# 1NC vs New 1AC

## Off Case

### 1NC – T Exemptions

#### “Expand the scope” means broadening the range of claims that can be brought legitimately---that’s distinct from changing what is prohibited

Barrera 96 – J.D., Wayne State University Law School

Lise A. Barrera, “Is the Courtroom the New Front for the Resolution of Publishing Disputes?,” The Wayne Law Review, Vol. 42, Summer 1996, LexisNexis

It is important to note the distinction between the expansion of the scope of section 43(a) and the standard that courts apply in granting relief to claims under this section. The scope of section 43(a) allows plaintiffs to claim the section provides them with protection and thus should grant them relief. The expansion of the scope allows a much broader range of claims to be brought legitimately under section 43(a). Once the scope of the statute allows the claim to be brought, the courts apply a standard to the claim in order to determine whether a plaintiff should be granted relief.22 The standard applied is also the product of years of judicial interpretation. While the scope of section 43(a) is expanding, however, the standard for relief seems to be becoming higher and harder to meet.

**The plan violates – The only way to do that is by reducing an antitrust exemption---the scope of antitrust laws is *only limited* by sectoral exemptions, state action immunity, and Noer-Pennington immunity**

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Bruce H. Kobayashi and Joshua D. Wright, "Antitrust Exemptions and Immunities in the Digital Economy," Global Antitrust Institute, 5-28-2020, https://gaidigitalreport.com/2020/10/04/exemptions-and-immunities/

Introduction

The antitrust laws were designed to regulate private conduct in order to promote competition and protect consumer welfare from exercises of monopoly power by firms. In other words, the antitrust laws, as “the magna carta of free enterprise,”[1] are designed primarily to regulate private conduct, not government conduct and public restraints of trade.[2] Private activity may still fall **outside the scope of the antitrust laws** when it is **exempted specifically** by Congress, heavily guided or **influenced by the governmen**t, or relates to **attempts to petition the government** to take action.

**Antitrust laws’ outer boundaries** fall into **three categories**: (1) **sectoral** or **industry-level exemptions**, which single out an industry or business line from antitrust scrutiny; (2) **state action immunity**, which provides immunity for anticompetitive behavior by state governments and municipalities under certain conditions; and (3) **Noerr-Pennington immunity**, which aims to protect speech in the form of petitioning activity from antitrust liability.[3] The digital economy interfaces with the government in many respects; therefore, the **antitrust laws’ reach**—shaped by these **exemptions** and **immunities**—plays a clear role in guarding consumer welfare.

**Vote neg---**

**[1]---Limits---any other interpretation allows the aff to change *any* determination the courts have made about the legality of private sector practices, which creates an untenable research burden**

#### [2]---Grounds---provides a core mechanism that can predictably and reliably be the focus of neg contestation

### 1NC – Offsets

#### The United States Federal Government should NOT substantially increase prohibitions on anticompetitive business practices by the private sector, NARROWING the scope of its core antitrust laws to exempt gun manufacturers AND prohibit anticompetitive behavior by defense contractors that results in market domination.

#### First, their plan wording makes this compete. The plan explicitly mandates an increase in prohibitions and expansion in scope. The CP is a PIC that does the opposite.

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Ian & Abraham, 3-14-2018, "A gun control solution manufacturers can get behind," Brookings, <https://www.brookings.edu/research/a-gun-control-solution-manufacturers-can-get-behind/>

The idea that government might act as a cartel ringmaster affirmatively facilitating private collusion might seem far-fetched. But Congress already has explicitly exempted baseball and insurance from parts of the Sherman Act. More to the point, the 1997 multi-state tobacco settlement effectively reduced harm by facilitating a huge price increase on tobacco products. Under this deal, manufacturers had to pay “damages” of 35 cents a pack on future sales but the settlement [exempted a substantial quantity of sales](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.brookings.edu_wp-2Dcontent_uploads_2016_07_1998-5Fbpeamicro-5Fbulow.pdf&d=DwMFAg&c=RAhzPLrCAq19eJdrcQiUVEwFYoMRqGDAXQ_puw5tYjg&r=TU0YTtm6oQJc2RBgyH6nZuym14d_WYVcV-dq-Nbdh64&m=S3iZEzMrG74XOFRm04hIaWQGFgnFCsbkAQUhNnimJmU&s=K0Y8r9vFWlOQGUOH7bxgm1CGmWDjHFgB63YMVDhYffU&e=) from the damages formula. The settlement quickly led to an across the board price increase with the [manufacturers earning an extra 35 cents a pack on all of the exempted sales](https://urldefense.proofpoint.com/v2/url?u=https-3A__ianayres.yale.edu_sites_default_files_files_2000-2520Monsanto-2520Lecture.pdf&d=DwMFAg&c=RAhzPLrCAq19eJdrcQiUVEwFYoMRqGDAXQ_puw5tYjg&r=TU0YTtm6oQJc2RBgyH6nZuym14d_WYVcV-dq-Nbdh64&m=S3iZEzMrG74XOFRm04hIaWQGFgnFCsbkAQUhNnimJmU&s=KPsvAN4Bj_tOt43S4sdf2Cd2NfEq-dNATc4KMDtQ41g&e=).

#### Second, the CP is net-beneficial – It narrows the scope of antitrust law to exempt gun manufacturers. That would spur monopolization and massive price hikes for guns, engineering *de facto* gun control.

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Ian & Abraham, 3-14-2018, "A gun control solution manufacturers can get behind," Brookings, https://www.brookings.edu/research/a-gun-control-solution-manufacturers-can-get-behind/

One of the more daunting tasks in the current struggle to pass sensible gun control legislation is how to neutralize the political power of gun manufacturers who potentially have hundreds of millions of dollars at stake.

But there is a straightforward, if perverse, way to co-opt the gun industry into supporting some restrictions: Help firearm manufacturers cartelize their industry. Congress could immunize gun manufacturers from antitrust liability—making it legal for them to collude and raise gun prices.

Our antitrust laws are designed to prevent firms from agreeing to limit supply in order raise prices. In most markets, this is in the service of protecting consumers and enhancing efficiency. But for products that cause harm, both the public and the producers of the product can benefit from higher prices and reduced supply. Legalizing a gun cartel by itself is a kind of gun control. Just as OPEC is the friend of any environmentalist who wants to reduce oil consumption, a gun manufacturing cartel will reduce the quantity of guns sold in order to raise prices.

Consider, for example, the AR-15 rifle.  The AR-15 isn’t a brand name sold by single manufacturer.  Rather it is a genus of rifles produced by more than [a dozen competitors](https://gunnewsdaily.com/best-ar-15-for-the-money/)—sometimes with prices [less than $700](https://gun.deals/product/ar15-rifle-comparison-700-or-less). But protected by antitrust immunity, these erstwhile competitors could band together and raise the price toward what a monopolist would charge.  Remember last year when Turing Pharmaceuticals realized it was the only seller of [Daraprim and raised the price more than 50 fold.](https://www.scientificamerican.com/article/martin-shkreli-who-raised-drug-prices-from-13-50-to-750-arrested-in-securities-fraud-probe/) Monopolists sometimes charge prices many multiples of their cost. The demand for guns has been estimated to have [a fairly high price elasticity](http://www.jstor.org/stable/pdf/10.1086/324656.pdf?refreqid=excelsior%3A03c98753023c03dc2413bd46628d7548)—so even relatively small price increases of these deadly firearms might have put them beyond the means of the purchasers of the [AR-15 style rifles used in the Parkland, Newtown, and Aurora mass shootings](http://time.com/5160267/gun-used-florida-school-shooting-ar-15/).

#### Guns kill people, and gun control solves it, BUT direct gun control is politically impossible.

**Lopez 17** --- Senior Correspondent at Vox.

German, 10-4-2017, "The research is clear: gun control saves lives," Vox, https://www.vox.com/policy-and-politics/2017/10/4/16418754/gun-control-washington-post

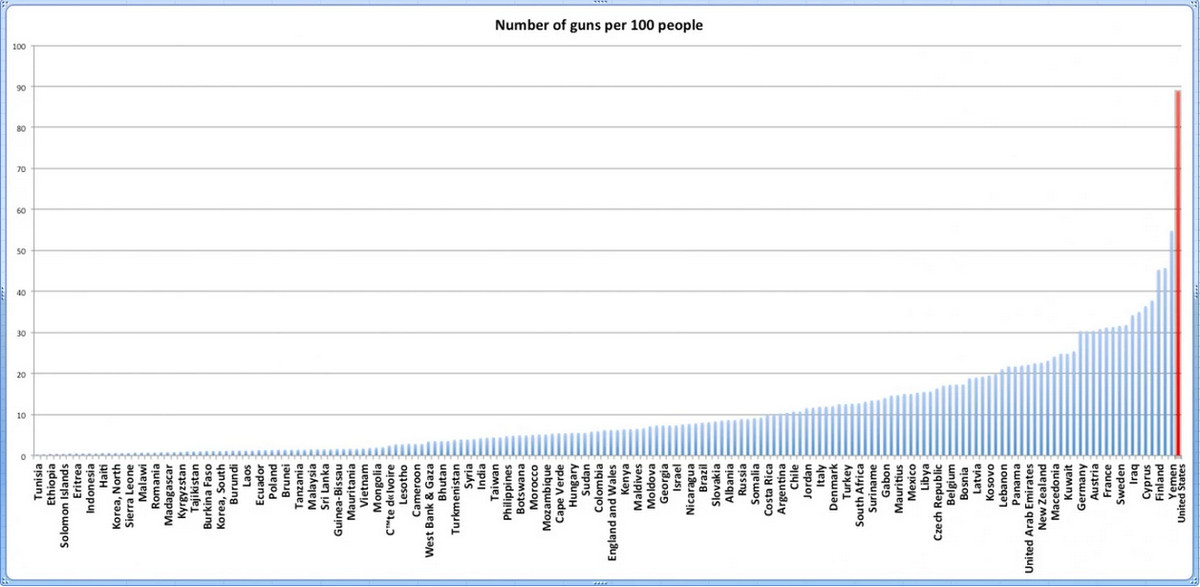
In fact, it’s so persuasive that it changed my mind. I was once skeptical of gun control; I doubted it would have any major impact on gun deaths (similar to [the views I took on drugs](https://www.vox.com/policy-and-politics/2017/4/20/15328384/opioid-epidemic-drug-legalization)). Then I looked at the actual empirical research and studies. My conclusion: Gun control likely saves lives, even if it won’t and can’t prevent all gun deaths.

America’s affair with guns is unique in the developed world

To understand this issue, there’s one thing you need to know: America stands alone when it comes to guns. Not only does the US have more guns than any other country in the world, it also has far more gun deaths than any other developed nation.

The US has nearly six times the gun homicide rate of Canada, more than seven times that of Sweden, and nearly 16 times that of Germany, according to [United Nations data](http://www.theguardian.com/news/datablog/2012/jul/22/gun-homicides-ownership-world-list) compiled by the Guardian. (These gun deaths are a big reason America has a [much higher overall homicide rate](http://www.vox.com/2015/4/7/8364263/us-europe-mass-incarceration), which includes non-gun deaths, than other developed nations.)

The US also has by far the highest number of guns in the world. Estimated in 2007, the number of civilian-owned firearms in the US was 88.8 guns per 100 people, meaning there was almost one privately owned gun per American and more than one per American adult. The world's second-ranked country was Yemen, a quasi-failed state torn by civil war, where there were 54.8 guns per 100 people.



In short, America has the most gun deaths in the developed world, and the most guns period. What’s more, the research indicates these two issues are very much related.

The research is very clear: more guns mean more gun deaths

Going back to the Washington Post op-ed, Libresco argues that her research proved her initial bias — that gun control works — wrong.

But there have been much more thorough statistical analyses than what Libresco published at FiveThirtyEight or wrote about in the Washington Post. They all point to one fact: Gun control does work to save lives.

Last year, researchers from around the country [reviewed](https://academic.oup.com/epirev/article/38/1/140/2754868/What-Do-We-Know-About-the-Association-Between) more than 130 studies from 10 countries on gun control for Epidemiologic Reviews. This is, for now, the most current, extensive review of the research on the effects of gun control. The findings were clear: “The simultaneous implementation of laws targeting multiple firearms restrictions is associated with reductions in firearm deaths.”

The study did not look at one specific intervention, but rather a variety of kinds of gun control, from licensing measures to buyback programs. Time and time again, they found the same line of evidence: Reducing access to guns was followed by a drop in deaths related to guns. And while non-gun homicides also decreased, the drop wasn’t as quick as the one seen in gun-related homicides — indicating that access to guns was a potential causal factor.

Based on the other research, this actually isn’t a very surprising finding. Regularly updated reviews of the evidence compiled by the [Harvard School of Public Health’s Injury Control Research Center](http://www.hsph.harvard.edu/hicrc/firearms-research/guns-and-death/) have consistently found that when controlling for variables such as socioeconomic factors and other crime, places with more guns have more gun deaths.

“Within the United States, a wide array of empirical evidence indicates that more guns in a community leads to more homicide,” David Hemenway, the Injury Control Research Center’s director, wrote in [Private Guns, Public Health](http://books.google.com/books?id=iANw1pb4fPAC&pg=PA61&lpg=PA61&dq=david+hemenway+%22more+guns+in+a+community+lead+to+more+homicide%22&source=bl&ots=GMTIi0MHC2&sig=x63NBQltDDNYkxHQeADfEl1EOis&hl=en&sa=X&ei=2nQIVLiKFY6wyATa5YGoCw&ved=0CDEQ6AEwAg#v=onepage&q=david%20hemenway%20%22more%20guns%20in%20a%20community%20lead%20to%20more%20homicide%22&f=false).

For example, this chart, from [a 2007 study](http://www.ncbi.nlm.nih.gov/pubmed/17070975) by Harvard researchers, shows a correlation between statewide firearm homicide victimization rates and household gun ownership after controlling for robbery rates:

Chart, scatter chart

Description automatically generated

A more recent [study](http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2013.301409) from 2013, led by a Boston University School of Public Health researcher, reached similar conclusions: After controlling for multiple variables, the study found that each percentage point increase in gun ownership correlated with a roughly 0.9 percent rise in the firearm homicide rate.

This holds up around the world. As [Zack Beauchamp explained for Vox](http://www.vox.com/2015/8/27/9217163/america-guns-europe), a breakthrough analysis in the 1990s by UC Berkeley’s Franklin Zimring and Gordon Hawkins found that the US does not, contrary to the old conventional wisdom, have more crime in general than other Western industrial nations. Instead, the US appears to have more lethal violence — and that’s driven in large part by the prevalence of guns.

“A series of specific comparisons of the death rates from property crime and assault in New York City and London show how enormous differences in death risk can be explained even while general patterns are similar,” Zimring and Hawkins wrote. “A preference for crimes of personal force and the willingness and ability to use guns in robbery make similar levels of property crime 54 times as deadly in New York City as in London.”

So America’s easy access to guns seems to lead to more gun violence and death.

But let’s focus on Australia and the UK in particular, since that’s what Libresco did in her Washington Post piece.

It is true that this is a difficult area to study. In part, that’s because these countries have such low homicide rates — to some degree because of previously existing, stricter gun control, criminal justice researcher Jerry Ratcliffe [pointed out](https://twitter.com/Jerry_Ratcliffe/status/915349170436927489) — that it’s going to be difficult to produce any statistically significant findings. It’s also difficult to wash out external effects, besides gun control, on gun deaths, even under the most statistically rigorous models.

