# R3 Navy Disclosure

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**OFF**

**1NC---T**

T Expand---

**“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 only way to do that is by reducing or eliminating an antitrust immunity or exemption---the scope of antitrust laws is *only limited* by sectoral exemptions, state action immunity, and Noer-Pennington immunity**

**Kobayashi and Wright 20** – Paige V. and Henry N. Butler Chair in Law and Economics at the Antonin Scalia Law School at George Mason, University Professor and the Executive Director of the Global Antitrust Institute at Scalia Law School at George Mason University and holds a courtesy appointment in the Department of Economics

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---T**

T Core Antitrust---

**The core antitrust laws only include the Sherman and Clayton Acts**

**The Antitrust Division 07** – Law enforcement agency that enforces the U.S. antitrust laws

“Antitrust Division Statement Regarding the Release of the Antitrust Modernization Commission Report,” The Antitrust Division, Department of Justice, April 2007, https://www.justice.gov/archive/atr/public/press\_releases/2007/222344.htm

The AMC has made many specific recommendations in its report, and the Division is in the process of reviewing all of them. The Division commends the AMC for its three primary conclusions:

Free-market competition should remain the touchstone of United States' economic policy. The Commission's conclusion in this regard is a fundamental starting point for policy makers. Over a century of experience has shown that robust competition among businesses, each striving to be increasingly successful, leads to better quality products and services, lower prices, and higher levels of innovation.

The **core antitrust laws**—**Sherman Act sections 1 and 2** and **Clayton Act section 7**—and their application by the courts and federal enforcement agencies are sound and appropriately safeguard the competitiveness of the U.S. economy.

New or different rules are not needed for industries in which innovation, intellectual property, and technological innovation are central features. Unlike some other areas of the law, the core antitrust laws are **general in nature** and have been **applied to many different industries** to protect free-market competition successfully over a long period of time despite changes in the economy and the increasing pace of technological advancement. One of the great benefits of the Sherman and Clayton Acts is their **adaptability** to **new economic conditions** without sacrificing their ability to protect competition.

**Violation: the** **aff amends the FTC Act---that’s not an antitrust law**

**Raphael 16** – Litigation partner in the San Francisco office of Munger, Tolles & Olson

Justin P. Raphael, Motion to Dismiss and Memorandum in Support filed by Defendant, Thompson, et al. v. 1-800 Contracts, Inc., et al., US District Court for the District of Utah, November 2016, LexisNexis

The FTC administrative action **was not brought** “to prevent, restrain, or punish violations of **any of the antitrust laws**.” Rather, it was brought under **Section 5 of the FTC Act**, 15 U.S.C. § 45. The term “**antitrust laws**” is **defined in the Clayton Act** to **encompass a specific list of federal antitrust statutes**, 15 U.S.C. § 12(a), **which the Supreme Court has held is exclusive**. Nashville Milk Co. v. Carnation Co., 355 U.S. 373, 376 (1958) (“[T]he definition contained in § 1 of the Clayton Act is **exclusive**. Therefore **it is of no moment** that [a statute not listed therein] may be **colloquially described** as an ‘antitrust’ statute.”). That definition **does not include Section 5 of the FTC Act**, and **multiple courts** have **acknowledged that the FTC Act is not an** “**antitrust law**.” See Pool Water Prods. v. Olin Corp., 258 F.3d 1024, 1031 n.4 (9th Cir. 2001) (analyzing “prima facie” weight provision of Clayton Act, 15 U.S.C. § 16(a), and noting that “**prima facie weight** is given only to violations of the ‘**antitrust laws**’ as defined by the Clayton Act,” which “**does not include violations of the FTC Act**”); Yamaha Motor Co. v. FTC, 657 F.2d 971, 982 (8th Cir. 1981) (noting that Section 5 of the FTC Act is **not** “one of the ‘**antitrust laws**’ within the meaning of Sections [16(a) and 16(i)] of the Clayton Act”).

**Vote neg---**

**[A]---Limits---Section 5 is an entirely distinct mechanism from Sherman and Clayton with different implementation, penalties, and court interpretations/precedent---their interp opens the floodgates to doubling the topic**

**[B]---Ground---FTC counterplans are a core part of neg ground---functionally limits the aff and results in quality debates over controversies like strikedown and Congressional backlash**

**AND, Disclosure theory---they’ve said they were reading the same AFF but included a new scenario, that’s a voting issue for pre-round NEG prep and irresponsible practices that discourage clash.**

**1NC---CP**

Adv CP---

**The United States federal government should:**

* **establish mechanisms that allow government agencies and laboratories to collaborate directly with private technology start-ups through at least co-development and technology-licensing agreements.**
* **reduce the scope of the department's definition of "cyber" attack**
* **extend the authority of counterintelligence personnel to thwart activities of foreign activities in and through cyberspace**
* **complete an internal review that assigns the appropriate authorities and approval processes to relevant cyber capabilities**
* **issue and publicize statements clarifying what activities will be normatively prohibited in cyberspace, making clear the deterrent actions that will accompany crossing such red lines**
* **continue to improve its regulation and oversight of the development and adoption of new software and technologies**
* **increase investment in technology conducive to attribution of cyber attacks**
* **create mandatory reporting requirements for companies that are impacted by cyber attacks**

**1st plank solves startup health and innovation**

**Surana et al 20** – Assistant research professor at the Center for Global Sustainability, School of Public Policy at the University of Maryland College Park. She previously worked at the Harvard Kennedy School and the World Bank.

