction: major power outages, water shortages, health care facilities stretched to the limit, and communities left behind due to the digital divide,” Energy and Commerce Committee Chairman Frank Pallone Jr. (D-N.J.) said in a statement introducing the bill. In February, Florida police revealed that a hacker tried to poison the water supply of the town of Oldsmar. And although not the result of a cyberattack, the fallout of a mass grid failure in Texas raised alarms from researchers and lawmakers about cybersecurity weaknesses in America's power systems that could lead to a much worse outage. During the coronavirus pandemic, hospitals have been hit with a surge of dangerous attacks in which attackers locked up data and systems in exchange for a ransom, leaving hospital services unavailable. Congress is also scrambling to respond to a Russian attack on software company SolarWinds, which resulted in the hacking of at least nine federal agencies, as well as a recent Chinese-tied campaign against a vulnerability in Microsoft software. Both are used heavily by the government and critical industries including the energy sector. Biden last month signed an executive order requiring a review of the security of America's supply chains and is expected to sign another executive order addressing cybersecurity improvements in critical software systems. A bipartisan group of members of the House Committee on Homeland Security yesterday introduced a bill that would cement the role of the Cybersecurity and Infrastructure Security Agency in protecting critical infrastructure. Incidents such as the one in Florida are a wake-up call that the U.S. government needs to do more to defend critical infrastructure, said the committee's ranking Republican, Rep. John Katko (N.Y.), who led the bill. “These systems operate many vital components of our nation’s critical infrastructure and remain under constant attack from cyber criminals and nation state actors,” he said in a statement.

#### Cyber-attacks on the electric grid are imminent recent attacks prove means and motive

Layton, Chief Intelligence Officer 16 (Tim, @SurfWatch Labs, Principal for Cisco’s Global Enterprise Cybersecurity Theatre, Principal for EMC’s Security & Risk Management, Vice President for Wells Fargo, 4/1/16, “U.S. Electric Grid - America the Vulnerable,” DOA: 8/22/16, <http://www.securityweek.com/us-electric-grid-america-vulnerable>)

In the new digital age, the **threat of** cyber attack reaches every part of modern society. Electrical power runs just about every aspect of life for most people, and most are not prepared when the power source is interrupted or goes away. A public announcement could be made one week ahead of time, and the majority of people would still be in the same vulnerable position if the power were to go away abruptly. Last year Lloyd's published a report titled "Business Blackout" where they shared their analysis and findings of an imminent cyber attack on the U.S. power grid. In their attack scenario, attackers were able to inflict physical damage on 50 of the 700 generators on the electrical grid on the east coast where there is a substantial population of people in major cities that includes New York City, Washington D.C. and Boston. In this situation, 93 million people were affected by a blackout. **There would** most certainly **be** mass chaos among the population, **and** the **total impact to the USA** in the Lloyd's report **is** estimated at $243 billion dollarsandrising to over $1 trillion in extreme cases. In an already fragile and recovering economy, an attack like this could ~~cripple~~ [devastate] the country and most certainly disrupt any momentum the economy had been able to gain. Not only is **this** scenario possible, I believe it is imminent. Based on existing intelligence, it is reasonable to assume that nation-states already possess all the information they need to launch such an attack on the U.S. power grid - they choose not to because of political implications. I also believe the USA possesses the same capabilities. It isn't just nation-states that we need to be concerned with, as radical terrorist groups are highly motivated to bring harm to the American people and economy. Current State of Affairs The U.S. power system is outdated, and it was never designed with network security in mind. Experts have described the U.S. power grid as decrepit and seriously out of date. **By** connecting U.S. electric plants to the Internet**, a** new and **bountiful** supply of attack points and back doors **have** been **opened up to attackers**. Further complicating the security challenges in the new digital frontier is hundreds of contractors create and sell software and equipment to the energy companies. This software and hardware has weaknesses that can be exploited. The companies themselves serve as a portal into the electric grid because they are connected their customers. Just three months ago, the Ukraine power grid suffered a cyber attack and the outage impacted 225,000 people. This is the first time the U.S. Government officially recognized that a blackout was caused by a malicious cyber attack. Security researchers attribute the attack to a Russian hacking group known as Sandworm. Malicious software was used in this attack to remotely switch off breakers **controlling** the **power** to the public. A coordinated attack was launched by the criminals that aimed at keeping legitimate customers from reporting their power outages. We know based on history with malware, **once the** software **is** **out** in the wild, **it** can be modified **for future attacks** and **with** a **high degree of success**. We have seen this pattern in other industry verticals such as the financial sector. Within the energy sector, here are just a few examples of reported attacks or attempted attacks: • In 2012 and 2013 Russian hackers were able to successfully send and receive encrypted commands to the U.S. power generators. • The Department of Homeland Security (DHS) announced last year that unauthorized cyber hackers were able to inject malicious software into the grid operations that allowed spying on U.S. energy companies. • In October of last year, US law enforcement officials reported a series of cyber attacks that were attempted by ISIS targeting the U.S. power grid. • In December 2015, the Associated Press reported that "security researcher Brian Wallace was on the trail of hackers who had snatched a California university's housing files when he stumbled into a larger nightmare: cyber attackers had opened a pathway into the networks running the United States power grid." Home Security Deputy Secretary Alejandro Mayorkas acknowledged in an interview, "we are not where we need to be" on cybersecurity. \*edited for ableist language

#### Risk of a nuclear cyberattack is high – nuclear terrorism, meltdowns, false flag missile strikes – breaks down national security

NTI 15 (The Nuclear Threat Initiative – THE NUCLEAR THREAT INITIATIVE PROTECTS LIVES, THE ENVIRONMENT AND OUR QUALITY OF LIFE NOW AND FOR FUTURE GENERATIONS. Every day, we work to prevent catastrophic attacks with weapons of mass destruction and disruption—nuclear, biological, radiological, chemical and cyber. – “ADDRESSING CYBER-NUCLEAR SECURITY THREATS” – Nuclear Threat Initiative – Oct 25, 2015 – http://www.nti.org/about/projects/addressing-cyber-nuclear-security-threats/)

What if a hacker shut down the security system at a highly sensitive nuclear materials storage facility, giving access to terrorists seeking highly enriched uranium to make a bomb? What if cyber-terrorists seized control of operations at a nuclear power plant--enabling a Fukushima-scale meltdown? Or, worse, what if hackers spoofed a nuclear missile attack, forcing a miscalculated retaliatory strike that could kill millions? The cyber threat affects nuclear risks in at least two ways: It can be used to undermine the security of nuclear materials and facility operations, and it can compromise nuclear command and control systems. Traditional nuclear security practices have been focused on preventing physical attacks—putting in place “guns, guards, and gates” to prevent 1) theft of materials to build a bomb, 2) sabotage of a nuclear facility, or 3) unauthorized access of nuclear command, control, and communications systems. Important progress has been made in this "traditional" nuclear security arena, but the threat of a cyber attack is escalating. All countries are vulnerable, and nuclear cybersecurity practices haven't caught up to the risk. Across the nuclear sector worldwide, the technical capacity to address the cyber threat is extremely limited, even in countries with advanced nuclear power and research programs. Measures to guard against the cyber-nuclear threat are virtually non-existent in states with new or emerging nuclear programs. Expertise in the field of nuclear cybersecurity is in short-supply, and the International Atomic Energy Agency (IAEA), which provides countries with assistance and training in this area, does not have the resources necessary to address the growing threat. The threat extends to the command, control, and communications (NC3) for nuclear weapons. Even in the United States, officials have stated that it cannot be fully confident that these systems will operate as planned if attacked by a sophisticated cyber opponent. Such attacks could jeopardize the confidence of U.S. officials of our nuclear systems, lead to false warning or even potentially allow an adversary to take control of a nuclear weapons system.

## Cp

States : )

#### TEXT: The attorneys general of the 50 states and relevant territories, through the National Association of Attorneys General’s Multistate Antitrust Task Force, should increase prohibitions on anticompetitive business practices by the private sector by amending relevant state antitrust laws to recognize that a market shall not be invalidated by the fact that a good or service is provided free of charge.