The evidence from Australia in particular, though, is very suggestive. In her article for FiveThirtyEight, Libresco cited two studies — [one from 2003](http://faculty.publicpolicy.umd.edu/sites/default/files/reuter/files/gun%20chapter.pdf) and [another from 2016](http://jamanetwork.com/journals/jama/fullarticle/2530362) — that found what she described as little evidence of the effectiveness of gun control. This seems to be true for the 2003 analysis. But the 2016 analysis is much more mixed, noting that there were faster drops in gun deaths after the buyback program was put in place, but failed to reach any hard conclusions because non-gun deaths also dropped more quickly (even more than gun deaths), suggesting that other variables were likely involved.

But this isn’t the only research into Australia’s laws. As my colleagues [Dylan Matthews](https://www.vox.com/2015/10/5/9454161/gun-violence-solution) and [Zack Beauchamp](https://www.vox.com/2015/8/27/9212725/australia-buyback) noted, other studies found positive impacts of the law. [A review of the evidence](https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1264/2012/10/bulletins_australia_spring_2011.pdf) by Harvard’s David Hemenway and Mary Vriniotis, for one, concluded that Australia’s law “seems to have been incredibly successful in terms of lives saved.”

[A 2010 study](http://andrewleigh.org/pdf/GunBuyback_Panel.pdf) by Andrew Leigh of Australian National University and Christine Neill of Wilfrid Laurier University also found that buying back 3,500 guns per 100,000 people correlated with up to a 50 percent drop in firearm homicides and a 74 percent drop in gun suicides. The drop in homicides wasn’t statistically significant, largely because the country’s gun homicide rate is so low that it’s hard to tease out even sharp drops with a lot of certainty. But the drop in suicides was statistically significant.

Most tellingly, Leigh and Neill’s study found that “the largest falls in firearm deaths occurred in states where more firearms were bought back.” Hemenway and Vriniotis reached similar conclusions in their review: “First, the drop in firearm deaths was largest among the type of firearms most affected by the buyback. Second, firearm deaths in states with higher buyback rates per capita fell proportionately more than in states with lower buyback rates.”

By homing in on individual states and types of guns, these studies provide a more rigorous and robust look at Australia’s law than a study like the 2016 analysis that Libresco cited, which broadly looked at nationwide data. And they conclude that the buyback program, along with other changes brought on by the 1996 law, reduced gun deaths.

But most importantly, this goes along with the rest of the evidence — including the extensive review published in Epidemiologic Reviews. When you put it all together, it’s hard to come to any conclusion other than gun control does, at least to some extent, reduce gun deaths.

Gun control can’t stop all violence. But it can help.

With that said, it's probably true that this aspect of the gun control debate is not emphasized enough: Guns are a factor, not the only factor. Other factors include, for example, poverty, urbanization, and alcohol consumption.

But when researchers control for other confounding variables, they have found time and time again that America's high levels of gun ownership are a major reason the US is so much worse in terms of gun violence than its developed peers — and stricter access to guns could help.

Another issue is that many of the policies researchers have studied seem to have, politically speaking, little to no chance in the US, at least at the federal level. Australia outright banned some types of guns, and set up a registry for all firearms owned in the country, required a permit for all new purchases. And, as if that wasn’t enough, its buyback program was mandatory — meaning you had to turn in your weapons, which is essentially government-mandated confiscation.

America can’t even get universal background checks through Congress. These much stricter measures have almost no chance of happening. That hinders the potential effectiveness of US laws: As Dylan Matthews [explained](https://www.vox.com/2015/10/5/9454161/gun-violence-solution), milder versions of gun control do have some evidence behind them in terms of reducing gun deaths, but they’re nowhere as strong as the effects seen with stricter policies.

It’s also true, as Libresco [said on Twitter](https://twitter.com/LeahLibresco/status/915582680263217152), that we could always use more research into gun policy (or, really, any policy issue). But the federal government has [stifled](https://www.vox.com/2015/10/6/9465649/gun-violence-research-cdc) gun research for years.

Still, the current research is clear: Gun control does cut down on gun deaths. A single data journalist’s look at some of the evidence doesn’t change that fact.

### 1NC – M&A pharma

#### There’s a wave of M&A now – companies doubt rule changes will affect them now

David French and Sierra Jackson, Reuters, July 12, 2021, Analysis: Dealmakers see M&A rush, then chills, in Biden's antitrust crackdown

Dealmakers expect a new wave of transformative U.S. mergers and acquisitions (M&A), as companies rush to complete deals before President Joe Biden's antitrust push takes shape, to be followed by a slowdown when regulators start cracking down.

Biden signed a sweeping executive order on Friday to bolster competition within the U.S. economy. This included a call for regulatory agencies to increase scrutiny of corporate tie-ups which have left major sectors such as technology and healthcare dominated by few players. read more

The order came amid an unprecedented M&A frenzy, as companies borrow cheaply and spend mountains of cash they have accumulated on transformative deals to reposition themselves for the post-pandemic world. Almost $700 billion worth of U.S. deals were announced in the second quarter, the highest on record.

The dealmaking bonanza is set to continue, as companies seek to take advantage of the time window during which regulators frame precise rules to implement Biden's order, advisers to the companies said. The M&A slowdown will come only when regulators implement the rule changes, possibly in two years or more, they added.

"The order itself will be less likely to have a chilling effect on strategic M&A than the potential chilling effect of a significant increase in the number of prolonged investigations and merger challenges brought by the agencies," said Michael Schaper, partner at law firm Debevoise & Plimpton.

Spokespeople for the White House and the two main antitrust regulators, the Federal Trade Commission (FTC) and the U.S. Department of Justice (DoJ), did not immediately respond to requests for comment.

Dealmakers were bracing for a tougher antitrust environment under Biden even before last week's executive order. Last month, the DoJ sued to stop insurance broker Aon's (AON.N) $30 billion acquisition of peer Willis Towers Watson (WTY.F). And Biden tapped Lina Khan, an antitrust researcher who has focused her work on Big Tech's immense market power, to chair the FTC.

**The aff signals a new era with a substantive shift in antitrust application---that chills biopharma mergers and decks efficient pharmaceutical innovation**

**Abbott 2/21** – senior research fellow with the Mercatus Center at George Mason University and a law and economics research fellow with the Scalia Law School. He formerly served as the Federal Trade Commission’s general counsel

Alden Abbott, "The FTC Should Keep Its Hands Off Innovative Biopharma Mergers," National Review, 2-21-2022, https://www.nationalreview.com/2022/02/the-ftc-should-keep-its-hands-off-innovative-biopharma-mergers/

Our nation’s biopharmaceutical companies are a great American success story. They are the world leaders in discovering the drugs and vaccines that are generating the cures and treatments for diseases that plague humanity. Strong U.S. government protection for patents and less-intrusive regulation than is found overseas have sparked the massive volume of R&D that has brought forth this bounty. What’s more, the biopharma sector is responsible for more than 4 million good American jobs and contributes over $1.1 trillion annually to the U.S. economy.

The “warp speed” development in 2020 of Covid-19 vaccines and the imminent release of effective Covid antiviral drugs are just two of the many path-finding achievements by American biopharma firms. But a government crackdown on biopharma mergers led by the Federal Trade Commission (FTC) could undermine future accomplishments, harming the American economy and American (and foreign) patients alike.

Biopharma Merger Review in a Nutshell

While the FTC and the Department of Justice share authority over antitrust enforcement, the FTC is primarily responsible for overseeing pharma-industry business practices, including mergers. It reviews all biopharma merger proposals with an eye on preventing acquisitions that would substantially reduce competition among drugmakers.

Biopharma mergers are particularly good at facilitating new-product introductions that advance medical science. They do this in two ways:

First, they allow for the scaling up of remedies that are developed by small biotechnology and research firms. Small entities that specialize in the initial R&D that yields innovative cures cannot scale up efficiently. Larger acquiring firms have the capabilities to undertake the trials, regulatory work, and marketing that speed up the release and broad dissemination of innovative drugs.

Second, they create synergies. Proprietary data and intellectual property brought together by a merger give the new entity access to greater pools of technically important information, laying the groundwork for innovations without spending increases. This new information resource may improve the quality of product-related research, thereby raising the probability of new-product breakthroughs without increasing risk.

Until very recently, the FTC invoked general merger guidelines applicable to all industries (jointly issued with DOJ) in assessing biopharma consolidations. Reviews of Biopharma mergers proceeded in a manner that was well understood by the private sector. But recent FTC policy changes may threaten these socially desirable mergers.

The FTC Is Jettisoning Sound Merger Policy

Last March, the FTC set up an interagency working group (including the DOJ and foreign and state antitrust agencies) to “build a new approach” to biopharma mergers. The FTC’s press release stressed an interest in “going beyond” traditional merger analysis and exploring “new or expanded theories of [merger-related] harm.” And a recent FTC challenge to a vertical merger shows that the risks these changes pose to good biopharma acquisitions are real, not just theoretical.

Illumina is a leader in “next generation sequencing” (NGS) platforms used to support genetic-testing programs that it and other companies develop. In 2015, it established and then later spun off Grail, a small firm dedicated to developing a blood test for the very early detection of cancer. The spinoff helped Grail attract capital and great management, a key to its successful creation of a unique “liquid biopsy” test that detects up to 50 cancers before symptoms appear.

In September 2020, Illumina sought to reacquire Grail. This would allow rapid scaling up and distribution of the new test and cost reductions in marketing it. These undoubted efficiencies echo the benefits of biopharma mergers that involve the acquisition of small R&D-specialist firms.

But in March 2021, the FTC sued to block the merger, claiming a theoretical threat to competition in some future market for “multi-cancer early detection tests.” Such purely speculative concern about a market that does not yet even exist is at odds with accepted antitrust norms, which focus on likely harm in actual markets. It also gives short shrift to the clear benefits of the transaction.

A former FTC chair and chief economist together condemned this lawsuit. They explained that “it would be tragic if the FTC’s misapplication of the appropriate standards for evaluating a vertical merger were to delay the American people[’s] access to such an important lifesaving breakthrough in cancer treatment for the benefit of a hypothetical future competition.” Their words serve as a dire warning applicable to future biopharma mergers.

Conclusion

Uncertainty generated by the FTC’s new threat to beneficial mergers threatens to reduce U.S. biopharma R&D, slowing the creation of breakthrough drugs and vaccines. This will undermine American leadership in producing the cures of the future, which is vital to our nation and to millions of people around the world.

The solution is simple. The FTC should back off its recent threats against innovative biopharma mergers by publicly and explicitly restoring pre-2021 merger policies. If it does not, Congress should consider stepping in.

**Continued pharmaceutical innovation is key to survival---COVID was only the first warning shot**

EID = Emerging Infectious Disease

**Excler et al. 21** – Jean-Louis Excler, International Vaccine Institute, Seoul, Republic of Korea; Melanie Saville, Coalition for Epidemic Preparedness Innovations (CEPI), London, UK; Seth Berkley, Gavi, the Vaccine Alliance, Geneva, Switzerland; Jerome H. Kim, International Vaccine Institute, Seoul, Republic of Korea

Jean-Louis Excler, Melanie Saville, Seth Berkley, and Jerome H. Kim, "Vaccine development for emerging infectious diseases," Nat Med 27, 591–600, 4-12-2021, <https://www.nature.com/articles/s41591-021-01301-0>

**Newly emerging** and **reemerging infectious viral diseases** have **threatened humanity** throughout history. Several **interlaced** and **synergistic factors** including **demographic trends** and high-density **urbanization**, modernization favoring **high mobility** of people by all modes of transportation, **large gatherings**, altered human behaviors, **environmental changes** with modification of ecosystems and **inadequate global public health** mechanisms have **accelerated** both the **emergence** **and** **spread of animal viruses** as **existential human threats**. In 1918, at the time of the ‘Spanish flu’, the world population was estimated at 1.8 billion. It is projected to reach 9.9 billion by 2050, an increase of more than 25% from the current 2020 population of 7.8 billion (https://www.worldometers.info). The novel severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) responsible for the coronavirus disease 2019 (COVID-19) pandemic1,2,3 engulfed the entire world in less than 6 months, with high mortality in the elderly and those with associated comorbidities. The pandemic has severely disrupted the world economy. Short of lockdowns, the only means of control have been limited to series of mitigation measures such as self-distancing, wearing masks, travel restrictions and avoiding gatherings, all imperfect and constraining. Now with more than 100 million people infected and more than 2 million deaths, it seems that the addition of **vaccine(s)** to existing countermeasures **holds the best hope** for pandemic control. Taken together, these reasons compel researchers and policymakers to be vigilant, reexamine the approach to surveillance and management of **emerging infectious disease threats**, and revisit global mechanisms for the control of pandemic disease4,5.

Emerging and reemerging infectious diseases

The appearance of new infectious diseases has been recognized for millennia, well before the discovery of causative infectious agents. Despite advances in development of countermeasures (diagnostics, therapeutics and vaccines), **world travel** and **increased global interdependence** have added **layers of complexity** to containing these infectious diseases. **Emerging infectious diseases** (EIDs) **are threats to human health and global stability6**,7. A review of emerging pandemic diseases throughout history offers a perspective on the emergence and characteristics of coronavirus epidemics, with emphasis on the SARS-CoV-2 pandemic8,9. As human societies grow in **size and complexity**, an **endless variety of opportunities** **is created** **for infectious agents to emerge** into the unfilled ecologic niches we continue to create. To illustrate this constant vulnerability of populations to emerging and reemerging pathogens and their respective risks to rapidly evolve into devastating outbreaks and pandemics, a partial list of emerging viral infectious diseases that occurred between 1900 and 2020 is shown in Table 1.

[[Figure Omitted]]

Although nonemerging infectious diseases (not listed in Table 1), two other major mosquito-borne viral infections are yellow fever and dengue. Yellow fever, known for centuries and an Aedes mosquito-borne disease, is endemic in more than 40 countries across Africa and South America. Since 2016, several yellow fever outbreaks have occurred in Angola, Democratic Republic of Congo, Nigeria and Brazil to cite a few10, raising major concerns about the adequacy of yellow fever vaccine supply. Four live attenuated vaccines derived from the live attenuated yellow fever strain (17D)11 and prequalified by the WHO (World Health Organization) are available12.

Dengue is an increasing global public health threat with the four dengue virus types (DENV1–4) now cocirculating in most dengue endemic areas. Population growth, an expansion of areas hospitable for Aedes mosquito species and the ease of travel have all contributed to a steady rise in dengue infections and disease. Dengue is common in more than 100 countries around the world. Each year, up to 400 million people acquire dengue. Approximately 100 million people get sick from infection, and 22,000 die from severe dengue. Most seriously affected by outbreaks are the Americas, South/Southeast Asia and the Western Pacific; Asia represents ~70% of the global burden of disease (https://www.cdc.gov/dengue). Several vaccines have been developed13. A single dengue vaccine, Sanofi Pasteur’s Dengvaxia based on the yellow fever 17D backbone, has been licensed in 20 countries, but uptake has been poor. A safety signal in dengue-seronegative vaccine recipients stimulated an international review of the vaccine performance profile, new WHO recommendations for use and controversy in the Philippines involving the government, regulatory agencies, Sanofi Pasteur, clinicians responsible for testing and administering the vaccine, and the parents of vaccinated children14.

Two bacterial diseases, old scourges of humanity, are endemic and responsible for recurrent outbreaks and are increasingly antimicrobial resistant. Cholera, caused by pathogenic strains of Vibrio cholerae, is currently in its seventh global pandemic since 1817; notably, the seventh pandemic started in 196115. Global mortality due to cholera infection remains high, mainly due to delay in rehydrating patients. The global burden of cholera is estimated to be between 1.4 and 4.3 million cases with about 21,000–143,000 deaths per year, mostly in Asia and Africa. Tragic outbreaks have occurred in Yemen and Haiti. Adding to rehydration therapy, antibiotics have been used in the treatment of cholera to shorten the duration of diarrhea and to limit bacterial spread. Over the years, antimicrobial resistance developed in Asia and Africa to many useful antibiotics including chloramphenicol, furazolidone, trimethoprim-sulfamethoxazole, nalidixic acid, tetracycline and fluoroquinolones. Several vaccines have been developed and WHO prequalified; these vaccines constitute a Gavi-supported global stockpile for rapid deployment during outbreaks16.