Kavita Surana, Claudia Doblinger, and Laura Diaz Anadon, “Collaboration Between Start-Ups and Federal Agencies: A Surprising Solution for Energy Innovation,” *Information Technology & Innovation Foundation*, August 2020, pp. 1, https://itif.org/sites/default/files/2020-clean-tech-start-ups.pdf.

Despite their potential to bridge the gap between RD&D and deployment, climate-tech **start-ups face fierce headwinds**. To be sure, all start-ups, regardless of sector, face barriers, and only around half of them survive beyond five years. 2 In climate tech, the challenges facing start-ups are amplified. In some cases, climate-tech innovation may require decades of investment in human, technological, and financial resources before bearing fruit. In others, technology **deployment might interface or compete with incumbent utilities and businesses that can be resistant to change**, having already built carbon-intensive infrastructures and business models over decades.

Consequently, despite their promise from a societal and environmental perspective, climate-tech start-ups are often perceived to be unattractive from a financial perspective. In the early 2010s, VCs invested in climate-tech firms without adequately accounting for these challenges. Thus, instead of making quick returns and a big upside, many lost much of their investment.

The perceived risks of climate-tech start-ups still linger. The infamous commercialization “valley of death” claims a higher proportion of climate-tech start-ups than information or medical technology start-ups, which receive the lion’s share of VC funding. 3 Yet some climate-tech startups make it through. **Identifying approaches that help ease barriers faced by** climate-**tech startups can** ultimately **catalyze their role in accelerating** clean energy **innovation**.

**One solution to improve the chances of** climate-**tech start-up survival is** particularly surprising: **collaboration with federal agencies and laboratories.** By collaboration, we mean mechanisms that allow agencies and government laboratories to work directly with start-ups, such as co-development and technology-licensing agreements. We do not include grants and loans. Entrepreneurs and agencies may seem like an unlikely match, but **our rigorous, peer-reviewed research found them to be compatible**. Indeed, **collaborations between** climate-**tech start-ups and federal agencies yield better results than their collaborations with universities or other firms, as measured by patents received and follow-on financing.**

**The second set of planks solves adv 2**

**Paul 18** – Christopher Paul, Senior Social Scientist; Professor, Pardee RAND Graduate School

Paul, Christopher, 1-10-18, "How the Pentagon Should Deter Cyber Attacks," RAND, https://www.rand.org/blog/2018/01/how-the-pentagon-should-deter-cyber-attacks.html

The most important lesson from Russia's involvement in the 2016 presidential election may be this: foreign hackers and propagandists are not afraid to launch attacks against the United States in and through cyberspace that they would not dare risk in a real theater of war. So as cyber aggression gets worse and more brazen every year, it's crucial that the Department of Defense figures out how to deter foreign actors in cyberspace as effectively as in nuclear and conventional warfare. The Pentagon can **take five steps** to better deter foreign cyber attacks.

The Department of Defense should clarify and narrow the scope of how “cyber” is used and conceived.

First, the Department of Defense should clarify and narrow the scope of how “cyber” is used and conceived. Right now, **the term is applied too inclusively**; just because some activity or capability transits the cyberspace domain does not necessarily make it a cyber activity or capability. The department should allow capabilities that traditionally function outside of cyberspace to use their existing authorities for actions through the Internet without insisting that doing so makes them cyber. For example, counterintelligence is a traditional military activity that predates the existence of cyberspace and seeks to protect U.S. military forces from the espionage, sabotage, or other intelligence activities of foreign powers. Counterintelligence personnel have the authority to observe and thwart the activities and communications of foreign spies and saboteurs. **Such authorities should clearly extend to foreign activities in and through cyberspace without counterintelligence becoming a cyber activity or requiring special cyber authorities**. Once traditionally spatial domain capabilities using the internet as a mode or medium are excused from the cyber tent, then the capabilities left in the tent will be smaller in scope, more manageable, and more amenable to bounding and definition.

After narrowing the scope of cyber, the Department of Defense should take the elements that remain and more carefully and clearly categorize and define them, **so that appropriate authorities and approval processes can be matched to distinct capabilities.** Under the current model, cyber capabilities are too often viewed as being uniform in their character, quality, and the level of risk associated with their use. Rather than operating under the assumption that anything cyber is similar and high-risk and thus requires the highest levels of approval, the Department of Defense should be able to tease out different categories of capabilities and identify which should continue to require high-level approval and which are more pedestrian, and can have authorities delegated and accelerated. As a hypothetical example, unleashing malicious code to destroy or disable adversary computer networks can and should require approval from the highest levels because of the risk of spread to non-adversarial networks, the risks of threat actors learning from and duplicating the tools used, and concerns about proportionality. Still hypothetically, accessing adversary computer networks using captured or inferred passwords and then exploiting those systems using software that is already part of those networks might require authorities and approvals at a much lower level, as the risks are lower.