#### A multistate AG antitrust enforcement solves the aff---causes federal follow-on

Artega 19 (Juan A. Arteaga is an experienced antitrust attorney and a former Deputy Assistant Attorney General for the U.S. Department of Justice’s Antitrust Division, The Role of US State Antitrust Enforcement, Global Competition Review, 11-19, <https://www.lexology.com/library/detail.aspx%3Fg%3Dd423301d-f4d1-4550-a99c-1880869e67e7+&cd=11&hl=en&ct=clnk&gl=us>, y2k)

In the United States, competition laws have been implemented and enforced through a dual system where the state and federal governments play distinct, yet complementary, roles in regulating the competitive process. While the Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) are widely viewed as the stewards of US antitrust laws, state attorneys general have long played an important, albeit varying, role within the United States’ antitrust enforcement regime. This has been especially true during the past 30 years because state attorneys general have become much more effective at coordinating their antitrust enforcement efforts to ensure that they have a meaningful seat at the table in any actions brought jointly with their federal counterparts or are able to bring their own actions when the DOJ and FTC decide not to do so.Prior to the enactment of the first federal antitrust law – the Sherman Act – in 1890, state antitrust enforcement was quite robust in the United States because at least 26 states had already enacted some form of antitrust prohibition. In addition, state enforcers had often used general corporation law and common law restraint of trade principles to regulate anticompetitive business practices and transactions. This well-established state antitrust enforcement infrastructure – coupled with the fact that the Antitrust Division and FTC had only recently been created – permitted state attorneys general to continue playing a leading enforcement role for the first 30 years after the Sherman Act’s passage. Indeed, state attorneys general successfully prosecuted a number of the most consequential antitrust enforcement actions during this period. In the early 1920s, however, state antitrust enforcers began playing a less prominent role because ‘the national dimension of the most important trusts, . . . as well as their ability to restructure in order to evade problematic state laws’, made clear that the federal government needed to step forward in order to adequately protect consumers and the competitive process. As a result, the DOJ and FTC – whose national jurisdiction and greater resources enabled them to tackle the most pressing competition issues of the time – displaced state attorneys general as the primary source of government antitrust enforcement within the United States. This largely remained true until the mid-1970s when Congress, in response to the DOJ and FTC’s perceived inactivity, passed two laws that expanded the authority of state attorneys general to enforce the federal antitrust laws and provided them with financial resources to do so. In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring *parens patriae* suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations. Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices. These laws had their intended effect of reinvigorating state antitrust enforcement. During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints. The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’. No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications. To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period. Since the reawakening of state antitrust enforcement nearly 30 years ago, state attorneys general have continued to play an important role in the enforcement of both state and federal antitrust laws. During periods of lax federal antitrust enforcement, state attorneys general have often ramped up their enforcement activity in order to protect consumers from anticompetitive transactions and business practices. During periods of vigorous federal antitrust enforcement, they have often served as strong partners for the DOJ and FTC by, among other things, offering valuable insights about competitive dynamics in local markets, assisting with obtaining information from key market participants (including state governmental entities that are direct purchasers of goods and services), and helping develop and implement litigation strategies for cases being tried before federal judges presiding in their states. Since January 2017, state attorneys general have increasingly played a leading and independent antitrust enforcement role. State antitrust enforcers have significantly increased their enforcement activity and willingness to act separately from their federal counterparts because many of them believe that there has been ‘under-enforcement’ by the DOJ and FTC. State antitrust enforcers have also been able to enhance their influence over key competition policy issues and the antitrust enforcement agenda within the United States because there appears to have been a significant decline in the coordination and relationship between the DOJ and FTC. In once again flexing their enforcement muscle, state attorneys general have shown a willingness to publicly disagree with the DOJ and FTC on both policy and enforcement decisions, and have also sought to pressure their federal counterparts into more aggressively policing certain industries. Recent examples of the increased independence and assertiveness of state antitrust enforcers include: In their joint investigation into the T-Mobile/Sprint merger, nearly 20 state attorneys general have sued to block the transaction even though the DOJ, along with seven state attorneys general, have approved the deal after securing certain structural and behavioural remedies. After the DOJ announced its proposed settlement with the companies, the Attorney General for New York, who has been leading the states’ challenge to the merger, issued a press release dismissing the adequacy of the remedies negotiated by the DOJ: ‘The promises made by [the divestiture buyer] and [the merging companies] in this deal are the kinds of promises only robust competition can guarantee. We have serious concerns that cobbling together this new fourth mobile [phone] player, with the government picking winners and losers, will not address the merger’s harm to consumers, workers, and innovation.’ The DOJ, FTC and several state attorneys general have been actively investigating and prosecuting ‘no-poach’ agreements (i.e., where competitors for employees agree not to recruit or hire each other’s employees)in recent years. However, the DOJ and state attorneys general have taken directly opposing positions in private litigation challenging the legality of ‘no-poach’ clauses in corporate franchise agreements. The DOJ has argued that courts should review these clauses under the rule of reason whereas various state attorneys general have argued that these clauses should be deemed per se unlawful. None of the more than 20 state attorney general offices that actively investigated the AT&T/Time Warner merger joined the DOJ’s unsuccessful challenge to the transaction despite the DOJ’s concerted effort to secure their support. In fact, nine state attorneys general filed an amicus brief opposing the DOJ’s appeal of the trial court’s decision. After the FTC declined to seek any Colorado-related remedies in connection with Optum’s acquisition of DaVita Medical Group, the Attorney General for Colorado required the merging companies to lift the exclusivity provisions in contracts with certain healthcare providers and to extend their existing contracts with certain health insurers. In announcing this settlement, the Colorado Attorney General stated: ‘I recognize that this case marks an important step in state antitrust enforcement . . . . I am committed to protecting all Coloradans from anticompetitive consolidation and practices, and will do so whether or not the federal government acts to protect Coloradans.’ After voicing displeasure with federal antitrust enforcement in the technology sector, numerous state attorneys general launched their independent investigations into ‘Big Tech’ companies even though the DOJ and FTC have ongoing investigations into these companies. Given that companies will increasingly have to engage with state attorneys general in a meaningful manner with respect to antitrust matters, this chapter discusses key issues related to state antitrust enforcement in the United States. Specifically, this chapter discusses: the federal and state antitrust laws under which state enforcers operate; the processes through which state enforcers coordinate with each other and their federal counterparts; the opportunity for coordination and conflict between state enforcers and private counsel during litigation; strategic and practical considerations when engaging with state attorneys general; and certain noteworthy enforcement actions that state enforcers have recently prosecuted. Statutory regime governing US state antitrust enforcement Civil enforcement of federal antitrust laws Enforcement actions on behalf of state governmental entities Under the federal antitrust laws, state attorneys general have the express authority to bring civil actions on behalf of their state, municipalities, and governmental entities for harm suffered when directly purchasing goods or services. In bringing such actions, state attorneys general can seek monetary (treble damages) and injunctive relief, as well as their costs and reasonable attorney’s fees. In actions seeking monetary relief, state attorneys general typically allege that the state plaintiffs were forced to pay higher prices by an unlawful horizontal conspiracy, such as a price-fixing or bid-rigging scheme, and seek to recover the overcharges. In some cases, state attorneys general have sought to recover damages arising out of anticompetitive unilateral conduct, such as overcharges paid by state governmental entities due to a defendant’s actual or attempted monopolisation of a specific market. In seeking injunctive relief, state attorneys general often argue that such relief is proper because the business practice or transaction in question – in addition to harming the state plaintiffs – has or will cause injury to the state’s general economy. While general harm to a state’s economy can serve as a basis for injunctive relief, stateattorneyscannot base their request for damages on such harm. Parens patriae enforcement actions A well-settled principle in the United States’ legal system is that ‘the States have a quasi sovereign interest in protecting their citizens from ongoing economic harm’. Consequently, the federal antitrust laws expressly authorise state attorneys general to file parens patriae actions in federal court that seek to redress the harm suffered by their citizens due to federal antitrust violations. In providing state attorneys general with parens patriae authority, the federal antitrust laws permit state antitrust enforcers to seek monetary (treble damages) and injunctive relief, as well as their costs and reasonable attorney’s fees. State attorneys general have been empowered to seek such broad and substantial relief on behalf of their citizens to allow them ‘to deter further economic harm and to obtain relief for the injury inflicted on their economies and their citizens’. In exercising their parens patriae authority, state attorneys general have often sought to protect their citizens and state economies from the harm caused by anticompetitive business practices. For example, in the e-Books Litigation, 33 state attorneys general alleged that Apple, Inc and various book publishers unlawfully conspired to fix the prices of electronic books, which resulted in their citizens paying higher prices and harm to their states’ general economies. Ultimately, these state attorneys general, working alongside private class counsel, secured settlements from the defendants that provided nearly US$600 million in direct refunds to their citizens. In a pending lawsuit brought against various manufacturers of generic pharmaceuticals, 44 state attorneys general have alleged that the defendants unlawfully conspired to fix the prices for numerous generic drugs, which forced their states and citizens to pay billions of dollars in overcharges, as well as significantly harmed their states’ general economies. State attorneys general have also invoked their parens patriae authority to protect their citizens and state economies from the harm caused by anticompetitive transactions. For instance, in their pending challenge to T-Mobile’s proposed acquisition of Sprint, nearly 20 state attorneys general have alleged that the transaction will result in their residents paying higher prices for lower quality mobile phone services as well as harm to their states’ general economies. Likewise, the state attorneys general that joined the DOJ’s successful challenges to the proposed Anthem/Cigna and Aetna/Humana mergers alleged that these mergers would have harmed their citizens and the general economies of their states by reducing the number of large health insurance providers from five to three. There are, however, important limitations on the parens patriae authority conferred to state attorneys general under the federal antitrust laws. For instance, the monetary relief sought by state attorneys general must: (1) arise out of a Sherman Act violation; (2) have been incurred by natural persons residing in their states (i.e., the losses suffered by business organisations cannot be included in the alleged damages); (3) exclude harm suffered by indirect purchasers of the goods and/or services in question; (4) avoid the risk of multiple recoveries by excluding amounts previously awarded for the same injuries; and (5) arise out of actual financial losses rather than general harm to their state’s economy. Moreover, state attorneys general must provide their residents with adequate notice of the lawsuit and a meaningful opportunity to opt out of the litigation. In seeking to prove the monetary harm suffered by their citizens, state attorneys general can employ many of the same methods utilised by private plaintiffs. In price-fixing cases, for example, state attorneys general can prove the claimed aggregate damages by utilising ‘statistical or sampling methods’, ‘comput[ing[ [the] illegal overcharges’, or relying on any other methodology deemed ‘reasonable’ by the court. In addition, a number of state antitrust laws authorise their state attorney general to hire private lawyers to handle parens patriae actions, which the state attorneys general challenging the T-Mobile/Sprint merger have done. Civil enforcement of state antitrust lawsMost states have enacted state antitrust laws that are comparable to Sections 1 and 2 of the Sherman Act. In addition, some states have passed antitrust laws that are similar to Sections 3 and 7 of the Clayton Act and the Robinson-Patman Act. These state antitrust laws typically contain provisions expressly requiring that ‘they be construed in conformity with comparable [f]ederal antitrust statutes’.