Typhoid fever is a severe disease caused by the Gram-negative bacterium Salmonella enterica subsp. enterica serovar Typhi (S. Typhi). Antimicrobial-resistant S. Typhi strains have become increasingly common. The first large-scale emergence and spread of a novel extensively drug-resistant (XDR) S. Typhi clone was first reported in Sindh, Pakistan17,18, and has subsequently been reported in India, Bangladesh, Nepal, the Philippines, Iraq and Guatemala19,20. The world is in a critical period as XDR S. Typhi has appeared in densely populated areas. The successful development of improved typhoid vaccines (conjugation of the Vi polysaccharide with a carrier protein) with increased immunogenicity and efficacy including in children less than 2 years of age will facilitate the control of typhoid, in particular in XDR areas by decreasing the incidence of typhoid fever cases needing antibiotic treatment21,22.

A model of vaccine development for emerging infectious diseases

The understanding of emerging infectious diseases has evolved over the past two decades. A look back at the SARS-CoV outbreak in 2002 shows that—despite a small number of deaths and infections—its high mortality and transmissibility caused significant global disruption (see Table 1). The epidemic ended as work on vaccines was initiated. Since then, the disease has not reappeared—wet markets were closed and transmission to humans from civets ceased. Consequently, work on vaccines against SARS-CoV ended and its funding was cut. Only a whole inactivated vaccine23 and a DNA vaccine24 were tested in phase 1 clinical trials.

Following a traditional research and development pipeline, it takes between 5 and 10 years to develop a vaccine for an infectious agent. This approach is not well suited for the needs imposed by the emergence of a new pathogen during an epidemic. Figure 1 shows a comparison of the epidemic curves and vaccine development timelines between the 2014 West African Ebola outbreak and COVID-19. The 2014 Ebola epidemic lasted more than 24 months with 11,325 deaths and was sufficiently prolonged to enable the development and testing of vaccines for Ebola, with efficacy being shown for one vaccine (of several) toward the end of the epidemic25,26. What makes the COVID-19 pandemic remarkable is that the whole research and development pipeline, from the first SARS-CoV-2 viral sequenced to interim analyses of vaccine efficacy trials, was accomplished in just under 300 days27. Amid increasing concerns about unmitigated transmission during the 2013–2016 Western African Ebola outbreak in mid-2014, WHO urged acceleration of the development and evaluation of candidate vaccines25. To ensure that manufacturers would take the Ebola vaccine to full development and deployment, Gavi, the Vaccine Alliance, publicly announced support of up to US$300 million for vaccine purchase and followed that announcement with an advance purchase agreement. Ironically, there had been Ebola vaccines previously developed and tested for biodefense purposes in nonhuman primates, but this previous work was neither ‘ready’ for clinical trials during the epidemic nor considered commercially attractive enough to finish development28.

[[Figure Omitted]]

From these perceived shortcomings in vaccine development during public health emergencies arose the Coalition for Epidemic Preparedness Innovations (CEPI), a not-for-profit organization dedicated to timely vaccine development capabilities in anticipation of epidemics29,30. CEPI initially focused on diseases chosen from a list of WHO priority pathogens for EIDs—Middle East respiratory syndrome (MERS), Lassa fever, Nipah, Rift Valley fever (RVF) and chikungunya. The goal of CEPI was to advance candidate vaccines through phase 2 and to prepare stockpiles of vaccine against eventual use/testing under epidemic circumstances. CEPI had also prepared for ‘disease X’ by investing in innovative rapid response platforms that could move from sequence to clinical trials in weeks rather than months or years, such as mRNA and DNA technology, platforms that were useful when COVID-19 was declared a global health emergency in January 2020, and a pandemic in March 202031,32.

CEPI has been able to fund several vaccine development efforts, among them product development by Moderna, Inovio, Oxford–AstraZeneca and Novavax. Providing upfront funding helped these groups to advance vaccine candidates to clinical trials and develop scaled manufacturing processes in parallel, minimizing financial risk to vaccine developers. The launch of the larger US-funded Operation Warp Speed33 further provided companies with funding—reducing risks associated with rapid vaccine development and securing initial commitments in vaccine doses.

Vaccine platforms and vaccines for emerging infectious diseases

**Vaccines** are the **cornerstone** of the management of **infectious disease outbreaks** and are the **surest means** to defuse pandemic and **epidemic risk**. The faster a vaccine is **deployed**, the faster an outbreak can be **controlled**. As discussed in the previous section, the standard vaccine development cycle is **not suited** to the needs of **explosive pandemics**. **New vaccine platform technologies** however may **shorten that cycle** and make it possible for multiple vaccines to be more **rapidly developed**, **tested** and **produced34**. Table 2 provides examples of the most important technical vaccine platforms for vaccines developed or under development for emerging viral infectious diseases. Two COVID-19 vaccines were developed using mRNA technology (Pfizer–BioNTech35 and Moderna36), both showing safety and high efficacy, and now with US Food and Drug Administration (FDA) emergency use authorization (EUA)37,38 and European Medicines Agency (EMA) conditional marketing authorization39,40. While innovative and encouraging for other EIDs, **it is too early to assert that mRNA vaccines represent a universal vaccine approach that could be broadly applied to other EIDs** (such as bacterial or enteric pathogens). While COVID-19 mRNA vaccines are **a useful proof of concept**, gathering lessons from their **large-scale deployment** and **effectiveness** studies still **requires more work** and time.

[[Figure Omitted]]

While several DNA vaccines are licensed for veterinary applications, and DNA vaccines have shown safety and immunogenicity in human clinical trials, no DNA vaccine has reached licensure for use in humans41. Recombinant proteins vary greatly in design for the same pathogen (for example, subunit, virus-like particles) and are often formulated with adjuvants but have longer development times. Virus-like particle-based vaccines used for hepatitis B and human papillomavirus are safe, highly immunogenic, efficacious and easy to manufacture in large quantity. The technology is also easily transferable. Whole inactivated pathogens (for example, SARS-CoV-2, polio, cholera) or live attenuated vaccines (for example, SARS-CoV-2, polio, chikungunya) are unique to each pathogen. Depending on the pathogen, these vaccines also may require biosafety level 3 manufacturing (at least for COVID-19 and polio), which may limit the possibility of technology transfer for increasing the global manufacturing capacity.

Other vaccines are based on recombinant vector platforms, subdivided into nonreplicating vectors (for example, adenovirus 5 (Ad5), Ad26, chimpanzee adenovirus-derived ChAdOx, highly attenuated vectors like modified vaccinia Ankara (MVA)) and live attenuated vectors such as the measles-based vector or the vesicular stomatitis virus (VSV) vector. Either each vector is designed with specific inserts for the pathogen targeted, or the same vector can be designed with different inserts for the same disease. The development of the Merck Ebola vaccine is an example. ERVEBO is a live attenuated, recombinant VSV-based, chimeric-vector vaccine, where the VSV envelope G protein was deleted and replaced by the envelope glycoprotein of Zaire ebolavirus. ERVEBO is safe and highly efficacious, now approved by the US FDA and the EMA, and WHO prequalified, making VSV an attractive ‘platform’ for COVID-19 and perhaps for other EID vaccines26 although the −70 °C ultracold chain storage requirement still presents a challenge.

Other equally important considerations are **speed of development**, **ease of manufacture** and **scale-up**, **ease of** **logistics** (presentation, storage conditions and administration), **technology transfer** to other manufacturers to ensure worldwide supply, and **cost of goods**. Viral vectors such as Ad5, Ad26 and MVA have been used in HIV as well as in Ebola vaccines42. Finally, regulatory authorities do not approve platforms but vaccines. Each vaccine is different. However, with each use of a specific technology, regulatory agencies may, over time, become more comfortable with underlying technology and the overall safety and efficacy of the vaccine platform, allowing expedited review and approvals in the context of a pandemic43. With COVID-19, it meant that the regulatory authorities could permit expedited review of ‘platform’ technologies, such as RNA and DNA, that had been used (for other conditions) and had safety profiles in hundreds of people.

### 1NC – Public Enforcement

#### Text: The United States federal government should allow relevant agencies to sue to enjoin [anti-competitive behavior by defense contractors that results in market domination] and recover single damages.

#### Counterplan avoids private enforcement---private suits are an inextricable part of antitrust liability---public enforcement is sufficient

McCarthy et al., GC & Chief Legal Officer of Womble Bond Dickinson (US) LLP, ‘07

(Eric, Allyson Maltas, Matteo Bay and Javier Ruiz-Calzado, “Litigation culture versus enforcement culture A comparison of US and EU plaintiff recovery actions in antitrust cases,” <https://www.lw.com/upload/pubContent/_pdf/pub1675_1.pdf>)

In comparison, in the European Union, private enforcement actions are rare and play less of a role than public enforcement in the fight against anti-competitive behaviour. Several obstacles hinder actions for damages in member state national courts, including a plaintiff’s limited access to evidence, the unavailability of class actions and the potential that the plaintiff may have to pay the defendants’ costs if the plaintiff loses the case. To address these obstacles and the great diversity of damages actions among the member states, the European Commission recently published a green paper on Damages Actions for Breach of the EC Antitrust Rules.3 The green paper examines those aspects of EU litigation practice that have led to a pronounced underdevelopment of private damages actions in the EU. Since its publication in December 2005, the green paper has sparked significant debate within the international antitrust community about the role of private enforcement of EC Treaty competition law and about damages actions in particular. The general expectation is that private damages actions will emerge (albeit slowly) in the European Union. This article compares the state of plaintiff recovery actions in antitrust cases in the US with that of the EU and explores why the United States is more litigious than the EU.

Private antitrust damages actions in the US

Rightly or wrongly, the United States has earned the reputation of having a ‘litigation culture’ that permeates its entire legal system.4 If that is true, it certainly earned its stripes this past year in the area of antitrust litigation. Although the number of civil cases filed in the United States dropped by 10 per cent from 2004 to 2005, the number of antitrust civil filings, almost all of which were initiated by private plaintiffs, rose by 8.8 per cent.5 In the first six months of 2006, the number of antitrust class actions doubled over the same period in 2005.6 Some experts speculate that “[h]ard-charging regulators, a more aggressive plaintiffs[’] bar, and the implementation of [CAFA]” may contribute to the increase in antitrust litigation.7 But in all likelihood, the explanation is far more elementary. As discussed in greater detail below, the pot of treble damages available to plaintiffs in the United States, as well as pro-plaintiff discovery and procedural rules, make private damages extremely easy and attractive to pursue.

The treble damages remedy

In 1914, the US Congress passed the Clayton Act, codified at 15 USC sections 12-27. Section 4 of the Act extends the Sherman Act’s prohibitions on anti-competitive behaviour and, most notably, allows “any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws” to sue for and “recover threefold the damages by him sustained”.8 Treble damages were designed to deter illegal conduct, deprive antitrust violators of the “fruits of their illegal activities” and provide compensation to victims of wrongdoing.9

The Clayton Act’s treble damages provision is not without its critics.10 Many practitioners and policy makers contend that trebling damages creates too great an incentive for plaintiffs to sue. Additionally, they argue, treble damages actions can result in a windfall to plaintiffs. Furthermore, some believe that large fines and the potential for criminal penalties create just as much of a deterrent against violations, without the need for treble damages.11 Nonetheless, the ability of a US private plaintiff to recover treble damages is so sacred and well protected that earlier this year the First Circuit held in Kristian v Comcast Corp12 that, although Comcast could contract with its subscribers to arbitrate antitrust claims, the arbitration agreements could not bar treble damages because “the award of treble damages under the federal antitrust statutes cannot be waived”.13

Although exceptions to the treble damages provision remain few and far between, congress enacted the Criminal Penalty Enhancement and Reform Act (CPERA) in June 2004. CPERA eliminates the treble damages remedy for corporations that qualify for amnesty under the Department of Justice’s Amnesty Programme.14 Under CPERA, a corporation must report its own anti-competitive behaviour to the DoJ and enter into the Corporate Leniency Programme.15 If a private plaintiff sues the corporation for the same behaviour, the civil court may assess single damages against the participating corporation, but only if the judge in the civil action determines that the corporate defendant is cooperating with the civil claimant by providing a full account of the conduct, furnishing all potentially relevant documents, and securing testimony, depositions and interviews from employees.16

Discovery and evidence

Plaintiffs enjoy broad discovery rights in the United States under the Federal Rules of Civil Procedure. These rules provide significant incentives for plaintiffs to file damages suits, even if they have very little factual bases for the underlying claims. At the outset of a case, the parties are obliged to make certain disclosures to one another, including the name of each individual “likely to have discoverable information” and a description by category and location of all documents in the party’s possession or control that it may use to support its claims or defences.17 Thereafter, during the fact-finding or discovery period, plaintiffs may seek a defendant’s business documents through written requests18 as well as answers to questions through written interrogatories.19 Plaintiffs may also ask questions of a defendant’s employees (regardless of seniority), who must sit for depositions and testify under oath.20 Moreover, plaintiffs may seek documents and testimony from non-parties with relative ease.21

Armed with such easy access to a defendant’s or non-party’s documents and employees, plaintiffs with limited evidentiary bases for their lawsuits may be inclined to sue and go on ‘fishing expeditions’ to discover facts to support their case.

Contingent fees

Plaintiffs that file antitrust damages actions in the United States routinely do so on a contingent fee basis. Under such an arrangement with counsel, the plaintiff client does not pay any fees to his or her attorney unless and until the plaintiff collects damages either by settling with the defendant or prevailing at trial. Typically, plaintiffs’ attorneys demand 33 per cent of the recovery as the fee.22 The result is a win for both client and attorney. The fee arrangements allow plaintiffs with limited funds the freedom to pursue their lawsuits without having to fund the litigation along the way. The plaintiffs’ attorney, on the other hand, is attracted to the prospect of treble damages, and thus a larger fee, and therefore is willing to front the litigation costs in the hopes of earning a sizeable fee at the conclusion of the suit.

Class actions

Class actions are the procedural device that enable one or more plaintiff members of a proposed class to sue on behalf of all similarly situated members of the same proposed class.23 Courts in the US have recognised that class actions can be appropriate mechanisms for promoting private enforcement of the antitrust laws.24 In this way, large numbers of potential claimants can prosecute their claims in a cost-efficient manner.25 The objective of any class action lawyer is to get the class certified. To do so, the court must find that the proposed class is “so numerous that joinder of all members is impracticable”, that there are “questions of law or fact common to the class”, that the “claims or defenses of the representative parties are typical of the claims or defenses of the class” and that the proposed class representatives “will fairly and adequately protect the interests of the class”.26 In addition, in most antitrust cases, the court must determine that the “questions of law or fact common to the members of the class predominate over any questions affecting only individual members” and that “a class action is superior to other available methods for the fair and efficient adjudication of the controversy.”27 Under rule 23, proposed class members are afforded the opportunity to decline to join or to ‘opt out’ of the class. But if the class is certified, all class members who do not affirmatively opt out are bound by the decision in the case and cannot pursue their claims individually. Class actions remain a popular means among plaintiffs’ lawyers to litigate antitrust conspiracy claims because they are regularly certified.