Second, having narrowed and clarified the scope of cyber**, the Department of Defense should make use of cyber for more than just cyber.** Effects generated in cyberspace can also have effects in the physical domains, and cyber capabilities could be used to support and enable a wide range of other capabilities and activities (including some of those that we recommended be carved off from being considered part of cyber in our first insight). Make the partnerships; increase the complementarity and integration between cyber and other capabilities that is the hallmark of combined arms. We want to hear all about “Cyber enabled <fill in the blank>,” where the blank filled in might be a wide range of things that the Department of Defense does or contributes to: deterrence, military deception, military information support operations, to name a few examples.

Deterrence does not take place in vacuum, but in a culturally and historically nuanced context.

Third, the Department of **Defense should treat deterrence explicitly as a form of influence**. Whether deterring cyber aggression, using cyber-enabled efforts to contribute to broader deterrence, or seeking to deter with no reference to cyber, deterrence is about getting someone (usually a state-level actor, but not always) to do or not do some action or range of actions. That is influence. Effective deterrence and effective influence depend on the perceptions, calculations, preferences, opinions, cognitions, decisions, and will of the potential aggressor. Deterrence is not just about displaying U.S. capabilities or demonstrating U.S. resolve, but is also about how those actions are **perceived and interpreted** by others. Considered as an influence issue, deterrence could include an enhanced focus on how actions might be perceived and understood. This also suggests that planners should adjust U.S. actions so that they are perceived and understood in a way that contributes to deterrence and that planners consider broader efforts to change the way potential aggressors make their decisions, the range of options they are considering, how they receive and process information, and the content of their cognitions and calculations. Deterrence does not take place in vacuum, but in a culturally and historically nuanced context, and deterrent actions are not the only things that can be changed within that context.

Fourth, Department of Defense conversations about deterrence could consider the relationship between norms and deterrence. **The U.S. should demonstrate its resolve by being clear about what should be normatively prohibited in cyberspace**, not doing those things itself, **and punishing those who chose to do those things**. Demonstrations of resolve are essential to deterrence, and become more powerful when clearly connected to norms. When other actors see an aggressor getting noticeably punished for an action or behavior, those other actors might be deterred from similar actions or behaviors. That deterrence is even more likely if framed by and clearly connected to an established set of cyberspace norms.

Finally, planners should increase specificity to improve deterrence, whether deterring against or through cyber, or other means. In other words, the U.S. could be more specific about who it wants to not do what, and what the consequences of doing these things will be. Such specificity is critical in planning and strategizing deterrence. Specificity can also help in the public statements accompanying deterrent posture and actions, though not without risk. Telling a potential aggressor exactly where a “red line” is might be effective in keeping them from crossing that red line, but might inadvertently be an invitation to undertake aggression right up to the boundary of that red line.

**1NC---CP**

States Counterplan---

**Text: The fifty states and all relevant United States territories should:**

* **Adopt the principle of separating platforms from commerce for platforms in the private sector.**
* **Coordinate unified, multistate efforts to prosecute violations of said antitrust prohibitions through the National Association of Attorneys General**

**States solve---they can enact and interpret their own laws, and cannot be inherently preempted**

**HLR 20** – Harvard Law Review

“Note: Antitrust Federalism, Preemption, and Judge-Made Law,” Harvard Law Review, Vol. 133, June 2020, LexisNexis

I. THE ANTITRUST FEDERALISM LANDSCAPE

**Antitrust federalism**, meaning the space carved out for the states in the more generally federal antitrust arena, can be thought of as made up of two "swords" -- the first the **states' ability** to **bring suit under federal antitrust law** and the second their ability to **enact** and **enforce** their **own state antitrust laws** -- and one "shield" -- immunity from federal antitrust law for state actions. The swords allow states to **attack antitrust offenders**, while the shield allows states to defend against federal antitrust action.

All three elements of antitrust federalism find their roots in **congressional action** or the **courts' interpretation of congressional inaction**. The power to enforce federal antitrust law as parens patriae for full treble damages -- the first sword -- was granted to the states by Congress in **Hart-Scott-Rodino**. On the judicial front, the Supreme Court acknowledged state immunity from federal antitrust actions -- the shield -- in Parker v. Brown, noting that the Sherman Act did not explicitly mention its application to state action. Finally, when the Court confirmed that states' ability to make their own antitrust laws -- the second sword and the one discussed in this Note -- **was not preempted** in **California v. ARC America Corp.**, it considered the same Sherman Act silence.