State antitrust statutes typically provide state attorneys general with broad authority to investigate possible violations, including the power to ‘issue civil investigative demands compelling oral testimony, the production of documents, and responses to written interrogatories to individuals and corporations’. Like the federal antitrust laws, most state antitrust laws authorise state attorneys general to file civil lawsuits on behalf of their states and state governmental entities whenever a violation has caused them to suffer harm in their capacity as direct purchasers of goods or services, as well as parens patriae actions on behalf of their citizens.

## T

T – Scope

#### Interpretation and violation: Expansion of scope of antitrust laws requires removing a current exemption

#### Antitrust law’s scope is broad

Sagers 15 [Christopher L. Sagers, Editorial Chair, Handbook on the Scope of Antitrust, ABA SECTION OF ANTITRUST LAW, HANDBOOK ON THE SCOPE OF ANTITRUST (2015), poapst]

The Supreme Court’s many **emphatic** generalizations over several decades suggest that **antitrust applies very broadly**. “[A]ntitrust,” the Court has said, “[is] a fundamental national economic policy.” It is no less than a “**charter of freedom**” and our very “**Magna Carta of free enterprise**.”3 When describing the scope of antitrust law in the abstract, therefore, courts commonly speak in very broad terms. Because “Congress intended to strike as broadly as it could” in enacting the antitrust laws, “[l]anguage more comprehensive” than those statutes contain “is difficult to conceive.” The breadth accorded the antitrust laws by the courts “reflects the felt indispensable role of antitrust policy in the maintenance of a free economy….” One might then have thought that the scope of antitrust would be a simple affair. If the law applies so broadly, then cases raising serious issues of applicability would be rare. But in fact it is not simple at all. The scope of antitrust is governed by dozens of federal statutes and by a variety of elaborate caselaw doctrines. Numerous cases every year raise difficult scope issues, and many hundreds or thousands of reported opinions now address them, often in meticulous, complex detail. The scope of antitrust has morphed into a large, distinct, and complex body of law. No prior work appears to have considered the entire law of the scope of antitrust as one body, in any comprehensive and integrated way. Integrated treatment poses certain benefits. A primary goal of this book is to aid practitioners, because several of the scope doctrines have become complex and uncertain, and their interrelationships can be especially challenging. Integrated treatment might also be useful for public policy purposes, given that scope issues have generated frequent reform efforts and debate. While this Handbook takes no position on normative matters, a problem in those debates has been their oftentimes great complexity. As one example, commentators have criticized results in which different doctrines are applied in different ways to similar facts, and the Supreme Court, too, has occasionally indicated that scope doctrines applicable to different circumstances should nevertheless be theoretically consistent. Addressing questions of that nature, however, has been difficult simply because doctrinal scope issues are ordinarily considered in isolation, a fact that in itself reflects the complexity and scale of the issues. In those rare cases in which conflicts among scope doctrines are considered, courts have felt unable or unauthorized to resolve them.

#### Limits to its scope are codified exemptions – means you have to get rid of one

Sagers 15 [Christopher L. Sagers, Editorial Chair, Handbook on the Scope of Antitrust, ABA SECTION OF ANTITRUST LAW, HANDBOOK ON THE SCOPE OF ANTITRUST (2015), poapst]

On the other hand, **scope limits** of various kinds have always existed. Congress explicitly limited antitrust by statute as early as 1914,19 and did so many more times during the rise of organized labor20 and the price-and-entry regulatory regimes of the Progressive and New Deal eras.21 Judge-made limits were likewise recognized as early as 1922, again mainly as a consequence of the new regulatory regimes.22 As new waves of health and safety regulation emerged during the 1960s and 1970s,23 defendants sought antitrust clemency with some increasing success.24 Courts have also long sought to protect the political process from antitrust, even though businesses have frequently turned to that arena for advantage within the marketplace.25 Interestingly, most other nations with competition laws have similar histories of complex scope limits. The European Union (EU), for example, built a process for exemption into the very first treaty creating its competition law,26 and much of the work of its competition authority has involved administration of that process. The national laws of several EU member states likewise included various exclusions before creation of the EU,27 and exemptions exist in Australia, Canada, Japan, and South Korea.28 This long history, in which the generally broad applicability of the antitrust laws has been fraught with controversial disputes, can be seen as a struggle between the general and the specific. For the most part, substantive antitrust insists on generality and purports to oppose special treatment for the idiosyncrasies of particular markets.29 Antitrust presumes, in other words, that in respects important to antitrust, markets are mostly the same. Thus, in the absence of an **exemption**, the U.S. antitrust laws apply to all exchanges of goods or services for consideration, anywhere within the domestic reach of Congress’s interstate commerce power, and quite broadly to overseas conduct as well, where anticompetitive effects are felt in the United States.30 Yet, that broad application, especially during periods in which antitrust laws were applied more strictly and many kinds of conduct were held per se illegal, invites arguments that some contexts simply cannot be subject to one-size-fits-all policies.31 There have been times, as during the heyday of “destructive competition” reasoning during the first part of the 20th century, when industries like transportation, communications, and insurance were quite successful in arguing that special economic problems prevented them from performing well under the rules of competition that antitrust imposed elsewhere.32 Similar arguments have found some traction in more recent times, even as during this purportedly deregulatory age we generally claim to have disposed of the long-standing fear of destructive competition. For example, recent, **explicit antitrust exemptions** now protect standard setting organizations,33 the placement program for medical residents,34 and charitable gift annuities. Accordingly, despite the strong commitment to generality often stated, **we do in fact see limits on scope**. For the most part, the courts and Congress have followed one consistent instinct in moderating these struggles between the general and the specific. They typically will relax the preference for antitrust only where there is some other public, politically accountable oversight of a particular market. In effect, **antitrust exemptions** usually reflect the instinct that we should have **either regulation** **or** **antitrust** in any given context, which is to say that any context should be regulated either by direct government oversight or by competition kept healthy through antitrust.36 Thus, at least traditionally, Congress rarely displaced antitrust without setting up an administrative agency to take its place. Likewise, where courts fashioned scope limitations, they generally did so only where a regulatory agency oversaw rates or conduct (as with the filed rate doctrine) or where the challenged conduct was actually the conduct of a government entity itself (as with the state action doctrine).