State indirect purchaser actions

In Illinois Brick Co v Illinois,28 the US Supreme Court held that, in order to maintain a claim for damages under section 4 of the Clayton Act, a plaintiff must have purchased the product in question directly from the alleged defendant-antitrust violator. The landmark decision thus precludes plaintiffs in a federal court from seeking alleged damages that were ‘passed through’ from the defendant down the chain of distribution in the form of overcharges. In direct response to Illinois Brick, many US state legislatures passed antitrust statutes that permit indirect consumers (ie, below the direct purchaser in the distribution chain) to sue the alleged violator. Today, 29 states permit such suits, or, alternatively, allow the state attorney general to pursue antitrust claims on behalf of indirect consumers.29 In these ‘Illinois Brick repealer’ states, as they are known, defendants face the real prospect of defending against lawsuits that mirror direct purchaser lawsuits pending against them in a federal court.

Huge jury verdicts and settlements

One natural result of the ease with which plaintiffs can pursue treble damages actions in the United States is huge jury verdicts in private antitrust cases. In Conwood v US Tobacco, the plaintiff manufacturer of moist smokeless tobacco (snuff) sued a competitor, the manufacturer of Copenhagen and Skoal, for unlawful monopolisation in violation of section 2 of the Sherman Act, among other claims.30

The jury awarded plaintiffs approximately US$350 million in damages, which, when trebled, resulted in an award that exceeded US$1 billion. The award is thought to be the largest antitrust jury verdict ever recorded.31

Additionally, the several aspects of US litigation highlighted above are a catalyst to settlement. Even before discovery begins, some defendants, confronted with the promise of invasive and expensive discovery, will choose to settle with plaintiffs in order to spare their employees from intrusive discovery and to save on exorbitant legal fees. Plaintiffs routinely extract large settlements from defendants after gaining access to corporate documents and information that, although not dispositive of any wrongdoing, are damaging or embarrassing enough to justify settlement. Similarly, class actions may contribute to settlement of private damages actions because, if certified, defendants do not want to risk losing at trial and therefore pay treble damages. The same is true for state indirect purchaser actions. Defendants often settle these suits in order to avoid duplicative litigation costs.32 Settlement is also preferable for many defendants in this situation who rightly fear the application of collateral estoppel if they are adjudicated liable in even one state.33

The ultimate risk of large jury verdicts inspire settlements even if the defendants litigate the cases for years and at great expense. In 1998, in In re NASDAQ Market-Makers Antitrust Litigation, MDL Docket No. 1023, plaintiffs settled with 37 defendants for a total of US$1.027 billion.34 And in 2003, on the eve of trial, defendant Visa USA settled with plaintiffs in In re Visa Check/Mastermoney Antitrust Litigation, 297 F Supp 2d 503, 506-508 (EDNY 2003) for approximately US$2 billion. Two days later, defendant MasterCard settled for approximately US$1 billion. The combined US$3.05 billion settlement has been described as “the largest antitrust settlement ever”.35 Private damages actions in the EU

In stark contrast to the United States, private damages actions in the EU are few in number and have never played much of an antitrust enforcement role. Although the European Court of Justice (ECJ) in 2001 explicitly recognised a right to damages for breaches of EC competition law,36 plaintiffs have pursued very few damages claims for violations of competition rules. According to a 2004 study (the Ashurst Study), private damages actions based on the violation of either EU or national antitrust rules are in a state of “total underdevelopment” due to various obstacles in bringing such lawsuits.37

To address these obstacles, the EC recently published a green paper, in which the Commission has sparked significant discussion on the present and future role of private enforcement in the EU. This section explores that role.

EU antitrust laws and enforcement

In the EU, there are two levels of antitrust laws and enforcement. The Commission enforces EU antitrust rules at the EU level, which is limited to public enforcement. At the member state level, however, national antitrust authorities and national courts apply both EU and national antitrust laws. Member states permit private enforcement, including damages actions, through national courts.38 Within this two-tiered system, national antitrust authorities and national courts may apply both EU and national antitrust laws, though substantively there is often little difference between the two.

Articles 81 and 82 of the European Community Treaty govern antitrust enforcement. The ECJ long ago decided that these provisions create rights for private parties that national courts must safeguard.39 In Courage v Crehan, the ECJ held that these rights include the right to damages,40 and recently it clarified that such a right includes compensation not only for actual loss, but also for loss of profit plus interest.41 Moreover, with the adoption of Regulation 1/2003,42 the Council of the European Union ‘modernised’ antitrust enforcement by including new procedural rules for the application of articles 81 and 82. In particular, by devoting specific provisions to national courts, the EU legislative branch has recognised the fundamental role that national courts play in the private enforcement of EU antitrust law for the first time since the inception of EU antitrust enforcement in the early 1960s.

The green paper

These developments, however, have not been sufficient to ensure an effective system of private antitrust enforcement, particularly damages actions, throughout 25 jurisdictions with very different legal traditions and markedly diverse substantive and procedural rules. According to the Ashurst Study, to date there have been only 28 successful private actions for damages for violations of the antitrust laws in the EU.43 More often than not, only single large companies that allege anti-competitive behaviour by dominant competitors have pursued private damages actions. For these well-financed plaintiffs, the damages that they seek are large enough to offset the trouble and costs of private litigation before a national court.

In light of the obstacles to private enforcement in the EU, the Commission published its green paper in 2005 to facilitate damages actions, enhance the overall effectiveness of antitrust enforcement and, ultimately, increase compliance with antitrust laws. In response to criticism from those practitioners who fear the adoption of a USstyle system that could lead to ‘excessive litigation’, the Commission has stated that the objective is that of building “an enforcement culture, not a litigation culture”, in which private enforcement would complement public enforcement.44 For each obstacle to damages actions, the green paper proposes several solutions, although the Commission has not yet indicated how it intends to implement any of these solutions (eg, by means of an EU Directive harmonising certain aspects of national law, or thorough ‘soft law’ such as Commission guidelines).

Amount of damages

Treble damages are not available in the EU. It is also not likely that they will be any time soon; the Commission notes that the US treble damages system can lead to “unmeritorious or vexatious litigation”.45 Instead, compensation is limited to the harm suffered, without the possibility of obtaining punitive or exemplary damages. Plaintiffs may thus usually recover only the loss actually incurred, as well as, in some countries, the loss of profits.46 The Ashurst Study, however, revealed that this system of limited recovery provides disincentives to private litigation.47 To provide balance, the Commission proposes to maintain the rule of single damages, while contemplating the possibility of awarding double damages in cartel actions.48 On this issue, it recognises that the addition of double damages will require the implementation of appropriate measures to avoid jeopardising the effectiveness of leniency programmes (eg, successful immunity applicants would be exposed to single damage recovery only).49

#### Expanding liability to private plaintiffs is bad---turns case and undermines solvency

Nuechterlein, JD, partner and co-leader of Sidley's Telecom and Internet Competition practice, and Muris, George Mason University Foundation Professor of Law, served from 2000-2004 as Chairman of the Federal Trade Commission, ‘21

(Jon and Timothy J., “Private Antitrust Remedies: An Argument Against Further Stacking the Deck,” March, <https://instituteforlegalreform.com/wp-content/uploads/2021/03/March-2021-Antitrust-Paper-FINAL.pdf>)

Advocates of expanding private antitrust remedies begin with the premise that “private enforcement deters anticompetitive conduct” and conclude, in the words of the Report, that legal “obstacles” to recovery by “private antitrust plaintiffs” should be eliminated to maximize deterrence.24 But even if the premise is true,25 the conclusion would not follow. The Report appears to assume that the more deterrence the law provides, the better, and that any “obstacles” to private recovery should thus be removed.26 But that position ignores the consequences of overdeterrence, including the prospect that firms will respond to the threat of draconian penalties in ways that reduce the threat of liability but that ultimately harm consumers.

Overdeterrence is a particular concern in antitrust doctrine because the line separating lawful from unlawful conduct can be blurred and much of the conduct falling on the lawful side of the line is socially beneficial. As economists William Baumol and Alan Blinder explain: One problem that haunts most antitrust litigation is that vigorous competition may look very similar to acts that undermine competition …. The resulting danger is that courts will prohibit, or the antitrust authorities will prosecute, acts that appear to be anticompetitive but that really are the opposite. The difficulty occurs because effective competition by a firm is always tough on its rivals.27

For example, excessive antitrust remedies for predatory pricing may not only deter firms from engaging in conduct that would ultimately be deemed unlawful, but also induce them to keep prices well above their costs and, in effect, hold a price umbrella over smaller, potentially litigious rivals. Such a regime would result in less competition and higher prices for consumers—the very outcomes the antitrust laws are designed to prevent.

Proposals to slap another layer of deterrence on top of existing private remedies are particularly perverse because, as discussed above, the current U.S. regime is already overdeterrent, in that it subjects firms to unusually severe liability risks even for overt conduct subject to the rule of reason. If anything, Congress should consider aligning private antitrust remedies with remedies for analogous common law torts by, for example, limiting treble damages and one-way fee-shifting to cases involving hard-core violations that may elude detection, such as price-fixing cartels. In all events, Congress should not make a bad situation worse by ratcheting up the level of overdeterrence.

### 1NC – Judicial Economics DA

The United States federal government should substantially increase prohibitions on anti-competitive business practices by defense contractors that violates the consumer welfare standard

#### The plan and perm are rooted in a new antitrust “theory of harm” bereft of “limiting principles”. That spills over because it “provides cover” for massive “doctrinal distortion”—But the counterplans avoid it.

--\*Italics in original

Ohlhausen 15 – Commissioner, FTC

Maureen K. Ohlhausen, Federal Trade Commission, and Alexander P. Okuliar, Attorney Advisor to Commissioner Ohlhausen, COMPETITION, CONSUMER PROTECTION, AND THE RIGHT [APPROACH] TO PRIVACY, 80 *Antitrust Law Journal* No. 1 (2015), <https://www.ftc.gov/system/files/documents/public_statements/686541/ohlhausenokuliaralj.pdf>

B. CHOOSING THE RIGHT APPROACH Rather than expanding antitrust law as some have proposed, we instead recommend applying three screens to discern the best body of law to handle a potential privacy issue. First, we suggest that the type of harm should continue to guide the choice of law, as set out by Congress and developed by the agencies and courts for decades. That is, the application of competition law is appropriate only where the potential harm is grounded in the actual or potential diminution of economic efficiency. If there is likely no efficiency loss because of the conduct or transaction, another legal avenue for enforcement is more appropriate and efficient. Second, the scope of the potential harm also should aid in the choice of law. Antitrust laws are focused on broader macroeconomic harms, mainly the maintenance of efficient price discovery in the markets, whereas the consumer protection laws are preoccupied with ensuring the integrity of each specific contractual bargain. These are complementary, but discrete, enforcement goals. Third, and finally, the available remedies must be able to address effectively the potential harm. Enjoining a merger may do little to prevent a privacy violation if the parties can simply share the same consumer information under a contractual arrangement. 1. Focus on the Type of Harm John Locke noted, “The great and chief end [ ] of . . . government, is the preservation of [citizens’] property,” which includes their “lives, liberties, and estates.”146 As we have shown, the government has over time pursued specific laws narrowly tailored to address particular harms. This trend to more nuanced and sophisticated legal mechanisms has allowed for deepened expertise and greater analytical precision in both competition and consumer protection. Splicing them together again, and using the modern antitrust laws, which are empirically focused on economic efficiency, to remedy harms relating to normative concerns about informational privacy contradicts the specialized nature of these laws and risks distorting them in ways that would leave both the law and consumers worse off. The better approach would be to continue the measured improvement of precise legal tools directed to specific harms. A blended approach to antitrust that encompasses normative privacy concerns also would provide cover for the injection of other noncompetition factors into the analysis. As a normative matter, privacy is conceptually unsettled and, depending on who you ask, could include other rights, like property rights or human dignity.147 The introduction of these factors could shift antitrust law’s focus away from efficiency and alter its relatively predictable and transparent application. Arguments in response to this concern about doctrinal distortion posit that, for example, the merged entity will have an increased incentive to break privacy promises it made to consumers when it collected the information, making the issue cognizable under the antitrust laws.148 [Footnote 148] 148 While the Clayton Act allows for the pursuit of certain prospective violations of the law, the issues that it confronts, for example supracompetitive pricing resulting from an undue concentration of suppliers, are fundamentally different than what the consumer protection laws contemplate. Whereas the Clayton Act is quantitative and agnostic in its characterization of a merger as a violation of law, the consumer protection standards are qualitative, requiring that an “act or practice” be either deceptive or both unfair and cause substantial harm to the consumer. [End FN] Or that the aggregation of consumer data represents a reduction in quality, diminution in consumer choice, or a heightened barrier to entry.149 Although these concerns could be relevant where privacy is an actual dimension of competition, a substantial body of literature challenges application of these arguments more broadly by pointing out the lack of limiting principles for theories of harm tethered to reductions of choice and the heterogeneous consumer demand for privacy.150 But, for our purposes, perhaps the most important point is that attempting to distort the antitrust laws to pursue subjective noncompetition harms is *unnecessary* and would take us back to a less sophisticated approach to law enforcement.

#### That obliterates the U.S. economy and innovation—The key is what theories of competitive harm are legally cognizable

COC 21 – U.S. Chamber of Commerce

The Role & Responsibility of Antitrust: What antitrust is and what it is not, September 20, 2021, https://www.uschamber.com/regulations/the-role-responsibility-of-antitrust

The economic success of the United States is built on the fact that the market, not the government, maximizes economic efficiency for the benefit of consumers.

Antitrust therefore relies on competitive forces to police the market, and avoids picking winners and losers, and only acts to ensure competitive conditions. It is not a form of regulation designed to deliver a particular outcome in the market.

Antitrust IS NOT a tool for political change

Concerns over jobs, speech, income inequality, corporate political power, and other social interests, are political conversations, not antitrust matters. Antitrust does not play a role, nor do we really want antitrust playing a role.

Antitrust can protect competitive markets, but it is not designed to address the concerns above. Instead, we should look to legislatures to pass separate laws that specifically address these concerns.

Antitrust IS about protecting competition and consumers

Consumers are the sole concern of antitrust. Consumers win when there is robust competition in the market. When alleged anti-competitive activity is linked to price going up, or output going down without any counter weighting pro-competitive benefit the economics are very straight forward.

Antitrust analysis is also well suited to evaluating other forms of non-price competition such as quality, innovation, or consumer choice. Though some have claimed that antitrust is too focused on price and output, a long history of antitrust enforcement involving various forms of non-price competition shows otherwise.

Antitrust IS NOT about fairness or competitors

“Fairness” is not a legal standard. What is fair can often be highly subjective. The role of economic analysis and the consumer welfare standard in antitrust are central to making enforcement decision as objective as possible. For this reason competitor’s complaints of “unfairness” are met with skepticism by antitrust enforcers for good reason.

Inefficient competitors often attempt to seek protection from a more efficient competitor rather than competing on the merits. Where competitor complaints are turned away by enforcers, those competitors have often sought a political audience or friendlier foreign jurisdictions that conflate these complaints with market failure or seek to use antitrust enforcement as a tool for industrial policy.

Antitrust IS highly technical

Antitrust cannot be divorced from sound economic analysis. Economics is a highly technical trade that is not easily suited to the amateur enthusiast. Theories of competitive harm rise and fall on supporting economic analysis, which requires careful analysis of the market, reams of discovery, and a careful type of cost-benefit analysis, commonly known as the rule of reason.

Just because one can point to an anti-competitive harm, doesn’t mean there are not pro-competitive justifications that outweigh that harm. Economic analysis weighs these factors and only where the harms clearly outweighs the benefits does an enforcer feel the need to act.

Antitrust IS NOT political

Antitrust is not well-suited for armchair quarterbacking, rooting for the underdog, or speaking in 30 second sound bites. It is a form of law enforcement and should be conducted in a highly professional manner with due process.

Sadly, efforts to politicize antitrust efforts are all too common in foreign jurisdictions. The U.S. has had a long and proud history of largely steering clear from efforts to politicize enforcement. This tradition is well worth keeping.