**State coordination through the NAAG solves certainty and resource disparities**

**ABA 10** – American Bar Association

“ABA Antitrust Health Care I-G,” Antitrust Health Care Handbook, American Bar Association, 2010, LexisNexis

Federal and state enforcement authorities frequently cooperate in health care antitrust investigations and enforcement actions, and the agencies have issued a protocol describing basic procedures for their coordinated enforcement. **States** also **coordinate** their **antitrust enforcement** through the **Multistate Antitrust Task Force** of the **National Association of Attorneys General**. These efforts serve **important enforcement goals** by **permitting participants to share expertise and resources** and **affording greater certainty** to health care providers and payors **seeking to resolve antitrust concerns** in a **consistent** and **expeditious manner**. Federal and state enforcement authorities have overlapping jurisdiction with respect to most conduct, and some states have aggressively enforced the antitrust laws in the health care sector.

**1NC---DA**

FTC Tradeoff DA---

**The FTC is fundamentally constrained---priority changes drag resources away from current merger investigations**

**Rose ’19 -** Department Head and Charles P. Kindleberger Professor of Applied Economics in the MIT Economics Department. She served as Deputy Assistant Attorney General for Economic Analysis in the Antitrust Division of the DOJ from 2014 to 2016, and was the director of the National Bureau of Economic Research Program in Industrial Organization from 1991 to 2014.

Nancy Rose, FTC Hearing #13: Merger Retrospectives, April 12, 2019, <https://www.ftc.gov/news-events/events-calendar/ftc-hearing-14-merger-retrospectives>

So I want to start with the last question that was on the set that Dan and Bruce circulated for this panel. Should the FTC devote more resources to retrospectives, even at the cost of current enforcement? And I was delighted to see Commissioner Slaughter be so passionate in her defense of the need for more resources. This goes to what I feel is **the most significant**, and yet still largely invisible message, **in the ongoing debate over competition policy**, which **is that antitrust enforcement** in the United States **is chronically and substantially underfunded**.

For years, the appropriation requests have been modest in their increases. Oversight hearings and interactions with the Hill have too often featured the mantra, “when business picks up, our talented and hardworking staff just do more with less.” I will say I think the career staff at both the FTC and the DOJ Antitrust Division are among the most dedicated, highly-skilled, and hardest-working professionals.

It was my great privilege to work with a number of them at DOJ, and I know that colleagues who have worked at the FTC feel the same way. They deserve our greatest appreciation and applause and not just from those of us who work in antitrust policy, but from the entire American public, on whose behalf they tirelessly work.

But there **is a limit to the number of hours in a day** and the number of days in a week **and the well below market compensation** for the lawyers and economists who work in the agencies, which is another significant problem**, is insufficient to demand that staff give up all rights to leave their buildings, occasionally see their families, or catch up on sleep.**

So I think it’s inevitable that if we’re asking agencies to reflect on the effectiveness of their decision-making through programs like retrospective programs, it is going to come out of someplace else. And I fear that **given the ongoing intensity of the merger wave, that’s going to come out of enforcement.**

**We are amid an ongoing sustained**, what’s been called by some, **tsunami of mergers**. Each year there are thousands of mergers noticed to the agencies and thousands more below the HSR thresholds, that work by Thomas Wollmann at the University of Chicago suggests, skate through to consummation with practically no probability of review or action, the occasional consummated merger enforcement action notwithstanding.

The dollar volume of mergers is at historic levels and that suggests that **there are a lot of mega mergers competing for enforcement resources**. In addition, litigation costs continue to climb, both for challenging mergers or bringing Section actions, especially as parties with especially deep pockets escalate litigation defenses, correctly calculating that even adding some tens of millions of dollars in antitrust litigation costs would be just rounding error in their merger financing.

And, finally, I would say it’s inconceivable to me that there are not at least some counsel that are advising parties that a good time to bring marginal mergers forward is when the agencies are stretched thin by major investigations or multiple litigations.

**Current resource allocation allows effective regulation of hospital mergers---plan decimates FTC success**

**Muris ’20** – Professor of Law at George Mason, former Chairman of FTC, Senior Counsel at Sidney Austin LLP, JD from UCLA,

Timothy Muris, “Response to Subcommittee on Antitrust, Commercial, and Administrative Law Committee on The Judiciary U. S. House of Representatives” April 17, 2020, <https://judiciary.house.gov/uploadedfiles/submission_from_tim_muris.pdf>

Finally, the Committee asks about agency resources and performance. The last section below briefly addresses the continual need for the antitrust agencies to address business practices as they evolve, as well as their own performance record. Such evaluation is necessary: ever a UCLA Bruin, I remain devoted to legendary coach John Wooden‘s maxim that “when you are through learning, you are through.” The section thus offers multiple **examples of successful and bipartisan FTC efforts to improve enforcement** to the benefit of consumers. **In the key healthcare sector**, American **consumers** continue to **benefit from the FTC’s hard work**. After losing seven consecutive hospital merger challenges before I arrived, upon my direction the FTC worked to devise a new enforcement plan by incorporating fresh economic thinking and issuing retrospective case studies showing that several hospital mergers had indeed harmed consumers. **This plan resulted in a successful challenge** to a consummated hospital merger **that served as a template for future enforcement**, leading to Obama administration victories in three separate courts of appeal endorsing the FTC’s approach. Such **success did not require abandonment of the consumer welfare standard, nor a dramatic increase in agency resources**. Indeed, as discussed below, my predecessor as FTC chairman, Bob Pitofsky, did much more for American consumers using the consumer welfare standard with just 1,000 staff than did the agency in the 1970s when it had far greater resources (1,800 staff by the turn of the decade), but was motivated by an antitrust policy that was, instead, at war with itself.