#### Vote negative

#### Limits explosion --- antitrust law can potentially cover anything, only defining expand scope as removing an exemption to antitrust law that is on the books prevents tweak of the week affs designed to be small repairs.

#### Ground – Forcing affs to remove exemptions centers the debate on core areas of antitrust that were controversial enough to warrant an exemption.

# On

## Climate

#### Democracy decline inevitable and it doesn’t solve any impacts

Jeffrey Haynes (London Metropolitan University) 2018 [“How democracy ends, by David Runciman” Democratization, DOI: 10.1080/13510347.2018.1505871, loghry]

It is common knowledge that democracy is in decline. From the high point of the immediate post-Cold War period until around the late 1990s or early 2000s, democracy seemed to be on the up. Fukuyama identified the late 1980s as the “end of history” with liberal democracy unchallenged by alternative political systems. When we are all democrats now, it seems that the only way to go is down. Fast forward a quarter century: things do not look so good with democracy “in retreat” and the rise of the authoritarian populists clear and spreading.

What has gone wrong? David Runciman’s answer is that what we know and understand as “democracy” today was created and developed in an earlier era which has now gone – never to return. We used to think that we would have either “democracy” or “non-democracy” aka “authoritarianism” or in the most extreme cases, “totalitarianism”. The twentieth century had not only its democratisation waves (post-1945, post1989) but also its authoritarian/totalitarian waves (Nazi Germany, Stalin’s Soviet Union). Post-Cold War, Fukuyama was right to suggest that there was no overall political ideology that could compete with democracy, no non-democratic alternative that could oust democracy as most people’s preferred option. Democracy, famously but inaccurately described as “rule by the people”, now seems under threat like never before, seriously challenged by the likes of Donald Trump, Vladimir Putin, Rodrigo Duterte, and Matteo Salvini. What they all have in common is that, officially, they are all democrats, while at the same time trampling on many democratic “rights”: such as, equality, justice, protection of minorities, and freedom of expression.

Runciman does not argue that “we” have lost the ability to be democrats. Rather, he contends that being a “democrat” is no longer enough in today’s unprecedented world where many people spend more and more time on “social media” – often reinforcing their own opinions by reading similar ones expressed by others – and buying “stuff” – often via Amazon. The outcome, Runciman explains, is that “we” have little time or inclination to get involved in the nuts and bolts, the hard graft, of politics and democracy: such as, joining a political party, knocking on doors at election time to ascertain citizens’ voting intentions, and seeking to hold elected politicians to account by keeping a close watch on what they do when in office.

#### Democracy destroys the environment – several reasons.

Li and Reuveny 7

Li, Prof of poli sci at Penn State, and Reuveny, prof of public and environmental affairs @ Indiana U, Quan and Rafael, “The Effects of Liberalism on the Terrestrial Environment” http://cmp.sagepub.com/cgi/content/abstract/24/3/219

According to the *policy inaction argument*, facing environmental degradation, democracy can often exhibit policy inaction for several reasons (Midlarsky, 1998: 159). First, democracy seeks to please competing interest groups. As such, it may be reluctant to alleviate environmental degradation because some groups are expected to benefit (or lose) from environmental policies more than others. Second, “corporation and environmental groups can fight each other to a standstill, leaving a decision making vacuum instead of a direct impact of democracy on the environment.” Third, when budgets are tight democracies may ignore environmental problems, perceiving economic issues to be more pressing.

#### No climate impact---bad studies and we’ll adapt

Nils P. Gleditsch 21, Research Professor at the Peace Research Institute Oslo, “This time is different! Or is it? NeoMalthusians and environmental optimists in the age of climate change,” Journal of Peace Research, pg. 5-6, 2021, SAGE. clarification denoted with brackets.

The most extreme contrarian position is, of course, to deny one or both key conclusions of the IPCC: the reality of global warming or the human contribution to it. However, most environmental optimists accept these two key conclusions but raise other problems with the panel’s discussion of the social effects of climate change and even more so with popular interpretations of the panel reports. For instance, Hausfather & Peters (2020), by no means ‘climate deniers’, decry the common use of choosing the high-risk [scenario] RCP8.59 to illustrate ‘business as usual’ as misleading. The causal chains from climate change to the proposed effects on human beings are long and complex, and the uncertainty increases every step of the way. In the literature on the social effects of climate change, including the IPCC reports, statements abound that something ‘may’ lead to something else, or that a variable ‘is sensitive to’ another, without any guidelines for how to translate this into probabilities (Gleditsch & Nordås, 2014: 87f). Uncritical use of the precautionary principle, where any remotely possible calamity unwittingly becomes a probable event, is not helpful. Gleditsch & Nordås (2014: 85) note that while AR5 (IPCC, 2014) did not find strong evidence for a direct link between climate change and conflict, it argued that climate change is likely to impact known conflict-inducing factors like poverty and inconsistent political institutions and therefore might have an indirect effect on conflict. But this assumes that correlations are transitive, which is not generally the case. If A correlates with B and B with C, we know nothing about how A relates to C unless both correlations are extremely high. The strongest case for the climate–conflict link is the effect of interaction between climate change and factors like poverty, state failure, or ethnic polarization. It may be more cost-effective to try to deal with these other risk factors than with global warming itself if the goal is to reduce the ‘risk multiplier’ effect of climate change on armed conflict. The articles in this special issue do not generally see scarcity by itself as necessarily resulting in strongly negative outcomes. Factors like development, state failure, and previous overload on ecosystems continue to play an important role in that they interact with climate change to produce conflict and other social outcomes. For instance, Ide, Kristensen & Bartusevicˆius (2021) conclude that the impact of floods on political conflict are contingent on other factors such as population size and regime type. Moreover, most of the articles do not assume that scarcities are likely to arise at the global level. They may be regional (mostly in Africa), national, or local. Urban and rural areas may be affected by different scarcities. Climate change may also affect particularly strongly groups that are already at an economic or political disadvantage. The effects can be alleviated and adaptations constructed at these levels. The argument about how climate change may indirectly impact conflict leans heavily on the negative economic consequences of climate change, but with little or no reference to the research that explicitly deals with this topic. In fact, the relevant chapter in AR5 concluded that for most sectors of the economy, the impact of climate change was likely to be dwarfed by other factors. Tol (2018) finds that the long-term global economic effects are likely to be negative, but that a century of climate change will have about the same impact on the economy as the loss of one year of economic growth. Other economists are more cautious, but the dean of climate change economics, William Nordhaus (2018: 345, 359), estimates that ‘damages are 2.1 percent of global income at 3C warming and 8.5 percent of income at 6C’, while also warning that the longer the delay in taking decisive action, the harsher the necessary countermeasures. Stern (2006) is more pessimistic, based mainly on a lower discount rate (the interest rate used to calculate the present value of future cash flows) as are Wagner & Weitzman (2015). Heal (2017) argues that the Integrated Assessment Models generally used in the assessment of the economics of climate change are not accurate enough to provide quantitative insights and should not be taken as serious forecasts. Yet, all these economists take the basically optimistic view that climate change is manageable with appropriate policies for raising the price on the emission of greenhouse gases. With a chapter heading from Wagner & Weitzman (2015: 17): ‘We can do this’. This more optimistic assessment of climate change does not assume that the challenge will go away by itself or can be left to the market. A plausible approach, favored by most economists,10 is the imposition of a robust and increasing price on carbon emissions (whether as a carbon tax or through a cap and trade scheme) high enough to reduce the use of fossil fuels and encourage the search for their replacement. More than 25 countries had such taxes by early 2018 (Metcalf, 2019), but generally not at a level seen as necessary for limiting global warming to, say, 2C. This approach relies on the use of the market mechanism, but with targets fixed by public policy. Income from a carbon tax can be channeled back to the citizens to avoid increasing overall taxation. To speed up the transition, funds can also be allocated to the research and development of cheaper and more efficient production of various forms of fossil-free energy, including nuclear power (Goldstein & Qvist, 2019). The response of the environmental optimists continues to emphasize the role of innovations; technological innovations, such as improvements in battery technology, the key element in the 2019 Nobel Prize in chemistry,11 but also social innovations, as exemplified by the experimental approach to the alleviation of poverty, rewarded in the same year by the Nobel Prize in economics.12 While the most important countermeasures will be directed at the mitigation of climate change, there is also a strong case for adaptation. If sea-level rise cannot be totally prevented, dikes and flood barriers will be cost-effective and necessary, at least in high-value urban areas. If parts of Africa suffer from drought, there will be increased use for new crops that are more suitable for a dry climate, possibly developed in part by GMO technology. Industrialization in Africa can decrease the one-sided reliance on rain-fed agriculture, as it has in other parts of the world, which have moved human resources from the primary sector to industry (and then to services). Continuing urbanization will move millions out of the most vulnerable communities (Collier, 2010). While structural change failed to produce economic growth in Latin America and Africa after 1990, Africa has experienced a turnaround in the new millennium (McMillan & Rodrik, 2014) and there are also potentials for increasing productivity by structural change within agriculture in Africa (McCullough, 2017).