Antitrust IS highly fact-specific and evidence driven (rule of reason)

Some antitrust cases can be close calls, economic analysis might not always produce a clear answer, and judgements will need to be made. This is why we have courts. Just because some cases one may or may not agree with, one should not abandon the role of economics or circumvent the rule of reason.

Antitrust does not punish those that build a successful business – even a monopoly – through competition on the merits.

#### U.S. failure to grow risks great power war

Brands 21 – Professor of Global Affairs, JHU SAIS

Hal Brands, Henry Kissinger distinguished professor of global affairs at Johns Hopkins University’s School of Advanced International Studies and a resident scholar at the American Enterprise Institute, and Michael Beckley is an associate professor of political science at Tufts University and a Jeane Kirkpatrick visiting scholar at the American Enterprise Institute, China Is a Declining Power—and That’s the Problem: The United States needs to prepare for a major war, not because its rival is rising but because of the opposite., 24 September 2021, *Foreign Policy*, https://foreignpolicy.com/2021/09/24/china-great-power-united-states/

Over the past 150 years, peaking powers—great powers that had been growing dramatically faster than the world average and then suffered a severe, prolonged slowdown—usually don’t fade away quietly. Rather, they become brash and aggressive. They suppress dissent at home and try to regain economic momentum by creating exclusive spheres of influence abroad. They pour money into their militaries and use force to expand their influence. This behavior commonly provokes great-power tensions. In some cases, it touches disastrous wars.

This shouldn’t be surprising. Eras of rapid growth supercharge a country’s ambitions, raise its people’s expectations, and make its rivals nervous. During a sustained economic boom, businesses enjoy rising profits and citizens get used to living large. The country becomes a bigger player on the global stage. Then stagnation strikes.

Slowing growth makes it harder for leaders to keep the public happy. Economic underperformance weakens the country against its rivals. Fearing upheaval, leaders crack down on dissent. They maneuver desperately to keep geopolitical enemies at bay. Expansion seems like a solution—a way of grabbing economic resources and markets, making nationalism a crutch for a wounded regime, and beating back foreign threats.

Many countries have followed this path. When the United States’ long post-Civil War economic surge ended, Washington violently suppressed strikes and unrest at home, built a powerful blue-water Navy, and engaged in a fit of belligerence and imperial expansion during the 1890s. After a fast-rising imperial Russia fell into a deep slump at the turn of the 20th century, the tsarist government cracked down hard while also enlarging its military, seeking colonial gains in East Asia and sending around 170,000 soldiers to occupy Manchuria. These moves backfired spectacularly: They antagonized Japan, which beat Russia in the first great-power war of the 20th century.

A century later, Russia became aggressive under similar circumstances. Facing a severe, post-2008 economic slowdown, Russian President Vladimir Putin invaded two neighboring countries, sought to create a new Eurasian economic bloc, staked Moscow’s claim to a resource-rich Arctic, and steered Russia deeper into dictatorship. Even democratic France engaged in anxious aggrandizement after the end of its postwar economic expansion in the 1970s. It tried to rebuild its old sphere of influence in Africa, deploying 14,000 troops to its former colonies and undertaking a dozen military interventions over the next two decades.

All of these cases were complicated, yet the pattern is clear. If a rapid rise gives countries the means to act boldly, the fear of decline serves up a powerful motive for rasher, more urgent expansion. The same thing often happens when fast-rising powers cause their own containment by a hostile coalition. In fact, some of history’s most gruesome wars have come when revisionist powers concluded their path to glory was about to be blocked.

### 1NC – Adv CP

The United States federal government should:

-Substantially limit arms sales to Saudi Arabia

-Invest in developing the nuclear triad and defense industrial base

-Initiate negotiations over the use of hypersonic and anti-satellite weapons

### 1NC – Anti-Domination(S)

#### Theorizing the economy in terms of neoclassical mental models of narrow causality makes it impossible to solve a slew of wicked 21st century problems. Try or die for a mission-oriented approach—We should “ask what kind of markets we want, rather than what problem in the market needs to be fixed.”

Mazzucato 21 – Professor in the Economics of Innovation and Public Value, University College London

Mariana Mazzucato, Founding Director of the UCL Institute for Innovation & Public Purpose (IIPP), MISSION ECONOMY: A Moonshot Guide to Changing Capitalism, Penguin Publisher, 2021, <https://www.penguin.co.uk/books/315/315191/mission-economy/9780241419731.html>

This book encourages us to apply the same level of boldness and experimentation to the biggest problems of our time – from health challenges such as pandemics, to environmental challenges such as global warming, to educational challenges such as the divide in opportunity and achievement between students partly caused by unequal access to digital technology. These ‘wicked’ problems require not just technological, but also social, organizational and political innovations. They are huge, complex and resistant to simple solutions. We must solve them – not merely accommodate them – by focusing policymaking on outcomes. And this means getting the public and private sectors to truly collaborate on investing in solutions, having a long-run view, and governing the process to make sure it is done in the public interest.

The moon landing was a massive exercise in problem- solving, with the public sector in the driving seat and working closely with companies – small, medium and large – on hundreds of individual problems. It required collaboration between government and many different sectors, from computing and electrical equipment to nutrition and materials. Government used its purchasing power to develop procurement contracts that were short, clear and massively ambitious. When the private sector sometimes failed to deliver, NASA threw back the challenge and did not pay until the solution was right. If successful, companies could grow through serving the new markets that government purchases opened up and scale up through a purpose-driven strategy.

What integrated all these efforts and gave them direction was that they were part of a mission – a mission led by government and achieved by many. Today, a ‘mission- oriented’ approach - partnerships between the public and private sectors aimed at solving key societal problems – is desperately needed. Imagine, for example, using public- sector procurement policy to stimulate as much innovation as possible – social, organizational and technological – to solve problems as diverse as knife crime in cities or loneliness of the elderly at home.

Of course, lessons from the moon landing cannot just be cut and pasted onto any challenge. But they do highlight the need to resurrect ambition and vision in our everyday policymaking. This cannot just be about bold statements. We have to believe in the public sector and invest in its core capabilities, including the ability to interact with other value creators in society, and design contracts that work in the public interest. We must create more effective interfaces with innovations across the whole of society; rethink how policies are designed; change how intellectual property regimes are governed; and use R&D to distribute intelligence across academia, government, business and civil society. This means restoring public purpose in policies so that they are aimed at creating tangible benefits for citizens and setting goals that matter to people – driven by public-interest considerations rather than profit.5 It also means placing purpose at the core of corporate governance and considering the needs of all stakeholders, including workers and community institutions, as opposed to just shareholders (owners of stock in a company).

In this context, ‘moonshot’ thinking is about setting targets that are ambitious but also inspirational, able to catalyse innovation across multiple sectors and actors in the economy. It is about imagining a better future and organizing public and private investments to achieve that future. This, in the end, is what got a man on the moon and back.

But there is a catch.

Conventional wisdom continues to portray government as a clunky bureaucratic machine that cannot innovate: at best, its role is to fix, regulate, redistribute; it corrects markets when they go wrong. According to this view, civil servants are not as creative and risk-taking as the entrepreneurs of Silicon Valley, and government should simply level the playing field and then get out of the way – so the risk-takers in private business can play the game.

This book’s thesis is that we cannot move on from the key problems facing our economies until we abandon this narrow view. Mission thinking of the kind I outline here can help us restructure contemporary capitalism. The scale of the reinvention calls for a new narrative and new vocabulary for our political economy, using the idea of public purpose to guide policy and business activity.6 This requires ambition – making sure that the contracts, relationships and messaging result in a more sustainable and just society. And it requires a process that is as inclusive as possible, involving many value creators. Public purpose must lie at the centre of how wealth is created collectively to bring stronger alignment between value creation and value distribution. And the latter should not only be about redistribution (ex post) but also predistribution ex ante: a more symbiotic way for economic actors to relate, collaborate and share.

It is essential to link the micro properties of the system – such as how organizations are governed – to the macro patterns of the type of growth desired. By rethinking how the relationships between the public sector and private sector can be better governed around public purpose, we can create growth that is better balanced and resilient, with new capabilities and opportunities spread across the economy. But this means, at the start, replacing the fashionable, bland terminology of ‘partnership’ with clearer metrics as to what a symbiotic and mutualistic ecosystem looks like; that is, one in which risks and rewards are more equally shared. In our era, unfortunately, the relationship is often parasitic: public-health funding is structured so that publicly financed drugs are too expensive for citizens to buy.

I call this different way of doing things a mission-oriented approach. It means choosing directions for the economy and then putting the problems that need solving to get there at the centre of how we design our economic system. It means designing policies that catalyse investment, innovation and collaboration across a wide variety of actors in the economy, engaging both business and citizens. It means asking what kind of markets we want, rather than what problem in the market needs to be fixed. It means using instruments such as loans, grants and procurement to drive the most innovative solutions to tackle specific problems, whether those be getting plastic out of the ocean or narrowing the digital divide. The wrong question is: how much money is there and what can we do with it? The right question is: what needs doing and how can we structure budgets to meet those goals?

### 1NC – China Ptx

#### CP: The House of Representatives should cease advocating for a conferenced China competitiveness bill to include titles related to trade and climate change as included in the America COMPETES Act.

#### Negotiated China competitiveness bill with massive semiconductor investment will pass, but it’s a delicate balancing act to maintain bipartisan support – swift action and being perceived as tough on China is key to the coalition

Meyer 3/23/2022 – national political reporter for The Washington Post and a co-author of the Early 202 newsletter

Theoderic, Jacqueline Alemany is the author of The Early 202, “Time is running out for a deal on the China competitiveness bill” Washington Post, <https://www.washingtonpost.com/politics/2022/03/23/time-is-running-out-deal-china-competitiveness-bill/>

Congress has tied itself into a Gordian knot over one of President Biden’s top legislative priorities: a bill to bolster American semiconductor manufacturing and help the country compete economically with China.

It's Commerce Secretary Gina Raimondo’s job to help cut it — but time is running out.

Raimondo is working to help lawmakers reach an agreement, which would give Democrats another achievement in the midterms. She told reporters in January that Congress “can’t wait until April, May” to pass the bill — a timeline that is now impossible to meet.

In an interview, Raimondo told The Early she thought the bill could be done by Memorial Day — maybe sooner.

“There’s no deadline, per se,” Raimondo said. “We just have stay focused on it and do the work — sit at the table and do the work to reconcile the differences.”

“I'm going to work on this and talk to members of Congress every single day until it does pass,” she added.

While the bill is a top priority for the White House, Senate Majority Leader Chuck Schumer (D-N.Y.) and House Speaker Nancy Pelosi (D-Calif.) to help improve Democrats' standing ahead of the midterms, the negotiations also serve as a political opportunity for Raimondo. The former Rhode Island governor could burnish her reputation as a leading moderate in the party by showing she can help negotiate a deal with Republicans at a time when bitter partisanship reigns.

“One of the most impressive things about Secretary Raimondo is that she is as comfortable, willing and happy to call a progressive member from California as a Republican senator from a deep-red state,” said Scott Mulhauser, who worked as a senior adviser to Raimondo for several months last year before returning to his consulting firm.

Some Republicans have praised Raimondo's work trying to hash out a compromise.

“Amongst many of the Senate Republican staff that I’ve spoken with on this matter, she has been very helpful,” said Ari Zimmerman, a Republican lobbyist at Brownstein Hyatt Farber Schreck who's lobbied on the bill. “She understands the problem in and out.”

But it's still unclear whether a deal will actually come together.

A tough deal

Congress has been laboring to pass the bill for most of Biden's presidency. The Senate cleared its version in June with 19 Republican voters; the House passed its own bill last month with the support of only a single Republican, Rep. Adam Kinzinger (Ill.).

The challenge facing Raimondo and Democratic congressional leaders now is how to strike a deal that keeps at least 10 Senate Republicans on board and still wins the support of wary House Democrats. That task grows harder each day as the midterms approach and Republicans lose any incentive to make compromises that would allow for passage of a bill Democrats could tout ahead of November's elections.

Raimondo insists there is a deal to be had and argued that there’s already bipartisan agreement on “the bones of the bill” — a $52 billion program to combat a global shortage of computer chips by subsidizing manufacturing in the United States.

But lawmakers are at odds over provisions that fall “outside of the core innovation package,” as she put it, such as climate change, financial services and human trafficking. The biggest gap between the two bills is on trade, according to Raimondo as well as several lobbyists tracking the legislation.

“That’s really where the two sides are the farthest apart,” said Brian Pomper, a Democratic lobbyist at Akin Gump Strauss Hauer & Feld who has lobbied on the bill. “And, I mean, they are universes apart.”

Republicans and Democrats are preparing to hash out the differences between the two bills in a conference committee. If negotiations falter, though, Pomper said lawmakers might push to scrap the trade provisions and pass a more limited bill.

“If you really get jammed up on the trade title, I think you’re going to see some members starting to say, ‘Well, why don’t we just ditch the trade title? And let’s do the rest of this bill, which is going to be a lot easier to figure out,” he said.

Not giving up without a fight

But stripping out the trade provisions could alienate Senate Republicans whose votes Democrats need to overcome a filibuster.

The trade language in the Senate bill “was the linchpin that was needed” to pass it last year, said Clete Willems, a former trade negotiator in Donald Trump’s White House who is now a lobbyist tracking the bill. “So I think it’s going to be ultimately included.”

House Democrats who spent months pushing to pass their version of the bill, meanwhile, aren't likely to give up without a fight.

“The things that we're proposing are good for American manufacturing,” said Rep. Earl Blumenauer (D-Ore.), who backed the trade provisions in the House bill. “They're good for the American consumer. Many of my Republican friends are violently opposed to giving special concessions to China. I wouldn't think this would be a heavy lift.”

The China bill, Blumenauer added, is likely the only chance to pass these trade measures before the midterms.

“This is one of the few trains leaving the station,” he said.

#### UQ CP resolves any reasons negotiations will stall – makes the bill exclusively about competing with China

Willems ’22 – nonresident senior fellow in Economic Statecraft at the Atlantic Council, partner at Akin Gump Strauss Hauer & Feld, former, Assistant to the President for International Economics and Deputy Director of the National Economic Council

Clete Willems, “The path forward on the US-China technology competition” Atlantic Council, February 17, 2022, https://www.atlanticcouncil.org/blogs/econographics/the-path-forward-on-the-us-china-technology-competition/

Pass Bipartisan China Competitiveness Legislation

In recent months, the US House of Representatives and Senate both passed versions of China competitiveness legislation. This legislation centers on increasing government incentives to promote innovation in key technology areas such as semiconductors, quantum computing, 5G, and synthetic biology, among others. Both versions of the legislation also seek to improve supply chain resilience and reliability through partnerships with key allies around the world.

Finalizing the legislation should be an easy decision, but prospects for a swift conclusion appear increasingly unlikely due to actions by both parties. House Democrats pursued a partisan process to design key elements of the bill, such as its trade components. Their strategy exacerbated partisan tensions and yielded poorly designed proposals that could undermine US competitiveness, such as an unwieldy outbound investment mechanism or the effort to raise tariffs on low-cost goods. As for the Republicans, many appear focused on scoring political points rather than legislating by calling the legislation “weak on China” without offering a viable alternative.

To move forward, Democrats should abandon the House’s partisan elements in favor of the Senate’s bipartisan approach. The Senate bill would lower costs for US businesses with targeted tariff relief, provide new tools to counter China’s censorship, and advance a much-needed digital trade agenda. For their part, Republicans should be willing to support many of the same kinds of trade and supply chain policies they have been advocating for over the past few years, even if some also happen to be supported by the current Democratic President.