**Consolidation collapses rural hospitals**

**Numerof ’20** - PhD from Bryn Mawr College, contributor at Forbes specializing in healthcare

Rita Numerof, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” Forbes, November 11, 2020, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/>.

Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have **devastating consequences for public health** if industry doesn’t soon execute an about-face.

Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples.

There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress.

Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either.

Third, Covid-induced consolidation will only make future progress many times more difficult. **The larger an organization** is, **the more it will struggle to rapidly adapt to healthcare disruptions** like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area.

The potential **impact** of continued consolidation **on rural patients is especially concerning**. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that **when a larger hospital** or health system **purchases a smaller, rural hospital**, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. **Many** eventually **decide to close up shop**, in some instances **reducing or** even **eliminating rural patients’ options for care delivery.**

In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and **if left unchecked, all of the hospitals** in the United States **could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality service**s at lower total cost of care.

**Rural hospital closures cause massive food spikes**

**Alemian 16** – President & CEO of Alemian & Associates

David Alemian, "Rural Healthcare Is a Matter of National Security," HCPLive, 11-8-2016, https://www.hcplive.com/view/rural-healthcare-is-a-matter-of-national-security

Rural health organizations are already struggling with enormous turnover rates and costs that run up into the millions of dollars each year. The additional financial burden of penalties from Medicare and Medicaid will put many rural health organizations at risk of going out of business. If **too many** rural health organizations go **out of business**, it then becomes a matter of **national security** and here’s why:

In most rural communities, the healthcare organization is the **largest employer**. When the largest employer goes out of business, the **community collapses** and **people move away**. What was once a thriving community then **becomes a ghost town**. Rural America **produces the food** that feeds the rest of the country.

What will happen when our **amber waves of grain turn to desert wastelands** because there is **no one to work our great farmlands**? As the source of food dries up, and store shelves empty, the price of food will go **through the roof**. As food prices go up, hyperinflation will become a reality, and our printed money will **become worthless**. Almost **overnight**, Americans will **begin to go hungry** because they won’t be able to afford to put food on the table.

**Food insecurity causes conflict and war---continued US leadership is key and no one fills the vacuum**

**Flowers**, director of the Global Food Security Project and the Humanitarian Agenda at the Center for Strategic and International Studies (CSIS), **‘18**

(Kimberly, “Keeping it Stable: The Connection Between Hunger and Conflict,” January 31, <https://www.georgetownjournalofinternationalaffairs.org/online-edition/2018/1/31/keeping-it-stable-the-connection-between-hunger-and-conflict)>

Although achieving this SDG’s targets in totality is unlikely, a global focus on reducing poverty, malnutrition, and hunger around the world **remains essential** both as a universal moral value in a world of inequalities, and as an important contributor to economic growth and **national security**. The United States has been a **global leader** in **addressing the root causes** of hunger and poverty through **agricultural development**, including President Obama’s leadership role in creating the L’Aquila Initiative at the 2009 G8 summit in Italy. The initiative emerged in **response to a food price crisis** and resulted in a promise by donors to provide $22 billion in agricultural development assistance over three years.

It is **more critical now than ever** for leaders within the Trump administration to continue to leverage that progress, starting with gaining a better understanding of the complexity of global food insecurity and its inherent connection with conflict. As food insecurity is both a cause and a consequence of conflict, addressing food insecurity goes well beyond a moral obligation; **it is a national security imperative.**

A lack of access to food can **spark unrest** among civilian populations, particularly when triggered by food **price spikes**. Hungry populations are more likely to express their discontent with unresponsive or corrupt leadership, perpetuating a **cycle of political instability** and further undermining long-term economic development. In addition, governments and non-state actors alike can **use food as a strategic instrument of war**, as witnessed in instances spanning from Sudan’s civil conflict in the 1990s to President Bashar al-Assad’s war-torn Syria today. In Syria, all sides have used food as a tool to **control** and **expel** populations. ISIS has used food resources as both a source of **funding** and a lure for **recruitment**. Food **weaponization** further **underscores the importance of United States** action to protect food security abroad and recognize strategies employed to transform a basic necessity into a military tool.

Today, between 1.2 and 1.5 billion people live in fragile, conflict-ridden states. These conflicts have pushed over 56 million people into crisis and emergency levels of food insecurity. The U.N. estimates that 65 million people are internally displaced within their own countries or are refugees in other countries. These numbers continue to rise as conflicts and violence **escalate across the world,** in countries like **Yemen**, South **Sudan**, and **Syria**, causing social and economic devastation. Meanwhile, the number of people dependent on humanitarian assistance has mushroomed. Projections indicate that by 2030, more than two-thirds of the world’s poor could be living in fragile countries.