#### No tipping points or impact for 100 years

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The climate change debate has been polarized into a simple dichotomy. Either global warming is “real, man-made and dangerous,” as Pres. Barack Obama thinks, or it’s a “hoax,” as Oklahoma Sen. James Inhofe thinks. But there is a third possibility: that it is real, man-made and not dangerous, at least not for a long time. This “lukewarm” option has been boosted by recent climate research, and if it is right, current policies may do more harm than good. For example, the Food and Agriculture Organization of the United Nations and other bodies agree that the rush to grow biofuels, justified as a decarbonization measure, has raised food prices and contributed to rainforest destruction. Since 2013 aid agencies such as the U.S. Overseas Private Investment Corporation, the World Bank and the European Investment Bank have restricted funding for building fossil-fuel plants in Asia and Africa; that has slowed progress in bringing electricity to the one billion people who live without it and the four million who die each year from the effects of cooking over wood fires. In 1990 the Intergovernmental Panel on Climate Change (IPCC) was predicting that if emissions rose in a “business as usual” way, which they have done, then global average temperature would rise at the rate of about 0.3 degree Celsius per decade (with an uncertainty range of 0.2 to 0.5 degree C per decade). In the 25 years since, temperature has risen at about 0.1 to 0.2 degree C per decade, depending on whether surface or satellite data is used. The IPCC, in its most recent assessment report, lowered its near-term forecast for the global mean surface temperature over the period 2016 to 2035 to just 0.3 to 0.7 degree C above the 1986–2005 level. That is a warming of 0.1 to 0.2 degree C per decade, in all scenarios, including the high-emissions ones. At the same time, new studies of climate sensitivity—the amount of warming expected for a doubling of carbon dioxide levels from 0.03 to 0.06 percent in the atmosphere—have suggested that most models are too sensitive. The average sensitivity of the 108 model runs considered by the IPCC is 3.2 degrees C. As Pat Michaels, a climatologist and self-described global warming skeptic at the Cato Institute testified to Congress in July, certain studies of sensitivity published since 2011 find an average sensitivity of 2 degrees C. Such lower sensitivity does not contradict greenhouse-effect physics. The theory of dangerous climate change is based not just on carbon dioxide warming but on positive and negative feedback effects from water vapor and phenomena such as clouds and airborne aerosols from coal burning. Doubling carbon dioxide levels, alone, should produce just over 1 degree C of warming. These feedback effects have been poorly estimated, and almost certainly overestimated, in the models. The last IPCC report also included a table debunking many worries about “tipping points” to abrupt climate change. For example, it says a sudden methane release from the ocean, or a slowdown of the Gulf Stream, are “very unlikely” and that a collapse of the West Antarctic or Greenland ice sheets during this century is “exceptionally unlikely.” If sensitivity is low and climate change continues at the same rate as it has over the past 50 years, then dangerous warming—usually defined as starting at 2 degrees C above preindustrial levels—is about a century away. So we do not need to rush into subsidizing inefficient and land-hungry technologies, such as wind and solar or risk depriving poor people access to the beneficial effects of cheap electricity via fossil fuels. As the upcoming Paris climate conference shows, the world is awash with plans, promises and policies to tackle climate change. But they are having little effect. Ten years ago the world derived 87 percent of its primary energy from fossil fuels; today, according the widely respected BP statistical review of world energy, the figure is still 87 percent. The decline in nuclear power has been matched by the rise in renewables but the proportion coming from wind and solar is still only 1 percent. Getting the price of low-carbon energy much lower will do the trick. So we should spend the coming decades stepping up research and development of new energy technologies. Many people may reply that we don’t have time to wait for that to bear fruit, but given the latest lukewarm science of climate change, I think we probably do.

#### Disease won’t cause extinction – intervening actors check, resilience, burnout, and adaptation

Adalja 16 — (AMESH ADALJA is an infectious-disease physician at the University of Pittsburgh, 6-17-2016, "Why Hasn't Disease Wiped out the Human Race?," *The Atlantic*, http://www.theatlantic.com/health/archive/2016/06/infectious-diseases-extinction/487514/, \*we do not endorse the problematic language in this evidence #NCCStarter

But when people ask me if I’m worried about infectious diseases, they’re often not asking about the threat to human lives; they’re asking about the threat to human life. With each outbreak of a headline-grabbing emerging infectious disease comes a fear of extinction itself. The fear envisions a large proportion of humans succumbing to infection, leaving no survivors or so few that the species can’t be sustained. I’m not afraid of this apocalyptic scenario, but I do understand the impulse. Worry about the end is a quintessentially human trait. Thankfully, so is our resilience. For most of mankind’s history, infectious diseases were the existential threat to humanity—and for good reason. They were quite successful at killing people: The 6th century’s Plague of Justinian knocked out an estimated 17 percent of the world’s population; the 14th century Black Death decimated a third of Europe; the 1918 influenza pandemic killed 5 percent of the world; malaria is estimated to have killed half of all humans who have ever lived. Any yet, of course, humanity continued to flourish. Our species’ recent explosion in lifespan is almost exclusively the result of the control of infectious diseases through sanitation, vaccination, and antimicrobial therapies. Only in the modern era, in which many infectious diseases have been tamed in the industrial world, do people have the luxury of death from cancer, heart disease, or stroke in the 8th decade of life. Childhoods are free from watching siblings and friends die from outbreaks of typhoid, scarlet fever, smallpox, measles, and the like. So what would it take for a disease to wipe out humanity now? In Michael Crichton’s The Andromeda Strain, the canonical book in the disease-outbreak genre, an alien microbe threatens the human race with extinction, and humanity’s best minds are marshaled to combat the enemy organism. Fortunately, outside of fiction, there’s no reason to expect alien pathogens to wage war on the human race any time soon, and my analysis suggests that any real-life domestic microbe reaching an extinction level of threat probably is just as unlikely. Any apocalyptic pathogen would need to possess a very special combination of two attributes. First, it would have to be so unfamiliar that no existing therapy or vaccine could be applied to it. Second, it would need to have a high and surreptitious transmissibility before symptoms occur. The first is essential because any microbe from a known class of pathogens would, by definition, have family members that could serve as models for containment and countermeasures. The second would allow the hypothetical disease to spread without being detected by even the most astute clinicians. The three infectious diseases most likely to be considered extinction-level threats in the world today—influenza, HIV, and Ebola—don’t meet these two requirements. Influenza, for instance, despite its well-established ability to kill on a large scale, its contagiousness, and its unrivaled ability to shift and drift away from our vaccines, is still what I would call a “known unknown.” While there are many mysteries about how new flu strains emerge, from at least the time of Hippocrates, humans have been attuned to its risk. And in the modern era, a full-fledged industry of influenza preparedness exists, with effective vaccine strategies and antiviral therapies. HIV, which has killed 39 million people over several decades, is similarly limited due to several factors. Most importantly, HIV’s dependency on blood and body fluid for transmission (similar to Ebola) requires intimate human-to-human contact, which limits contagion. Highly potent antiviral therapy allows most people to live normally with the disease, and a substantial group of the population has genetic mutations that render them impervious to infection in the first place. Lastly, simple prevention strategies such as needle exchange for injection drug users and barrier contraceptives—when available—can curtail transmission risk. Ebola, for many of the same reasons as HIV as well as several others, also falls short of the mark. This is especially due to the fact that it spreads almost exclusively through people with easily recognizable symptoms, plus the taming of its once unfathomable 90 percent mortality rate by simple supportive care. Beyond those three, every other known disease falls short of what seems required to wipe out humans—which is, of course, why we’re still here. And it’s not that diseases are ineffective. On the contrary, diseases’ failure to knock us out is a testament to just how resilient humans are. Part of our evolutionary heritage is our immune system, one of the most complex on the planet, even without the benefit of vaccines or the helping hand of antimicrobial drugs. This system, when viewed at a species level, can adapt to almost any enemy imaginable. Coupled to genetic variations amongst humans—which open up the possibility for a range of advantages, from imperviousness to infection to a tendency for mild symptoms—this adaptability ensures that almost any infectious disease onslaught will leave a large proportion of the population alive to rebuild, in contrast to the fictional Hollywood versions. While the immune system’s role can never be understated, an even more powerful protector is the faculty of consciousness. Humans are not the most prolific, quickly evolving, or strongest organisms on the planet, but as Aristotle identified, humans are the rational animals—and it is this fundamental distinguishing characteristic that allows humans to form abstractions, think in principles, and plan long-range. These capacities, in turn, allow humans to modify, alter, and improve themselves and their environments. Consciousness equips us, at an individual and a species level, to make nature safe for the species through such technological marvels as antibiotics, antivirals, vaccines, and sanitation. When humans began to focus their minds on the problems posed by infectious disease, human life ceased being nasty, brutish, and short. In many ways, human consciousness became infectious diseases’ worthiest adversary. None of this is meant to allay all fears of infectious diseases. To totally adopt a Panglossian viewpoint would be foolish—and dangerous. Humans do face countless threats from infectious diseases: witness Zika. And if not handled appropriately, severe calamity could, and will, ensue. The West African Ebola outbreak, for instance, festered for months before major efforts to bring it under control were initiated. When it comes to infectious diseases, I’m worried about the failure of institutions to understand the full impact of outbreaks. I’m worried about countries that don’t have the infrastructure or resources to combat these outbreaks when they come. But as long as we can keep adapting, I’m not worried about the future of the human race.