#### Plan is perceived as soft on China – sparks backlash from Republicans and moderate Dems

Mills Rodrigo 2/23/2022 – staff writer at the Hill, former Georgetown debater

KARL EVERS-HILLSTROM AND CHRIS MILLS RODRIGO, “Big Tech allies point to China, Russia threat in push to squash antitrust bill” The Hill, 2/23/2022, <https://thehill.com/policy/technology/595414-big-tech-allies-point-to-china-russia-threat-in-push-to-squash-antitrust/>

Big Tech’s numerous allies in Washington are repeating a similar message as they lobby lawmakers to abandon antitrust legislation: The U.S. needs tech giants at full strength to counter China, Russia and other threats to national security.

The last-ditch effort comes as the Senate gears up to consider the American Innovation and Choice Online Act, a bipartisan bill that would prevent dominant digital platforms from favoring their own services and empower antitrust enforcers to scrutinize the largest tech firms.

Despite making it out of the Senate Judiciary Committee by a bipartisan 16-6 vote, the legislation targeting America’s largest tech companies faces an uphill battle.

Many lawmakers who gave the legislation a thumbs-up on the panel cautioned that they would be unlikely to vote “yes” on the floor unless major changes are made.

A handful of those lawmakers specifically expressed concern that stopping tech giants from self-preferencing could unintentionally advantage America’s adversaries.

Russian aggression in Ukraine has only reinforced those industry talking points among lawmakers who are fearful of impending cyber conflicts with Russia and China, according to tech allies.

“When you’re talking about a geopolitical conflict, all of a sudden the terms of the debate change, both for the Democrats and the Republicans. There’s an ongoing shift as people grapple with the magnitude of the global tensions,” said Michael Mandel, chief economist at the Amazon- and Meta-backed Progressive Policy Institute, which opposes the antitrust bill. “You don’t want to be in a position of disassembling your strongest tech companies at the same time you’re fighting a tech war.”

The argument that antitrust enforcement weakens national security is by no means new. AT&T deployed a similar defense of its power in the 1980s.

But tech giants’ hawkish stance on China is a more recent development. Industry lobbyists and tech-backed advocacy groups on both the right and left have inundated lawmakers with calls, emails, op-eds and political ads warning that the antitrust proposal will give Beijing the upper hand in the technological arms race.

The shift from portraying themselves as national champions to a hedge against the Chinese Communist Party has come despite many major tech companies’ big presence in China.

Apple has shifted much of its production to China over the last decade and has established itself as a domestic seller. Meta’s Mark Zuckerberg courted China for years before decrying the Chinese internet model. Google was working to build a censored search engine that could operate in China as recently as 2017. Amazon was chastised by lawmakers last year over a contract with a Chinese company that claimed it could track Uyghurs in real time.

But their current argument began shortly after the House Judiciary Committee published its wide-ranging report on digital marketplace competition and posits that weakening American tech companies would cut into U.S. technology leadership.

The U.S. Chamber of Commerce, which seats Meta and Microsoft executives on its board, argued in a report published last week that legislative proposals under consideration would require affected companies to compete against Chinese government-backed companies such as Huawei and TikTok’s parent company ByteDance “with one hand tied behind their backs.”

The Computer and Communications Industry Association, which represents the big four tech companies, argues that the bill would require U.S. tech giants to share data with foreign competitors and weaken their research and development capabilities while leaving Chinese tech firms untouched.

“Given the current geopolitical environment, now more than ever policymakers need to be aware of the risks of undermining the U.S. competitive advantage in technology products and services,” said Matt Schruers, the tech group’s president.

Most tech giants ramped up their lobbying presence amid the antitrust fight. Amazon and Meta each shelled out more than $20 million on federal lobbying last year, dwarfing the spending of all other companies, according to research group OpenSecrets.

But those figures only scratch the surface of tech giants’ influence.

Meta has disclosed funding more than 100 Washington-centric organizations, including a host of liberal and conservative lobbying groups and influential think tanks such as the American Enterprise Institute and the Brookings Institution.

Amazon backs dozens of groups ranging from nonpartisan groups like the National Security Institute to the liberal Chamber of Progress and the right-wing Taxpayers Protection Alliance, which is running ads warning that the tech bill will “help China win in the end.”

While Apple and Google are less active in backing Washington groups, their CEOs personally met with senators in recent months to lobby against antitrust bills.

“With direct financial ties to the Chinese Communist Party, many Chinese companies present threats to America’s national security,” read a recent ad from the Meta-backed American Edge Project nonprofit. “But some Washington politicians are pushing for new laws that will empower Chinese companies at the expense of America’s tech innovators.”

In September, a dozen former high-ranking national security officials, including former Defense Secretary Leon Panetta and former Director of National Intelligence Dan Coats, penned a letter to lawmakers warning that antitrust proposals would empower China to become the global leader in technological innovation.

The ex-officials echoed industry groups, calling on lawmakers to study the national security impacts of regulating Big Tech before moving forward with the bill. All of those officials sported ties to tech giants in one way or another, Politico reported.

According to two K Street lobbyists with big tech clients, the industry is carrying out a tried-and-true strategy: stalling the bill in an attempt to wait out the clock until the midterm elections, which could usher in a divided and likely dysfunctional government.

Lobbyists noted that the nomination process for Supreme Court Justice Stephen Breyer’s replacement will sap up a chunk of the Senate’s remaining schedule. Resolving the various issues that lawmakers have with the bill will also take time.

Sens. Thom Tillis (R-N.C.) and Ted Cruz (R-Texas) both floated several amendments, although the Texas lawmaker ultimately voted to advance the bill through the committee.

Some Democrats also appeared less than convinced despite reporting the bill favorably. Both members of California’s Senate delegation, Dianne Feinstein (D) and Alex Padilla (D), raised concerns about targeting companies based in their state.

Sen. Chris Coons (D-Del.), a top Biden ally, expressed concerns last month about “potentially unintended consequences on the competitiveness globally of our digital democracy principles on the world stage.”

Proponents of the legislation have pushed back on the national security argument in reports and letters to congressional leadership, countering that monopolies are actually hamstringing innovation more than breaking them up would.

“You have five companies, Google, Facebook, Amazon, Apple and Microsoft, sitting on trillions of dollars of assets and massive amounts of talent,” said Matt Stoller, director of research at the American Economic Liberties Project, contrasting that with the early software industry.

“We are running this monopoly-heavy, top-heavy industrial strategy based on consolidating wealth and power, which doesn’t make any sense because now you only have five companies doing any innovation instead of hundreds or thousands.”

#### Semiconductor investments key to all aspects of tech competition with China

Lord ’22 - first undersecretary of defense for acquisition and sustainment. Senior senior adviser of The Chertoff Group

Ellen Lord, Mira Ricardel served as assistant to the president and deputy national security adviser. Prior to that, she was undersecretary of commerce for the Bureau of Industry and Security. “America needs a robust, resilient supply chain for semiconductors” Defense News, February 11, <https://www.defensenews.com/opinion/commentary/2022/02/11/america-needs-a-robust-resilient-supply-chain-for-semiconductors/>

U.S. economic and military competition with China is the defining condition of this decade and, likely, of decades to follow. The outcome of today’s competition with China rests on who will assume technology leadership for advanced and emerging technologies.

Semiconductors feed the defense, medical, industrial control and transportation sectors, to name just a few. America is confronted with a rising China that is committed to becoming the dominant technology power and increasingly poses an existential threat. We must quickly address critical supply chain security and resiliency issues. Both American soft and hard power are girded by our innovative technology and ability to apply it with agility to market demands and national security requirements.

Today, the U.S. commercial sector is America’s innovation engine, and private corporations are developing the intellectual property for our most advanced capabilities such as artificial intelligence, machine learning, quantum computing, space communications and sensing. And these dramatic leaps in technology are enabled by advancements in semiconductors. While semiconductors are the building blocks for the U.S. economy, so much of this industry has migrated overseas, and the resulting imbalance is a significant U.S. economic and national security threat.

The United States is at a precarious juncture where private and public sector missteps could erode our technological superiority, underscoring the urgency of addressing the semiconductor sector.

The People’s Republic of China understands the correlation between technology leadership, the economy and the military, which is why semiconductors are high on the PRC’s list of industries to develop for self-sufficiency and global leadership. Chips and semiconductor capabilities have received consistent and significant investment by the Chinese government. This internal emphasis has been matched by aggressive licit and illicit efforts to gain access to U.S. and other nations’ intellectual property.

Other foreign governments also have prioritized their semiconductor industries and heavily subsidized their chipmakers, contributing to the erosion of America’s semiconductor technology leadership position and the broader competitive environment. Moreover, the concentration of advanced semiconductor development and manufacturing carries not only considerable geopolitical risks but also resource constraints such as an interruption in water or power supplies. A one-hour power outage in a small area of Taiwan impacted 10% of the global DRAM — or dynamic random access memory — supply.

Complicating U.S. policy options is the highly specialized, fragmented and time-consuming semiconductor production process. Furthermore, the supply chain for the raw materials needed to produce semiconductors is vast and complex, containing hidden chokepoints.

What is indisputable is that the U.S. needs a robust and resilient supply chain for semiconductors. U.S. government leaders should consider ways to promote greater robustness and resilience. They also should focus on the criticality of continuous innovation in microelectronics. We need our most essential IP to be developed, owned and protected here in the U.S. while perhaps leveraging the National Technology and Industrial Base partners.

#### Failure to beat China in tech incentivizes escalatory nuclear postures that make extinction inevitable

Kroenig and Gopalaswamy 18 – Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council; Director of the South Asia Center at the Atlantic Council

Matthew Kroenig and Bharath Gopalaswamy, "Will disruptive technology cause nuclear war?," Bulletin of the Atomic Scientists, 11-12-2018, <https://thebulletin.org/2018/11/will-disruptive-technology-cause-nuclear-war/>

Rather, we should think **more broadly** about how new technology might affect global politics, and, for this, it is helpful to turn to scholarly international relations theory. The dominant theory of the causes of war in the academy is the “bargaining model of war.” This theory identifies rapid shifts in the balance of power as a primary cause of conflict.

International politics often presents states with conflicts that they can settle through peaceful bargaining, but when bargaining breaks down, war results. Shifts in the balance of power are problematic because they undermine effective bargaining. After all, why agree to a deal today if your bargaining position will be stronger tomorrow? And, a clear understanding of the military balance of power can contribute to peace. (Why start a war you are likely to lose?) But shifts in the balance of power muddy understandings of which states have the advantage.

You may see where this is going. New technologies threaten to create potentially destabilizing shifts in the balance of power.

For decades, stability in Europe and Asia has been supported by US military power. In recent years, however, the balance of power in Asia has begun to shift, as China has increased its military capabilities. Already, Beijing has become more assertive in the region, claiming contested territory in the South China Sea. And the results of Russia’s military modernization have been on full displayin its ongoing intervention in Ukraine.

Moreover, China may have the lead over the United States in emerging technologies that could be decisive for the future of military acquisitions and warfare, including 3D printing, hypersonic missiles, quantum computing, 5G wireless connectivity, and artificial intelligence (AI). And Russian President Vladimir Putin is building new unmanned vehicles while ominously declaring, “Whoever leads in AI will rule the world.”

If China or Russia are able to incorporate new technologies into their militaries before the United States, then this could lead to the kind of rapid shift in the balance of power that often causes war.

If Beijing believes emerging technologies provide it with a newfound, local military advantage over the United States, for example, it may be more willing than previously to initiate conflict over Taiwan. And if Putin thinks new tech has strengthened his hand, he may be more tempted to launch a Ukraine-style invasion of a NATO member.

Either scenario could bring these nuclear powers into direct conflict with the United States, and once nuclear armed states are at war, there is an inherent risk of nuclear conflict through limited nuclear war strategies, nuclear brinkmanship, or simple accident or inadvertent escalation.

This framing of the problem leads to a different set of policy implications. The concern is not simply technologies that threaten to undermine nuclear second-strike capabilities directly, but, rather, any technologies that can result in a meaningful shift in the broader balance of power. And the solution is not to preserve second-strike capabilities, but to preserve prevailing power balances more broadly.

When it comes to new technology, this means that the United States should seek to maintain an innovation edge. Washington should also work with other states, including its nuclear-armed rivals, to develop a new set of arms control and nonproliferation agreements and export controls to deny these newer and potentially destabilizing technologies to potentially hostile states.

These are no easy tasks, but the consequences of Washington losing the race for technological superiority to its autocratic challengers just might mean nuclear Armageddon.

## Camo Adv

#### Circumvention—courts interpret the plan in the narrowest possible way to favor dominant industry

Crane, Frederick Paul Furth, Sr. Professor of Law, University of Michigan, ‘21

(Daniel A., “Antitrust Antitextualism,” 96 Notre Dame L. Rev. 1205)

This view is so widely entrenched in the legal profession’s understanding of the antitrust laws—including, it must be admitted, this author’s—that it seems presumptuous to claim that the conventional wisdom is wrong, or at least significantly overstated. But it is. While the antitrust statutes may be lacking in some important particulars, they present a readily discernable meaning on many others. As Daniel Farber and Brett McDonnell have argued, “For the conscientious textualist, the statutory texts [of the antitrust laws] have considerably more specific meaning than the conventional wisdom would suggest.”5 And it is not simply the case that the meaning of the statutory texts could be rendered through ordinary methods of statutory interpretation but the courts have failed to see it. Rather, the courts frequently acknowledge that the statutory texts have a plain meaning, and then refuse to follow it.

But it gets worse. The courts have not merely abandoned statutory textualism or other modes of faithful interpretation out of a commitment to a dynamic common-law process. Rather, they have departed from text and original meaning in one consistent direction—toward reading down the antitrust statutes in favor of big business. As detailed in this Article, this unilateral process began almost immediately upon the promulgation of the Sherman Act and continues to this day. In brief: within their first decade of antitrust jurisprudence, the courts read an atextual rule of reason into section 1 of the Sherman Act to transform an absolute prohibition on agreements restraining trade into a flexible standard often invoked to bless large business combinations; after Congress passed two reform statutes in 1914, the courts incrementally read much of the textual distinctiveness out of the statutes to lessen their anticorporate bite; the courts have read the 1936 Robinson-Patman Act almost out of existence; and the Celler-Kefauver Amendments of 1950, faithfully followed in the years immediately after their promulgation, have been watered down to textually unrecognizable levels by judicial interpretation and agency practice. It is no exaggeration to say that not one of the principal substantive antitrust statutes has been consistently interpreted by the courts in a way faithful to its text or legislative intent, and that the arc of antitrust antitexualism has bent always in favor of capital.

#### No Middle East escalation

* Proxy wars stay localized

They are cheaper to change the status quo

Gives countries the opportunity to deny conflict

Non-state actors can’t escalate because of institutional capacity

* Consensus of international scholars and data conclude

Imran 2/6/19 [Myra Imran, writer for The News International. Citing the international seminar on “Strategic Dimensions of Peace and Conflict in South Asia and the Middle East”. Seminar on ‘Strategic dimensions of peace and conflict in South Asia, Middle East’. 2/6/19, https://www.thenews.com.pk/print/428298-seminar-on-strategic-dimensions-of-peace-and-conflict-in-south-asia-middle-east]

Islamabad : There is a need to study the causes of proxy wars, and what are the potential impacts of such wars on the overall conflict. These thoughts in a daylong international seminar on ‘Strategic Dimensions of Peace and Conflict in South Asia and the Middle East,’ organised by Pak Institute for Peace Studies (PIPS), an Islamabad-based think tank, participated by prominent national and international scholars.

Prof. Shahram Akbarzadeh, Deakin University, Australia, argued there is significant gap in the literature on non-state actors. He called for empirical research, along with concrete policy suggestions, on the topic, so as to mitigate the conflicts in the region, in particular South Asia and Middle East.