The international community is increasingly recognizing the **linkages** between **food insecurity** and **political instability.** Sharp rises in global food prices in 2007 and 2008 sparked riots and street demonstrations in more than 40 countries across the world. Since political leaders started paying attention to this connection, there has been notable progress in increasing international attention and funding to address the root causes of hunger and poverty. The United States has dedicated roughly $1 billion to agricultural development since 2010 through its global food security programs. Thanks to the bipartisan Global Food Security Act that passed in July 2016, multiple U.S. agencies are implementing a global food security strategy that reduces poverty, bolsters resilience, and improves nutrition.

Even the U.S. intelligence community has noticed food security challenges. In November 2015, the National Intelligence Council released an assessment that linked food insecurity to political instability and conflict. The report states that the overall risk of food insecurity in many countries, **compounded** by demographic shifts and constraints on key resources such as land and water, **will increase** during the next decade. The assessment concludes that in some countries, declining food security will contribute to social disruptions and **large-scale political instability** or conflict. The intelligence community’s highlighting of the importance of food security as a diplomacy tool and security strategy broadens the number of stakeholders who are tracking, responding to, and mitigating food insecurity. It is no longer solely a focus for policymakers in the development space.

After nearly a decade of progress, global hunger is again on the rise. A U.N. report on food security and nutrition released last year estimates that 815 million people, or 11 percent of the global population, are chronically malnourished, an increase of nearly 40 million people over the previous year. Conflict and climate change are the two primary causes of this reversed trend. More than half of those experiencing extreme hunger live in countries affected by protracted conflict. Droughts and natural disasters also pose a serious threat to food security, particularly to smallholder farmers vulnerable to a volatile climate.

The 2017 State of Food and Agriculture report explains that conflict and climate change are responsible for rising global hunger levels. Smallholder farmers around the world will be forced to adjust to changing rainfall patterns and severe droughts and floods, which will directly impact their crops and incomes. Many weeds, pests, and pathogens are influenced by climate and thrive in warm conditions. Severe floods can wipe out fields and block market transportation routes, reducing smallholders’ abilities to maintain a sustainable income. Researchers, including those at the National Academies of Science, conclude that human-induced climate change and drought is one of the root causes of Syria’s conflict. Climate change thus places an added burden on countries with limited resources already struggling to feed their populations, as declining agricultural growth and incomes can create displacement and heighten hunger.

Food insecurity and climate change are not the sole cause of the conflict in Syria, but their contribution to the country’s instability cannot be ignored. Investing in international development programs and humanitarian **assistance** that fosters agricultural-led growth and **strengthens the resilience** of vulnerable people can **create peace**, improve lives, and **reduce conflict.** U.S. foreign policy priorities should include strengthening the health and prosperity of those less fortunate before a crisis occurs because our investments can help prevent a crisis in the first place. As Former Secretary of Defense Robert M. Gates said, “Development is a lot cheaper than sending soldiers.”

**1NC---DA**

Innovation DA---

**Frenzy of M&A now because Biden’s executive order won’t be implemented for years**

David **French and** Sierra **Jackson**, Reuters, July 12, 20**21**, Analysis: Dealmakers see M&A rush, then chills, in Biden's antitrust crackdown, https://www.reuters.com/business/dealmakers-see-ma-rush-then-chills-bidens-antitrust-crackdown-2021-07-12/

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.

**Immediately expanding scope of antitrust liability brings innovation to a halt---undermines dynamism and global competitiveness**

**Thierer 21** – Adam Thierer is a senior research fellow with the Mercatus Center at George Mason University. Author of several books on antitrust law; former president of the Progress & Freedom Foundation, director of Telecommunications Studies at the Cato Institute, and a senior fellow at the Heritage Foundation.

(Adam Thierer, 2-25-2021, "Open-ended antitrust is an innovation killer," TheHill, https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer)

Antitrust reform is a hot bipartisan item today, with Democrats and Republicans floating proposals to significantly expand federal control over the marketplace. Much of this activity is driven by growing concern about some of the nation’s largest digital technology companies, including Facebook, Google, Amazon and Apple.

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: **discouraging the sort of vibrant innovation and consumer choice** that made America’s tech companies household names across the globe.

Sen. Amy Klobuchar (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, recently introduced the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

**The most important feature** is the proposed **change to the legal standard by which regulators approve business deals**. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like **simple**, **semantic tweaks**, but – much like some of the other policy ideas currently circulating – **they would upend decades of settled law and create a sea change in U.S. antitrust enforcement**. **This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.**

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. Josh Hawley (R-Mo.). Hawley recent offered an amendment to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated **how dynamic media and technology markets** can be with firms constantly searching for **value-added arrangements** that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that **government bureaucrats are better suited to make these calls than businesspeople** and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – **are remarkably open-ended and could be easily abused**. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for **cronyism and economic stagnation.**

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines proclaimed that “MySpace Is a Natural Monopoly,” and asked, “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits insisted “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new corporate “Big Brother” that would decimate digital diversity and online competition.