## Econ

#### Economic decline doesn’t cause war, no diversionary theory

Walt 20 – [Stephen M. Walt is an American professor of international affairs at Harvard University's John F. Kennedy School of Government, 5/13/2020, “Will a Global Depression Trigger Another World War?” <https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/>] GBN-PK

By many measures, 2020 is looking to be the worst year that humankind has faced in many decades. We’re in the midst of a pandemic that has already claimed more than 280,000 lives, sickened millions of people, and is certain to afflict millions more before it ends. The world economy is in free fall, with unemployment rising dramatically, trade and output plummeting, and no hopeful end in sight. A plague of locusts is back for a second time in Africa, and last week we learned about murderous killer wasps threatening the bee population in the United States. Americans have a head-in-the-sand president who prescribes potentially lethal nostrums and ignores the advice of his scientific advisors. Even if all those things magically disappeared tomorrow—and they won’t—we still face the looming long-term danger from climate change. Given all that, what could possibly make things worse? Here’s one possibility: war. It is therefore worth asking whether the combination of a pandemic and a major economic depression is making war more or less likely. What does history and theory tell us about that question? For starters, we know neither plague nor depression make war impossible. World War I ended just as the 1918-1919 influenza was beginning to devastate the world, but that pandemic didn’t stop the Russian Civil War, the Russo-Polish War, or several other serious conflicts. The Great Depression that began in 1929 didn’t prevent Japan from invading Manchuria in 1931, and it helped fuel the rise of fascism in the 1930s and made World War II more likely. So if you think major war simply can’t happen during COVID-19 and the accompanying global recession, think again. But war could still be much less likely. The Massachusetts Institute of Technology’s Barry Posen has already considered the likely impact of the current pandemic on the probability of war, and he believes COVID-19 is more likely to promote peace instead. He argues that the current pandemic is affecting all the major powers adversely, which means it isn’t creating tempting windows of opportunity for unaffected states while leaving others weaker and therefore vulnerable. Instead, it is making all governments more pessimistic about their short- to medium-term prospects. Because states often go to war out of sense of overconfidence (however misplaced it sometimes turns out to be), pandemic-induced pessimism should be conducive to peace. Moreover, by its very nature war requires states to assemble lots of people in close proximity—at training camps, military bases, mobilization areas, ships at sea, etc.—and that’s not something you want to do in the middle of a pandemic. For the moment at least, beleaguered governments of all types are focusing on convincing their citizens they are doing everything in their power to protect the public from the disease. Taken together, these considerations might explain why even an impulsive and headstrong warmaker like Saudi Arabia’s Mohammed bin Salman has gotten more interested in winding down his brutal and unsuccessful military campaign in Yemen. Posen adds that COVID-19 is also likely to reduce international trade in the short to medium term. Those who believe economic interdependence is a powerful barrier to war might be alarmed by this development, but he points out that trade issues have been a source of considerable friction in recent years—especially between the United States and China—and a degree of decoupling might reduce tensions somewhat and cause the odds of war to recede. For these reasons, the pandemic itself may be conducive to peace. But what about the relationship between broader economic conditions and the likelihood of war? Might a few leaders still convince themselves that provoking a crisis and going to war could still advance either long-term national interests or their own political fortunes? Are the other paths by which a deep and sustained economic downturn might make serious global conflict more likely? One familiar argument is the so-called diversionary (or “scapegoat”) theory of war. It suggests that leaders who are worried about their popularity at home will try to divert attention from their failures by provoking a crisis with a foreign power and maybe even using force against it. Drawing on this logic, some Americans now worry that President Donald Trump will decide to attack a country like Iran or Venezuela in the run-up to the presidential election and especially if he thinks he’s likely to lose. This outcome strikes me as unlikely, even if one ignores the logical and empirical flaws in the theory itself. War is always a gamble, and should things go badly—even a little bit—it would hammer the last nail in the coffin of Trump’s declining fortunes. Moreover, none of the countries Trump might consider going after pose an imminent threat to U.S. security, and even his staunchest supporters may wonder why he is wasting time and money going after Iran or Venezuela at a moment when thousands of Americans are dying preventable deaths at home. Even a successful military action won’t put Americans back to work, create the sort of testing-and-tracing regime that competent governments around the world have been able to implement already, or hasten the development of a vaccine. The same logic is likely to guide the decisions of other world leaders too. Another familiar folk theory is “military Keynesianism.” War generates a lot of economic demand, and it can sometimes lift depressed economies out of the doldrums and back toward prosperity and full employment. The obvious case in point here is World War II, which did help the U.S economy finally escape the quicksand of the Great Depression. Those who are convinced that great powers go to war primarily to keep Big Business (or the arms industry) happy are naturally drawn to this sort of argument, and they might worry that governments looking at bleak economic forecasts will try to restart their economies through some sort of military adventure. I doubt it. It takes a really big war to generate a significant stimulus, and it is hard to imagine any country launching a large-scale war—with all its attendant risks—at a moment when debt levels are already soaring. More importantly, there are lots of easier and more direct ways to stimulate the economy—infrastructure spending, unemployment insurance, even “helicopter payments”—and launching a war has to be one of the least efficient methods available. The threat of war usually spooks investors too, which any politician with their eye on the stock market would be loath to do. Economic downturns can encourage war in some special circumstances, especially when a war would enable a country facing severe hardships to capture something of immediate and significant value. Saddam Hussein’s decision to seize Kuwait in 1990 fits this model perfectly: The Iraqi economy was in terrible shape after its long war with Iran; unemployment was threatening Saddam’s domestic position; Kuwait’s vast oil riches were a considerable prize; and seizing the lightly armed emirate was exceedingly easy to do. Iraq also owed Kuwait a lot of money, and a hostile takeover by Baghdad would wipe those debts off the books overnight. In this case, Iraq’s parlous economic condition clearly made war more likely. Yet I cannot think of any country in similar circumstances today. Now is hardly the time for Russia to try to grab more of Ukraine—if it even wanted to—or for China to make a play for Taiwan, because the costs of doing so would clearly outweigh the economic benefits. Even conquering an oil-rich country—the sort of greedy acquisitiveness that Trump occasionally hints at—doesn’t look attractive when there’s a vast glut on the market. I might be worried if some weak and defenseless country somehow came to possess the entire global stock of a successful coronavirus vaccine, but that scenario is not even remotely possible. If one takes a longer-term perspective, however, a sustained economic depression could make war more likely by strengthening fascist or xenophobic political movements, fueling protectionism and hypernationalism, and making it more difficult for countries to reach mutually acceptable bargains with each other. The history of the 1930s shows where such trends can lead, although the economic effects of the Depression are hardly the only reason world politics took such a deadly turn in the 1930s. Nationalism, xenophobia, and authoritarian rule were making a comeback well before COVID-19 struck, but the economic misery now occurring in every corner of the world could intensify these trends and leave us in a more war-prone condition when fear of the virus has diminished. On balance, however, I do not think that even the extraordinary economic conditions we are witnessing today are going to have much impact on the likelihood of war. Why? First of all, if depressions were a powerful cause of war, there would be a lot more of the latter. To take one example, the United States has suffered 40 or more recessions since the country was founded, yet it has fought perhaps 20 interstate wars, most of them unrelated to the state of the economy. To paraphrase the economist Paul Samuelson’s famous quip about the stock market, if recessions were a powerful cause of war, they would have predicted “nine out of the last five (or fewer).” Second, states do not start wars unless they believe they will win a quick and relatively cheap victory. As John Mearsheimer showed in his classic book Conventional Deterrence, national leaders avoid war when they are convinced it will be long, bloody, costly, and uncertain. To choose war, political leaders have to convince themselves they can either win a quick, cheap, and decisive victory or achieve some limited objective at low cost. Europe went to war in 1914 with each side believing it would win a rapid and easy victory, and Nazi Germany developed the strategy of blitzkrieg in order to subdue its foes as quickly and cheaply as possible. Iraq attacked Iran in 1980 because Saddam believed the Islamic Republic was in disarray and would be easy to defeat, and George W. Bush invaded Iraq in 2003 convinced the war would be short, successful, and pay for itself. The fact that each of these leaders miscalculated badly does not alter the main point: No matter what a country’s economic condition might be, its leaders will not go to war unless they think they can do so quickly, cheaply, and with a reasonable probability of success. Third, and most important, the primary motivation for most wars is the desire for security, not economic gain. For this reason, the odds of war increase when states believe the long-term balance of power may be shifting against them, when they are convinced that adversaries are unalterably hostile and cannot be accommodated, and when they are confident they can reverse the unfavorable trends and establish a secure position if they act now. The historian A.J.P. Taylor once observed that “every war between Great Powers [between 1848 and 1918] … started as a preventive war, not as a war of conquest,” and that remains true of most wars fought since then. The bottom line: Economic conditions (i.e., a depression) may affect the broader political environment in which decisions for war or peace are made, but they are only one factor among many and rarely the most significant. Even if the COVID-19 pandemic has large, lasting, and negative effects on the world economy—as seems quite likely—it is not likely to affect the probability of war very much, especially in the short term.