Speakers grappled at the notion of non-state actors and proxy wars: PIPS director Muhammad Amir Rana said non-state actors often evoke memories of violent elements. This despite that as per definition, non-state actors include organizations working for human rights.

Prof. Syed Rifaat Hussain, Department of Government and Public Policy, NUST, said the term “proxy wars” is a contested notion. There is no universal agreement on its definition, nor on the set of circumstances behind such wars. Interestingly, he said, proxy wars are as old as the phenomena of conventional war itself.

Speakers noted proxy wars are instruments of state power. As to why states go for it, it was argued, it is because they are often cheap undertaking to change the status quo.

Participants noted over the decades, much of the conflict involves non-state actors. Interstate conflict, on the other hand, has declined. In recent times, he said tit-for-tat tactics on behalf of such actors have reduced their appeal.

Dr. Ibrahim Fraihat, Doha Institute of Graduate Studies, Doha, termed proxy war as an arms conflict between two parties, though one of them is not directly involved. This way, domestic conflicts are escalated by external power intervention. At the same time, proxy war, if unresolved, can take the shape of conventional war, the most significant example was of Vietnam War. In contemporary times, he lamented, the Middle East has been rendered a stock market of proxy organizations.

William Gueriache, Associate Professor American University in the Emirates Dubai, said on surface, all states support open diplomacy and multilateralism. Yet the survival of patronage has paved the way for foreign intervention during conflicts in the whole Middle East.

Dr. Marwan Kablan, Director Policy Analysis at the Arab Center for Research and Policy Studies Doha, also hinted multiplicity of actors involved in Syrian conflict, calling it as mother of conflicts in the region. It was said that wars cannot be ended unless patron states achieve their interests.

Dr. Shaheen Akhtar, Professor National Defence University Islamabad focused on the apprehension of Pakistan about India’s involvement in Afghanistan. She said Pakistan’s uneasy relationship with Kabul reinforces a perception of encirclement while growing US-India strategic cooperation further aggravates these apprehensions.

Dr. Muhammad Riaz Shad, National University of Modern Languages (NUML) Islamabad, said fighting through proxies gives states an opportunity of deniability.

#### Ending US complicity won’t stop the conflict

**Katulis, 18 –** Brian Katulis is a senior fellow at the Center for American Progress. Dr. Lawrence J. Korb is a senior fellow at the Center for American Progress and served as assistant secretary of defense from 1981 through 1985. (Brian, “Five Lessons from the Iraq War for What the U.S. Should Do in Yemen” 12/28, <https://nationalinterest.org/feature/five-lessons-iraq-war-what-us-should-do-yemen-39977>

The Iraq drawdown offers an instructive lesson. The Obama administration completed a full withdrawal of U.S. troops by December 2011—and also proceeded to downgrade America’s focus and investment in Iraq. A few short years later, Iraq’s security collapsed under the rise of the Islamic State. This experience in Iraq offers five important lessons learned for how to end the war in Yemen, including: 1. There is a difference between ending America’s involvement and moral complicity in a war versus actually ending a war. Advocacy groups can often ignore the complicated realities driving conflicts—and in the case of Yemen, there are multiple conflicts, alongside Saudi bombing and Iranian meddling. Those conflicts and the resulting suffering of millions of Yemenis are not likely to end simply because Congress legislates an end to U.S. military involvement. 2. Terrorism remains an enduring threat and requires vigilance. After withdrawing from Iraq, the Obama administration was slow to respond to the mutating terrorist threats that became the Islamic State. This had a devastating effect on the people of the Middle East and almost overtook Barack Obama’s broader second-term foreign policy agenda. Fortunately, the Obama administration ultimately developed an effective response, and the Trump administration used the template to defeat the Islamic State militarily. In Yemen today, groups such as Al Qaeda in the Arabian Peninsula (AQAP), with regional and international reach, can threaten U.S. interests—and America needs to remain engaged to protect against those threats.

#### Bombings still continue.

Knights ‘18 (Michael Knights, Senior Fellow at the Washington Institute for Near East Policy, holds a D.Phil. from the Department of War Studies at King's College London (UK), 2018 (“U.S.-Saudi Security Cooperation (Part 1): Conditioning Arms Sales to Build Leverage,” The Washington Institute, November 5th, Available Online at <https://www.washingtoninstitute.org/policy-analysis/view/u.s.-saudi-security-cooperation-part-1-conditioning-arms-sales-to-build-lev>, Accessed 06-25-2019)

Precision-Guided Munitions Sales of air-delivered precision-guided munitions (PGMs) are another lightning rod issue in the bilateral security relationship. Following the 2009-2010 round of hostilities with the Houthis, the kingdom sought to refresh its stock of antipersonnel bombs with a large order of 1,300 U.S.-built CBU-105 sensor-fused weapons (a higher-reliability submunition that manufacturers say does not qualify as a cluster bomb due to its low malfunction rate). Yet by November 2015, eight months into the current war, the Saudis had used up nearly 2,600 PGMs, according to strike metrics compiled by The Washington Institute. In response, the Saudis requested a $1.29 billion package comprising around 19,000 air-delivered PGMs, an order that began delivery in July 2017. In addition to that package, the Senate narrowly approved a new $500 million commercial sale of PGMs to Riyadh in June 2017—the first installment in a mammoth $4.46 billion series of air-launched munition deals that would provide the Saudis with 104,000 U.S. PGMs in the next half decade. Riyadh may be accelerating its purchases in anticipation of a prolonged war in Yemen and the potential loss of U.S. sales down the road. According to Washington Institute data collected in Saudi Arabia and Yemen, the kingdom’s forces have used around 14,500 munitions since March 2015, almost all PGMs, with the average rate gradually declining from 333 PGMs per month in 2015 to 270 per month this year. The U.S. munitions currently arriving in Saudi Arabia were ordered in November 2015, when Riyadh recognized it might need new PGMs by 2019, but the intervening years have seen few signs of a PGM shortfall. Based on a rough sense of prewar stocks and a constant dribble of replacements, Riyadh could probably keep bombing at its current rate for several years even if all new U.S. PGM deals were rejected. Thus, while cutting off such sales may be a good way to signal U.S. displeasure or publicly distance Washington from the war, the data indicates that it would not meaningfully slow the air campaign anytime soon.

#### No US-Iran war – domestic pressures and economic costs

Horowitz and Saunders 19 - professor of political science and the associate director of Perry World House at the University of Pennsylvania. He recently received the 2017 Karl Deutsch Award from the International Studies Association. He previously worked for the Office of the Undersecretary of Defense for Policy in the Department of Defense. He is affiliated with the Foreign Policy Research Institute, the Center for Strategic and International Studies, and the Center for a New American Security. He is also a Term Member of the Council on Foreign Relations. He has held a fellowship at the Belfer Center at Harvard, where he received his PhD in Government. Professor Horowitz received his BA in political science from Emory University \*\*AND an Associate Professor in the School of Foreign Service and a core faculty member in the Security Studies Program at Georgetown University.  Previously, she was an Associate Professor in the Department of Political Science at George Washington University. Non-resident senior fellow at Brookings. [Michael and Elizabeth, “War with Iran is probably less likely than you think”, Washington Post, 6/17/19, [https://www.washingtonpost.com/politics/2019/06/17/war-with-iran-is-probably-less-likely-than-you-think/?utm\_term=.90bf663ddc46]//AV](https://www.washingtonpost.com/politics/2019/06/17/war-with-iran-is-probably-less-likely-than-you-think/?utm_term=.90bf663ddc46%5d//AV)

Why war with [Iran](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) might be less likely than you think. Last week, an attack on two [tankers](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) in the Gulf of Oman raised tensions between the [United States](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon)and Iran -- on the heels of a similar attack in May. Though Iran denied responsibility, Secretary of State Mike Pompeo said intelligence evidence showed Iran was to blame, and President Trump concurred that "Iran did do it." Although questions remain in some quarters about the attack's nature and source, on Sunday on CBS's "Face the Nation," Rep. Adam Schiff (D-Calif.) said the evidence Iran was responsible is "very strong and compelling." As was true when the United States and North Korea exchanged bellicose rhetoric in 2017 and early 2018, many are now worried that the U.S. and Iran are heading for war. When Trump was warning that North Korea faced "fire and fury" if it threatened the United States, we wrote about why, despite the rhetoric, war was unlikely. This time, some factors are indeed pushing the two sides toward [conflict](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon). But forces of restraint are also reducing the likelihood of war. Tensions can lead to a "spiral" of escalation. Both the United States and Iran say that they do not want a war, but that they are prepared to fight if the other side starts one. What's worrisome is what political scientists call the spiral model of conflict escalation. Sometimes, when countries take measures they think will improve their own security, potential opponents can perceive that as threatening -- a classic security dilemma. Those potential opponents then take measures to improve their own security -- which the first country sees as threatening. And so on. When countries do not trust each other, and perhaps even fear that the other side wants war, they are unlikely to believe conciliatory signals from the other side, and nobody wants to appear weak. The result is a spiral of conflict. The past few weeks' events have certainly ratcheted up tensions. The recent tanker attack and America's decision to quickly blame Iran only raises them further. And as Tyler Jost and Rob Schub wrote here at TMC last month, the Trump administration's decision-making process could make it even more difficult to navigate the tricky problem of reading and responding to signals in a crisis like this. War would be very costly in this case. A conflict between Iran and the United States could be very costly. For instance, in such a war, Iran might use mines to keep ships from traveling through traffic in the Strait of Hormuz -- a crucial, narrow passage for world energy supplies. If that happened, the U.S. options for clearing the mines would be complicated and costly, as Caitlin Talmadge argues. Such an operation might require hitting targets inside Iran or risk Iranian retaliation from coastal positions given the narrow geographic chokepoint -- all pointing toward further escalation. Knowing this, the United States might instead choose to go straight to a bombing campaign. But coercive bombing might also lead to escalation. Despite these dangers, there are still important constraints on both sides. Misperception rarely causes war. The spiral model may not be the right way to think about how conflicts escalate. Missed signals and miscalculation can indeed generate tension. But leaders have many ways to avoid conflicts that they do not want to fight. The historical record suggests that misperception and accidental escalation rarely lead to war -- as Dan Reiter noted here at TMC during the height of North Korea tensions in 2018. Domestic political pressures don't seem to be pushing toward war. The United States and Iran also face domestic pressures that may make both sides hesitate before escalating. Iran's economy has suffered under the Trump administration's renewed sanctions, and parliamentary elections are coming up. Although the country's president, Hassan Rouhani, has used tough rhetoric recently, a costly war might not benefit Iran's leaders, since it could inflict further economic and human costs, or even lead to regime change or collapse. Likewise, after nearly two decades of war in the [Middle East](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) and [Afghanistan](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon), Americans are unlikely to welcome another major conflict. Neither Trump's own party nor the opposition Democrats has rallied the U.S. public to pressure Trump to escalate. As TMC's Michael Tesler noted in December, although Trump's base supporters tend to have hawkish views, they supported his decision to withdraw troops from Syria. If Trump does not want war with Iran, his base would likely follow. The president doesn't seem eager for war. There has been much talk about a replay of the Iraq War, with the United States using possibly flawed intelligence to justify war. But although Trump has used limited military force in Syria, he seems generally opposed to costly [wars](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) in the Middle East, and unlikely to embrace a new one. Both Pompeo and [national security](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon)adviser [John](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) Bolton are much more hawkish on Iran, but Trump has distanced himself from his advisers' hawkish rhetoric, particularly the most costly option: regime change. Here's what to watch for. So which will win out: the risks of escalation or the pressures for restraint? Amid all the tension, Iran wants its regime to survive, and Trump probably does not want to absorb a costly war. In the coming days and weeks, it will be telling to see if there is further daylight between Trump and his advisers. Here's one more risk: if Trump's hawkish advisers present an option that seems like it could be kept limited, but actually carries a strong likelihood of escalation. Trump has embraced limited displays of force, such as airstrikes in Syria in 2017 and 2018, and he issued a threatening tweet on Iran in May. But he has also pivoted away quickly from harsh rhetoric to [diplomacy](https://go-galegroup-com.proxy.lib.umich.edu/ps/i.do?p=AONE&u=umuser&id=GALE%7CA589487347&v=2.1&it=r&sid=summon) before -- as he did toward North Korea -- and has already achieved his campaign goal of pulling out of the nuclear deal he disdained. The bottom line: Despite rising tension, powerful factors reduce the likelihood of war between the U.S. and Iran. That's unlikely to change anytime soon.

#### No great power draw in

Ekaterina Stepanova 16, researcher at the Institute of World Economy and International Relations, Summer 2016, “Russia in the Middle East: Back to a “Grand Strategy” – or Enforcing Multilateralism?,” http://www.cairn-int.info/article-E\_PE\_162\_0023--russia-in-the-middle-east.htm

In contrast to the 20th century and the early years of the 21st century, the regional crisis in the 2010s developed at a time when, overall, the role and leverage of major powers external to the Middle East, as either active meddlers or security guarantors in the region, or both, actually declined rather than increased. The United States serves as the most evident case in point: the “post-interventionist” US administration has clearly become “tired of the Middle East”, struggling and often failing to keep pace with the dynamically changing situation and unable to alter or decisively affect the course of events. The same even more strongly applies to the European powers. In terms of activity and impact, regional actors (Iran, Saudi Arabia, Qatar, UAE and Turkey) increasingly appeared to outplay external powers and influence.

For external powers, however, that did not remove a number of risks and threats connected to, or emanating from, the Middle East. The increase and diversification of global energy supply and the latest crisis in energy prices made the region less central to the global economy than it had been in the past. At the same time, the fundamental socio-political, statehood and security crisis in the Middle East brought with it new security concerns and implications. They mostly stemmed from reinforced perceptions about the long-term nature of regional instability, the continuing potential for further destabilization, and the related consequences and implications beyond the region, ranging from terrorist connections to migration flows. These challenges affect external powers unevenly. For instance, the role of the Iraq-Syria area as the main focal point for global terrorism activity and magnet for transnational flows of violent extremists in the mid-2010s poses a threat to everyone (but mostly to the countries of the region itself, as well as to those in Europe and Eurasia). In contrast, the avalanche of refugee and migrant flows from the Middle East primarily targets Europe (rather than North America, Eurasia, or other regions).

Until recently, the main type of response by key (Western) external powers to turbulent developments in the Middle East, while not amounting to a hands-off approach, boils down to limited containment. Examples range from limited air strikes against “Islamic State” positions in Iraq and Syria, carried out by the US-led coalition since 2014, to the 2013 deal on Syria’s chemical disarmament co-brokered by the United States and Russia. Not surprisingly, this limited-containment approach has had equally limited results for Syria, Iraq and the region – as well as for the West itself (as shown, e.g., by the persistent migrant flows and accelerating terrorist attacks in Europe). Despite the growing centrality of the Middle East to global politics and security, and its more direct impact on and ties to the West, this damage limitation course taken by key external actors has not been very different from, e.g., the approach taken by the United States and its Western allies (and also by Russia and China) to the Afghanistan problem in recent years.

## Defense Adv

**Plan causes global war – defense mergers are critical to maintaining the US’s advantage over Russia and China**

**Marks 19** – Former Senior Policy Advisor to the Under Secretary for Security Assistance, Science and Technology at the U.S. Department of State

Michael Marks, "Strengthen US industry to counter national security challenges," American Military News, 10-10-2019, https://americanmilitarynews.com/2019/10/strengthen-us-industry-to-counter-national-security-challenges/

While U.S. defense budgets have recently been on the rise, it is likely that we will see a spending decline in the coming years as competition for non-defense federal budget dollars increases and deficits grow. The United States, therefore, must **take action** to ensure that we **maintain our technological edge** against our adversaries by **empowering the private sector** to provide cost-effective **innovation** for America’s defense.