GOP divided over bills targeting tech giants

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

**Internal link goes one way---large-firm dynamism is the only way to maintain tech leadership**

**Lee**, senior lecturer at the University of Hong Kong Faculty of Business and Economics, **‘19**

(David S., “Antitrust action risks holding back US tech giants in competition with China,” <https://asia.nikkei.com/Opinion/Antitrust-action-risks-holding-back-US-tech-giants-in-competition-with-China>)

But the administration should not forget the law of unintended consequences -- **effective** antitrust measures could **stifle** the ability of American tech companies to **compete with their Chinese challengers**. Presumably, that is the last thing the America First president wants to see.

While antitrust has been used to regulate technology companies before, perhaps most notably Microsoft two decades ago, its application against Amazon.com, Facebook, and Google seems different.

For the last half-century or so, U.S. antitrust law has been underpinned by the concept of maximizing **consumer welfare**, frequently measured by price to consumers. In regulating big technology companies today, however, a new paradigm has emerged, dubbed "hipster antitrust."

Hipster antitrust looks beyond traditional economic harm and includes wider effects such as wage inequality, data privacy intrusions, and sheer size as grounds to invoke the law.

But **the wider the antitrust authorities reach**, the more likely they are to **damage the tech giants' global competitiveness**. This applies **especially in the key field of artificial intelligence**, where the U.S. and China are world leaders.

AI is the engine powering the Fourth Industrial Revolution and the fuel for that engine is data, **lots of data**. Such data can **only be collected at scale**, which conflicts with hipster antitrust **notions of size**. If American antitrust measures compel large technology companies to shrink or in the extreme, to break up, then the U.S. will find itself at a **disadvantage** to China.

The idea of **size** is one of many **fundamental differences** separating Chinese and American technology ecosystems. Chinese government leaders have clearly grasped that scale matters for the technologies they want to dominate, such as artificial intelligence, as well as for the type of digital governance Beijing is striving to implement.

In the U.S., however, the economic value attached to scale is offset by deep-rooted concerns about privacy, bullying behavior and unfair political and social influence. Senator Elizabeth Warren of Massachusetts, a popular Democratic Party candidate for the 2020 presidential election, wrote: "Today's big tech companies have too much power -- too much power over our economy, our society and our democracy."

But in China this is not a hot-button political issue. In a recent fintech course I helped lead comprised of students from different countries, mainland Chinese students considered privacy differently than peers elsewhere. Though aspects of privacy are important to Chinese users, many readily understand there are trade-offs in operating on technology platforms.

Chinese technology platforms such as Alibaba and Meituan have developed **so-called "super apps"** that serve the same functions that users in the West might find by going to different applications on their devices.

Super apps are designed to be convenient to users so they can handle everything from ride hailing, shopping, food purchases, and payment, all without leaving the digital confines of a single app. This has become the dominant way Chinese citizens consume online. With the most internet users in the world, approximately 750 million, super apps also provide Chinese technology companies an incredible amount of data.

In his book, "AI Superpowers: China, Silicon Valley, and the New World Order," technology executive and investor, Kai-Fu Lee outlined four factors necessary to win the AI race: talent, computing speed, data, and government policy. Though the U.S. has an advantage in many areas, **that lead is shrinking**, and if China does overtake the U.S. in artificial intelligence, it will likely be a result **of advantages in data and government policy**.

This combination of data and government policy is perhaps best exemplified by SenseTime, widely considered the world's most valuable artificial intelligence startup. SenseTime boasts world leading facial recognition, which is enhanced because it reportedly has access to Chinese government databases, a rich source of data to further develop models.

Chinese companies like SenseTime have excelled in facial recognition, with some reports estimating that there are almost ten times as many Chinese facial recognition patents filed as American. Chinese surveillance technology is already used in the U.S., including New York City.

This widening gap will have **broader implications** beyond surveillance, security, and policing. Facial recognition technology will also serve as a biometric identifier for finance, retail, and health. With China moving forward aggressively both domestically and abroad in its use of such technologies, American competitors who are pursuing facial recognition, such as Amazon and Google, may not be able **to close the growing competitive chasm**.

So while American politicians may see antitrust investigations into large technology companies as necessary, there could be a significant impact on America's ability to compete with China.

Google's former CEO, Eric Schmidt forecast last year that China and the United States would lead the bifurcation of the internet into two spheres. Evidence of this splintering is already apparent. What remains undetermined, however, is which of those spheres will dominate.

Large Chinese technology companies, for example Alibaba Group Holding, are already setting-up far-flung outposts by partnering with and investing in local, non-Chinese technology companies around the world. This form of Chinese technological expansion allows Chinese big tech to **shape user privacy norms,** establish global networks, and attract more users into their ecosystems, all of which leads to increased user activity and ultimately more data.

While China aggressively expands its technological reach and hones its ability through mining evermore data, it is important that U.S. regulators understand that **aggressive antitrust sanctions** would risk **inhibiting American companies** from **maintaining the scale necessary to compete with their Chinese rivals**.