#### Resource and structural factors make growth unsustainable, technology overwhelmingly doesn’t solve, and it’s try or die for the transition

Trainer 16 – Ted Trainer, Conjoint Lecturer in the School of Social Sciences, University of New South Wales, 2016 (“Sustainability – The Simpler Way Perspective,” *Resilience*, May 10th, <http://www.resilience.org/articles/General/2016/07_July/Sustainability%20The%20Simpler%20Way%20Perspective.pdf>, AIvackovic)

Firstly, let’s set the scene; The deteriorating state of the planet. The resource base and environmental conditions on which the present levels of global production and consumption are built are obviously deteriorating at an alarming rate. Few if any would not be aware of this but it is important to briefly remind ourselves before focusing on how impossible it would be for this base to sustain affluence and growth for all. A glance at the situation reveals that resources are becoming more scarce and costly, including energy, productive land, minerals, food, fish, wood and water, and ecosystems are being severely damaged. We are losing species, forests, land, coral reefs, grasslands and fisheries at accelerating rates. A sixth era of massive biodiversity loss appears to have begun. We are polluting the planet with excess carbon dioxide, nitrogen and many toxic chemicals. The mass of big animals on the planet has declined sharply in recent decades, probably down by 90% in the sea. The World Wildlife Fund says that in general the quality of global ecosystems has deteriorated 30% since about 1970, and its “Footprint” measure indicates that we are now taking biological resources at a rate that would take 1.5 planets to provide in a sustainable way. (2014.) The reason for all this massive resource depletion and damage to the environment is simply that there is far too much producing and consuming going on. This is causing too many resources to be taken from nature and too many wastes to be dumped back into nature. Now consider the limits case: Could everyone live as we do? The 10-15% of the world’s people living in regions such as North America, Australia and Europe have per capita levels of resource use that are around 20 times the average for the poorest half of people. How likely is it that all the 9.7 billion people expected by 2050 could rise to the present rich world level of resource use? If they did live as we do then world annual resource production and consumption, and ecological damage, would be approaching 6 times as great as at present. Yet present levels of resource use and environmental impact are far from sustainable. The World Wildlife Fund’s ”Footprint” analysis yields an even higher multiple. They estimate that it takes about 8 ha of productive land to provide water, energy settlement area and food for one person living in Australia. So if 9 billion people were to live as we do we would need about 72 billion ha of productive land. But that is about 9 times all the available productive land on the planet. Now add the absurdly impossible implications of economic growth. But the foregoing argument has only been that the present levels of production and consumption are quite unsustainable. Yet we are determined to increase present living standards and levels of output and consumption, as much as possible and without any end in sight. In other words, our supreme national goal is economic growth. Few people seem to recognise the absurdly impossible consequences of pursing economic growth. If we rich countries have a 3% p.a. increase in economic activity until 2050 then our output, resource use and environmental impact will be around 4 times as great as it is now, and doubling every 23 years thereafter. Now what if by 2050 all the expected 9.7 billion people expected to be living on earth had risen to the “living standards” we in rich countries would then have given 3% economic growth. Total world output, resource, use and environmental impact would be approaching 15 times as great as they are now … unless technical advance and efficiency gains could greatly reduce them. (See below.) These multiplies must be the focal point in discussions of sustainability. Grasping the magnitude of the overshoot and of the unsustainability is crucial here. The numbers show that present, let alone probable 2050 rich world levels of consumption, are grossly unsustainable and could never be extended to all people. But can’t technical advance solve the problems? Most people hold the "technical fix faith", believing that technical advance will solve the resource and environmental problems and thereby make it unnecessary for us to question the commitment to affluence and growth. When considering the following evidence keep in mind that what we need is not just to stop increases in impacts as growth goes on -- we need to reduce impacts dramatically before sustainable levels are reached. There is a very strong case that technical advance is nowhere near capable of solving the sustainability problems facing us. Note that many miraculous technical developments, e.g., in physics, astronomy, genetics, and medicine, are not so relevant here where the focus is on the possibility of making big improvements in the efficiency and energy costs of producing energy and materials, and of cutting ecological impacts. Following are some of the main elements in the case. 1. Efficiency gains to date. It is not the case that technical achievements in the relevant areas have been very encouraging. Ayres and Vouroudis (2009) note that for many decades the efficiency of production of electricity and fuels, electric motors, ammonia and iron and steel has more or less plateaued. In many crucial areas such as producing energy and minerals (below) the trend is towards worse efficiency, i.e., the need is for increasing inputs per unit of output. 2. The deteriorating productivity growth rate. Technical advance is regarded as a major determinant of productivity growth and that has been in long term decline since the 1970s. Even the advent of computerisation has had a surprisingly small effect, a phenomenon now labelled the “Productivity Paradox.” In fact the UK productivity growth rate has recently has gone below zero; i.e., productivity has actually deteriorated. (Weldon, 2016.) 3. Little or no “decoupling” is occurring for materials or energy use. This is the most important issue; does recent history indicate that economic output has been or can be separated from materials and energy use, so that growth can continue while resource demand falls? The “Tech-Fix faith” is fundamentally dependent on the assumption that massive decoupling is possible. But all the evidence seems to say that the amount of materials or energy needed to produce a unit of GDP in rich countries has not improved much if at all in recent years. The box below refers to some of the evidence. Weidmann et al. (2014) say “…for the past two decades global amounts of iron ore and bauxite extractions have risen faster than global GDP.” “… resource productivity…has fallen in developed nations.” “There has been no improvement whatsoever with respect to improving the economic efficiency of metal ore use.” Giljum et al. (2014, p. 324) report in the world as a whole only a 0.9% p.a. improvement in the dollar value extracted from the use of each unit of minerals between 1980 and 2009, and that over the 10 years before the GFC there was no improvement. “…not even a relative decoupling was achieved on the global level.” They point out that the picture would have been worse had they included the many materials in rich world imports. Diederan’s account (2009) of the productivity of minerals discovery effort is even more pessimistic. Between 1980 and 2008 the annual major deposit discovery rate fell from 13 to less than 1, while discovery expenditure went from about $1.5 billion p.a. to $7 billion p.a., meaning the productivity of expenditure fell by a factor in the vicinity of around 100, which is an annual decline of around 40% p.a. Recent petroleum figures are similar; in the last decade or so the discovery rate has not increased but discovery expenditure more or less trebled. (Johnson, 2010.) Schandl et al. (2015) say “ … there is a very high coupling of energy use to economic growth, meaning that an increase in GDP drives a proportional increase in energy use.” “Our results show that while relative decoupling can be achieved in some scenarios, none would lead to an absolute reduction in energy or materials footprint.” In all three of their scenarios “… energy use continues to be strongly coupled with economic activity...” Alvarez found that for Europe, Spain and the US, GDP increased 74% in 20 years, but materials use actually increased 85%. (Latouche, 2014.) Similar conclusions re stagnant or declining materials use productivity etc. are arrived at by Aadrianse, 1997, Dittrich et al., (2014), Schutz, Bringezu and Moll, (2004), Warr, (2004), Berndt, (1990), Smil, (2014) and Victor (2008, pp. 55-56). (Note that economists often claim that the “energy intensity” of rich world economies is improving, but this is only because they fail to take into account the huge amounts of energy used overseas to produce imports, and “fuel switching”; see Kaufman, 2004.) 4. There is ecological deterioration in almost all domains. Technical advance has obviously not slowed, halted or reversed overall damage to the planet’s ecosystems. The “Environmental Kuznets Curve” thesis is an application of the decoupling claim to environmental impacts, asserting that as countries become richer impacts increase for a time but then plateau and fall. There is little doubt now that the thesis is not valid. Rich countries are in general not solving their most serious environmental problems. Alexander’s review (2014) concludes that for the world as a whole, ”… decades of extraordinary technological development have resulted in increased, not reduced, environmental impacts.” These many sources and figures show the extreme implausibility of the tech-fix faith that in future technical advances will enable us to stop worrying about limits and any need to dramatically reduce consumption or the obsession with economic growth. Conclusions on the limits to growth case. In view of these lines of argument it is difficult to see how anyone could disagree with the basic limits to growth case. Present ways are so grossly unsustainable there is no possibility of all people rising to the living standards we take for granted today in rich countries, let alone those we are seeking. Again the most important point is the magnitude of the overshoot. Most people have no idea of how far beyond sustainable levels of consumption we are or how big the reductions should be. For decades many scientists and agencies are have been emphasizing the validity and importance of the basic limits case. Sustainable ways that all could share appear to require us to go down to per capita rates of resource consumption around 10% of those we have now. It follows from the above discussion that the only solution is to shift to some kind of Simpler Way, i.e., to lifestyles, settlements and systems that make it possible for us to live well on a small fraction of our present rich world levels, with no economic growth.