Since the end of the Second World War the U.S. has relied on **qualitative superiority** over its potential adversaries, especially those like the Soviet Union/**Russia and China**, who enjoyed comparative quantitative advantages. These qualitative advantages were **vital** to maintaining **global stability** and helped enable our nation to become the preeminent **global economy**, but they have been eroded over the last few decades.

In 1960, the U.S. share of global research and development (R&D) spending stood at 69%. U.S. defense-related R&D alone accounted for 36% of total global expenditures. Soon thereafter other nations recognized the need to increase their R&D expenditures and build their own defense industrial bases to compete with the United States. From 2000-2016, China’s share of global R&D rose from 4.9% to 25.1% while the U.S. share of global R&D dropped to 28%. U.S. defense-related R&D meanwhile now makes up a **mere 4%** of global R&D spending.

There can be no doubt that Russia and China are **determined** **to challenge America’s qualitative advantage**. From the rebirth of Russian military power under Vladimir Putin to the ever-growing Chinese military prowess across the board, their efforts show **no sign** of slowing down.

Russia has been and continues to undergo a **major modernization** of its armed forces. For example, they are in the midst of a ten-year program to build hundreds of **new nuclear missiles** and have set a goal of modernizing 70% of the Russian Ground Force’s equipment by 2020.

One of the most frightening examples of Russia’s resurgence is its development of a **hypersonic missile** that could be ready for combat as early as 2020. Worryingly, the US is currently **unable to defend** against this type of missile. To accompany these developments came the emergence in 2017 of Russia as the world’s second-largest arms producer, ready and able to support nations hostile to US interests.

China, on the other hand, used to be a country that only manufactured cheap products and knockoffs, but that is no longer true. **Technology development** and **innovation** figure prominently in all of China’s national planning goals, with plans to make the country the **global leader** in science and innovation and the preeminent **technological and manufacturing power** by 2049, the 100th anniversary of the Chinese communist revolution.

This, of course, has huge implications for China’s military capability. The country now has the second-largest national defense budget behind the U.S. and wants to be Asia’s preeminent military power. Beijing is developing next-generation **fighter jets, ICBMs** and shorter-range **ballistic missiles**, as well as advanced naval vessels.

The People’s Liberation Army has reached a **critical point of confidence** and now feel they can **match competitors** like the United States in combat. This has implications for the **security of Taiwan, Japan, other US allies** in the region as well as to America itself. To make matters worse, there are a growing number of experts that see China developing **asymmetric technologies**, combined with **conventional and nuclear systems** that could create an **existential threat** to the U.S. pacific based assets.

It is in the wake of these growing threats to our national security American industry will likely be expected to shoulder an even **larger responsibility** concerning investment in **defense-related R&D**.

One of the ways we can empower companies to make these additional investments and lead next-generation defense innovation is to **allow commonsense mergers** between important defense and aerospace companies. Horizontal consolidation **eliminates the redundancy** of enormous fixed costs, **leading to savings** passed down to customers. Mergers can also create **economies of scale** and **existing synergies** that help the combined company realize access to **larger numbers** of engineers and innovators, while keeping cos**ts low** and **improving the timeline** for taking a product from concept to development.

A recent example of how this can work is the proposed Raytheon and United Technologies merger. The two parties project that the new combined company will employ more than **60,000 engineers**, hold over **38,000 patents** and invest approximately **$8 billion per year** in research and development. This will allow the development of **new, critical technologies** more quickly and efficiently than either company could **on its own**. Such private sector investments in innovation will be **critical** in the face of the **growing challenges** to American **military dominance**.

America’s **R&D advantage**, crucial to **maintaining military superiority**, is increasingly **at risk**. As China and Russia continue to challenge America’s military dominance and pressures on the defense budget continue to mount, the federal government will likely turn more and more to contractors and commercial companies to develop **next-generation defense capabilities**. Strengthening U.S. industry, therefore, will be **critical** to countering our **national security challenges.**

#### Space deterrence is terminally unsustainable---asymmetries

Weichert, 17 - former Congressional staff member who holds a Master of Arts in Statecraft & National Security Affairs from the Institute of World Politics in Washington, D.C

Brandon J. Weichert, "The High Ground: The Case for U.S. Space Dominance," *Orbis*, Volume 61, Issue 2, pp 227-237, <https://doi.org/10.1016/j.orbis.2017.02.006>

Unfortunately, however, U.S. dependence on space assets for its very survival is so much greater than any other state that such a threat is unrealistic. The reason that states like China or Russia are developing counter-space capabilities is because the cost to them is extremely low, whereas the benefit for them (in the event of war with the United States) is high. For the cost of a ground-based laser or an anti-satellite (ASAT) missile launcher, China could knock out the ability of all U.S. forces in the Pacific to coordinate and adequately defend themselves from a Chinese offensive. What could the United States do to the Chinese in return? The best option for U.S. retaliation in space would be to launch some blinding attacks on the handful of China’s space assets. However, this ultimately would not deter China from escalating any future conflict since China’s investment in space is so low compared to that of the United States. In addition, since Chinese forces are designed to operate in an environment without those assets, such retaliation grounded on deterrence-based models becomes highly problematic and ineffective. Rather than serving as a stabilizing force in space, then, the defensive and reactive space superiority model would be an inducement for conflict in the strategic high ground of space. Or, rather, the direction of attack would be unidirectional: from U.S. adversaries toward essential U.S. space systems. Thus, while space confers unequivocal advantages to the U.S. forces that depend on space assets for their vital functions, it also provides adversaries with an unprecedented weakness for them to exploit.

#### Dominance is impossible---tech leads evaporate

Mr. Chad M. Keller and Antulio J. Echevarria 18, PhD, Editor of The U.S. Army War College Quarterly, graduate of the U.S. Military Academy, the U.S. Army Command and General Staff College, the U.S. Army War College, and was a Visiting Research Fellow at Oxford University. He holds M.A. and Ph.D. degrees in history from Princeton University, and is currently working on a book on the American way of thinking about war for Cambridge University Press, “The Crumbling Sanctuary: Why America Must Restore Space Security,” <https://publications.armywarcollege.edu/pubs/3606.pdf>

Another assumption, which has been accepted by an increasing number of U.S. strategists, is that the weaponization of space is inevitable. 26 This assumption, based on comparisons to other domains which have all been weaponized, is unfounded and dangerous. Following the logic of this misguided supposition, game theory postulates there is a lasting military advantage to being the first to deploy space-based weapons.27 If America were first to weaponize space, any advantage would be fleeting. China and Russia already have the technology available to rapidly follow U.S. weaponization of space, and it would be in their interest to do so in order to ensure their continued access and to check possible U.S. space dominance.28 Furthermore, the weaponization of space is not inevitable.29 Weaponizing space is not in U.S. interests because it would destabilize the tenuous balance between militarization and peaceful use of space. Weaponization would also gravely reduce U.S. soft-power by harming relations with international partners and hindering America’s ability to lead in space. It would ultimately reduce space security while draining the treasury, since these weapons might never be able to deliver on their theoretical capabilities.30 Another assumption is that technology will one day make space-based weapons viable, rendering practical their theoretical capability to gain control over the Earth.31 However, technology cannot overcome the physical and financial realities of space, including the harsh operating environment, limited defense options, the number of space weapons required to achieve existing terrestrial capabilities, and the exorbitant costs of maintenance and resupply systems.

#### Loss of space capabilities don’t undermine overall US power

Astorino-Courtois ‘18 - NSI’s Chief Analytics Officer (CAO) and Executive Vice President, tenured Associate Professor of International Relations at Texas A&M University

Dr. Allison Astorino-Courtois, Dr. Robert Elder former Commander, 8th Air Force, Commander, Barksdale Air Force Base, Louisiana, and Commander, Joint Functional Component Command for Space and Global Strike, Dr. Belinda Bragg is Principle Research Scientist at NSI, “Contested Space Operations, Space Defense, Deterrence, and Warfighting: Summary Findings and Integration Report,” July 2018, <https://apps.dtic.mil/dtic/tr/fulltext/u2/1066708.pdf>

Absolute space dominance is not a necessary prerequisite for success in other domains

Space is a crucial domain without which the US currently may be unable to “win” a serious conflict because a loss or extreme degradation of space services also affects military capability in other domains. While loss or degradation of space capabilities can significantly affect capabilities in other domains, achieving space superiority or dominance in space is not always critical to US and ally defense (ViTTa Q17). Not only is absolute space superiority infeasible, policy and force postures intended to assure it could reduce rather than enhance US security (ViTTa Q14; Q17; Q18). Specifically, experts argued that the US could “lose” in one domain—even if that domain is space—and yet succeed overall. However, there are important caveats. While the US can lose space dominance and prevail, given the degree of domain interdependence, the US cannot lose its entire capability in space and still prevail. The US must retain the ability to maneuver through space and other domains. This suggests that the US will need to become more agile overall, including ensuring that there are appropriately robust plans and infrastructure in place to enable continued operation, whether conditions are ideal or suboptimal.

#### Hypersonics are all hype – newest and best physics proves they’re still susceptible to missile defense AND they fly slower than ICBMs – top experts agree

Broad ’21 – science journalist and senior writer at The New York Times, citing David Wright, a physicist at the Massachusetts Institute of Technology, and tons of other experts

William Broad, “Hypersonic Superweapons Are a Mirage, New Analysis Says” New York Times, January 15, 2021, <https://www.nytimes.com/2021/01/15/science/hypersonic-missile-weapons.html>

Military experts [call hypersonic warheads](https://www.rand.org/pubs/research_reports/RR2137.html) the next big thing in intercontinental warfare. They see the emerging arms, which can deliver nuclear or conventional munitions, as zipping along at up to five miles a second while zigzagging through the atmosphere to outwit early-warning satellites and some interceptors. The [superfast weapons](https://www.nytimes.com/2019/06/19/magazine/hypersonic-missiles.html), experts say, lend themselves to surprise attacks.

President Trump [has bragged](https://twitter.com/atrupar/status/1320038267052564486) about his “super-dupers,” even [referring to the planned weapon](https://www.nytimes.com/live/2020/10/28/us/trump-biden-election) as “hydrosonic,” [a brand](https://www.curaprox.com/un-en/sonic-toothbrushes) of electric toothbrush. Last year, his budget [asked the Pentagon](https://www.nytimes.com/2020/02/10/us/politics/trump-budget-nuclear-missiles.html) to spend $3.2 billion on hypersonic arms research, up $600 million from the previous year’s request. And as President-elect Joseph R. Biden Jr. takes command of the nation’s military, he will have to consider whether to sustain the defense work undertaken in the Trump years.

Now, independent experts have studied the technical performance of the planned weapon and concluded that its advertised features are more illusory than real. Their analysis [is to be published this week](http://scienceandglobalsecurity.org/archive/2020/12/modelling_the_performance.html) in Science & Global Security.

In an interview, [David Wright](http://lnsp.mit.edu/david-wright), a physicist at the Massachusetts Institute of Technology and an author of the new analysis, called the superweapon a mirage.

“There’re lots of claims and not many numbers,” he said. “If you put in the numbers, you find that the claims are nonsense.”

Military officials called the paper insubstantial, saying it was based on outdated data. But they declined to disclose new findings.

“Due to the classified nature of hypersonics technologies, we are not at liberty to publicly discuss current capabilities,” Jared Adams, chief spokesman for the Defense Advanced Research Projects Agency, or Darpa, said in an email.

Richard L. Garwin, a physicist and longtime adviser to the federal government, called the paper “very good and important.” He added that he had provided his own similar criticisms of hypersonic warheads to defense officials.

James M. Acton, a nuclear analyst at the Carnegie Endowment for International Peace, called the paper “a serious, credible and important piece of work.”

Dr. Wright is affiliated with M.I.T.’s Laboratory for Nuclear Security and Policy and did the analysis with Cameron L. Tracy, a materials scientist at the Union of Concerned Scientists, a private group based in Cambridge, Mass., that often backs arms control.

By definition, hypersonic vehicles fly at more than five times the speed of sound — or up to dozens of times faster than jetliners. The warheads rise into space atop a traditional long-range missile but then descend quickly into the atmosphere to bank, careen and otherwise maneuver. They’re basically stubby gliders. The curved upper surfaces of their wedge-shaped bodies give them some of the lifting power of an airplane wing.

Dr. Wright and Dr. Tracy based their analysis on the Hypersonic Technology Vehicle 2 — an experimental warhead developed by the Air Force and Darpa. Their findings, they say, also apply to other American prototypes, as well as devices being developed by China, Russia and other countries.

The computer simulations drew on the physics of moving bodies and public disclosures about the Hypersonic Technology Vehicle 2 in order to model its most plausible flight paths. The team zeroed in on signature phases of hypersonic flight — when the vehicle zooms through the atmosphere and then plunges to hit a target.

The two experts say their computer modeling fills in public gaps on the weapon’s overall performance as well as its potential interactions with existing military systems for detecting and defeating weapons launched from distant sites.

In their paper, they see the weapon as essentially failing to outwit early-warning satellites and interceptors. For instance, current generations of space-based sensors, they report, will be able to track the weapon’s fiery twists and turns during most of its flight through the atmosphere.

And surprisingly, given the weapon’s speedy reputation, they say their analysis shows it will fly intercontinental distances more slowly than ballistic missiles and warheads fired on low flight paths known as depressed trajectories. In war, such tactics are seen as a good way for attackers to evade interceptors and lessen warning time.

Dr. Wright and Dr. Tracy conclude that the envisioned new weapon is, at best, “evolutionary — not revolutionary.”

In their paper, the authors contrast their findings with military claims. For instance, they quote the 2019 Senate testimony of Gen. John E. Hyten, the Air Force officer then in charge of U.S. Strategic Command, which controls the nation’s nuclear missiles. The time it would take a hypersonic warhead to complete an attack, General Hyten said, “could be half” that of a standard missile. “It could be even less,” he added.

The clashes between public views of hypersonic warheads and their actual abilities, the two experts conclude, arise from overstated official claims meant “to justify the expenditure necessary” for their development and deployment.

The American military is currently researching a half dozen hypersonic arms. Dr. Wright said the limited amount of public information on their workings and flight data made the better-known Hypersonic Technology Vehicle the best available window into the current status and future potential of the prototype arms.

The team’s analysis, he noted, focuses on an underlying issue of physics that he said casts doubt on the new class of weapons in general.

It’s what aeronautical engineers call the lift-to-drag ratio. The esoteric term is a measure of lifting power versus drag. Lift pushes a speeding aerodynamic body up and atmospheric drag tries to counteract the forward motion, at worst prompting a stall.

Dr. Wright said the team’s analysis of the hypersonic vehicle used a lift-to-drag ratio of 2.6. In contrast, jetliners and some birds have a ratio approximately eight times higher. In other words, the warheads at best are unimpressive fliers.

The limited power of the curved, blistering hot surfaces to generate a substantial lifting force without also producing lots of drag undermined claims that the weapon can fly long distances on complex trajectories, he said.

“Unless they’ve found some magical way to keep these systems up,” Dr. Wright said, “they’re going to have problems.”

Policy experts expect the Biden administration to focus on fostering arms control, and it seems likely that the Trump administration’s plans for hypersonic warheads will get close scrutiny. Hypersonic arms are among the topics that defense experts see administration officials as addressing in early talks with Russia and China, including the possibility of finding ways to impose restraints.

Ned Price, a spokesman for the Biden transition team, declined to comment on the issue of hypersonic warheads.

“President-elect Joe Biden will have an experienced team to sort through these complicated issues,” Hans Binnendijk, a former National Security Council official, wrote last month in suggesting ways to reinvigorate arms control. “But it will take time and creativity to be successful.”