#### Growth-oriented AI ensures extinction---BUT, degrowth orientation solves.

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The challenges of sustainability and of superintelligence are not independent. The changing 84 fluxes of energy, matter, and information can be interpreted as different faces of a general acceleration2 85 . More directly, it is argued below that superintelligence would deeply affect 86 production technologies and also economic decisions, and could in turn be affected by the 87 socioeconomic and ecological context in which it develops. Along the lines of Pueyo (2014, p. 88 3454), this paper presents an approach that integrates these topics. It employs insights from a 89 variety of sources, such as ecological theory and several schools of economic theory. 90 The next section presents a thought experiment, in which superintelligence emerges after the 91 technical aspects of goal alignment have been resolved, and this occurs specifically in a neoliberal 92 scenario. Neoliberalism is a major force shaping current policies on a global level, which urges 93 governments to assume as their main role the creation and support of capitalist markets, and to 94 avoid interfering in their functioning (Mirowski, 2009). Neoliberal policies stand in sharp contrast 95 to degrowth views: the first are largely rationalized as a way to enhance efficiency and production 96 (Plehwe, 2009), and represent the maximum expression of capitalist values. 97 The thought experiment illustrates how superintelligence perfectly aligned with capitalist 98 markets could have very undesirable consequences for humanity and the whole biosphere. It also 99 suggests that there is little reason to expect that the wealthiest and most powerful people would be 100 exempt from these consequences, which, as argued below, gives reason for hope. Section 3 raises 101 the possibility of a broad social consensus to respond to this challenge along the lines of degrowth, 102 thus tackling major technological, environmental, and social problems simultaneously. The 103 uncertainty involved in these scenarios is vast, but, if a non-negligible probability is assigned to 104 these two futures, little room is left for either complacency or resignation. 105 106 2. Thought experiment: Superintelligence in a neoliberal scenario 107 108 Neoliberalism is creating a very special breeding ground for superintelligence, because it strives 109 to reduce the role of human agency in collective affairs. The neoliberal pioneer Friedrich Hayek 110 argued that the spontaneous order of markets was preferable over conscious plans, because markets, 111 he thought, have more capacity than humans to process information (Mirowski, 2009). Neoliberal 112 policies are actively transferring decisions to markets (Mirowski, 2009), while firms' automated 113 decision systems become an integral part of the market's information processing machinery 114 (Davenport and Harris, 2005). Neoliberal globalization is locking governments in the role of mere 115 players competing in the global market (Swank, 2016). Furthermore, automated governance is a 116 foundational tenet of neoliberal ideology (Plehwe, 2009, p. 23). 117 In the neoliberal scenario, most technological development can be expected to take place either in the context of firms or in support of firms3 118 . A number of institutionalist (Galbraith, 1985), post119 Keynesian (Lavoie, 2014; and references therein) and evolutionary (Metcalfe, 2008) economists 120 concur that, in capitalist markets, firms tend to maximize their growth rates (this principle is related 121 but not identical to the neoclassical assumption that firms maximize profits; Lavoie, 2014). Growth 122 maximization might be interpreted as expressing the goals of people in key positions, but, from an 123 evolutionary perspective, it is thought to result from a mechanism akin to natural selection 124 (Metcalfe, 2008). The first interpretation is insufficient if we accept that: (1) in big corporations, the 125 managerial bureaucracy is a coherent social-psychological system with motives and preferences of 126 its own (Gordon, 1968, p. 639; for an insider view, see Nace, 2005, pp. 1-10), (2) this system is 127 becoming techno-social-psychological with the progressive incorporation of decision-making 128 algorithms and the increasing opacity of such algorithms (Danaher, 2016), and (3) human mentality 129 and goals are partly shaped by firms themselves (Galbraith, 1985). 130 The type of AI best suited to participate in firms' decisions in this context is described in a 131 recent review in Science: AI researchers aim to construct a synthetic homo economicus, the 132 mythical perfectly rational agent of neoclassical economics. We review progress toward creating 133 this new species of machine, machina economicus (Parkes and Wellman, 2015, p. 267; a more 134 orthodox denomination would be Machina oeconomica). 135 Firm growth is thought to rely critically on retained earnings (Galbraith, 1985; Lavoie, 2014, p. 136 134-141). Therefore, economic selection can be generally expected to favor firms in which these are greater. The aggregate retained earnings4 137 RE of all firms in an economy can be expressed as: 138 RE=FE(R,L,K)-w⋅L-(i+δ)⋅K-g. (1) 139 Bold symbols represent vectors (to indicate multidimensionality). F is an aggregate production 140 function, relying on inputs of various types of natural resources R, labor L and capital K (including intelligent machines), and being affected by environmental factors5 141 E; w are wages, i are returns to 142 capital (dividends, interests) paid to households, δ is depreciation and g are the net taxes paid to 143 governments. 144 Increases in retained earnings face constraints, such as trade-offs among different parameters of 145 Eq. 1. The present thought experiment explores the consequences of economic selection in a 146 scenario in which two sets of constraints are nearly absent: sociopolitical constraints on market 147 dynamics are averted by a neoliberal institutional setting, while technical constraints are overcome 148 by asymptotically advanced technology (with extreme AI allowing for extreme technological 149 development also in other fields). The environmental and the social implications are discussed in 150 turn. Note that this scenario is not defined by some contingent choice of AIs' goals by their 151 programmers: The goals of maximizing each firm's growth and retained earnings are assumed to 152 emerge from the collective dynamics of large sets of entities subject to capitalistic rules of 153 interaction and, therefore, to economic selection.