**AI supremacy will be a defining feature of superpower status**. And if future researchers one day examine how the U.S. **lost the war for artificial intelligence**, the hindsight of history may show that **the current antitrust debate was the fatal turning point**.

**Tech innovation prevents nuclear conflict---US leadership is key**

**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 display** in 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 **a**rtificial **i**ntelligence (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**.

**Adv 1**

**1NC---Regulatory Capture**

**The aff’s regulatory mechanism is vulnerable to pressure and capture---decks aff solvency**

**Lambert**, Wall Family Chair in Corporate Law and Governance Professor of Law, University of Missouri Law School, November, **‘11/1/21**

(Thomas, “Tech Platforms and Market Power: What’s the Optimal Policy Response?” Mercatus Working Paper)

A second important difference between antitrust courts and agencies relates to the decision makers’ incentives. The **federal judges** determining liability and imposing remedies in antitrust cases have **little reason to please** the parties before them. Possessing life tenure and fearing no retribution save possible reversal, they are **insulated from outside pressure** and motivated to make decisions calculated to enhance market output and thereby benefit consumers. The bureaucrats staffing agencies, by contrast, **do not enjoy this level of political insulation**. Many will have been appointed by or **have ties to a political leader**, whom they will wish to please. They may also contemplate **future employment** at one of their regulatees or at a regulatee’s rival. **Even absent** contemplation of a job change, they may have a **stake** in one regulatory outcome over another, as the budget or prestige of their agency **may be affected** by the regulatory choices they make. **Their personal interests** are therefore less aligned with the public’s interest **in maximizing overall market output.**

A third difference between antitrust and agency oversight is that antitrust courts’ involvement with parties is **limited in duration**, while overseeing agencies **remain perpetually involved** with the firms they regulate. Ongoing oversight requires **continuous contact** with the regulatee, whose perspective the regulator needs in order to make sound decisions. Eventually, however, the regulator may begin seeing things from the perspective of the regulatee.176 This is **especially likely** if the individuals with interests adverse to the regulatee’s position are widely dispersed and difficult to organize.177 The benefits to a regulatee from a decision may be outweighed by the **aggregate costs it would impose**, but if the costs are so widely spread that no individual or group has an incentive to incur the cost of arguing against the decision, the only argument the regulator will hear is that of the **regulatee-beneficiary**.178 In light of the relationships that develop from perpetual supervision and the common “concentrated benefits-diffused costs” dynamic, agencies possessing continuing oversight over their regulatees are **frequently captured by those firms,** **to the detriment of the public at large**.179

**1NC---Startups High Now**

**U.S. startup environment is strong now**

**Castro and McLaughlin 21** – Daniel Castro is vice president at the Information Technology and Innovation Foundation (ITIF) and director of ITIF's Center for Data Innovation. Michael McLaughlin was a research analyst at the Information Technology and Innovation Foundation.

Daniel Castro and Michael McLaughlin, January 25 2021, “Who Is Winning the AI Race: China, the EU, or the United States? — 2021 Update,” Information Technology and Innovation Foundation, https://itif.org/publications/2021/01/25/who-winning-ai-race-china-eu-or-united-states-2021-update

Despite China’s incremental improvement in many indicators, the United States has slightly **increased its overall lead in our scoring system** because it has performed extremely well on heavily weighted indicators, **such as venture capital and private equity funding**. For example, it has an unmatched number of AI start-ups, which received $8 billion more in venture capital and private equity funding than did China in 2019. The United States also performs well on several indicators in which China has narrowed the gap somewhat. **One example is the research and development** (R&D) **spending of software and computer services firms**. Chinese firms have clearly surpassed EU firms in R&D spending, but **U.S. software and computer services firms still spent three times more on R&D than did China and the European Union combined in 2019.** Furthermore, average U.S. research qualit**y is still higher than** that of China and the European Union. Lastly, despite China’s growing attempts to reduce its reliance on U.S. semiconductors, the United States is still the world leader in designing chips for AI systems.

**1NC---No Slow Growth !**

**No impact to slow growth.**

Dr. Christopher J. **Fettweis 17**, Associate Professor of Political Science at Tulane University, PhD in Government and Politics from the University of Maryland, “Unipolarity, Hegemony, and the New Peace”, Security Studies, Vol. 26, No. 3, p. 434-442 [language modified]

Others are more skeptical of institutions’ potential to shape behavior, and believe instead that stability is dependent upon the active application of the hegemon’s military power.51

The second version of the hegemonic-stability explanation is based upon a different view of human nature than is the liberal, one less sanguine about the potential for voluntary cooperation. Actors respond to concrete incentives, according to this outlook, and will ignore rules or law if transgressions are not punished. The would-be hegemon must enforce stability, therefore, not merely establish it. Policing metaphors are common in this literature, with the United States playing the role of sheriff or globocop charged with keeping the peace.52

[FOOTNOTE]

52 Richard N. **Haass**, The Reluctant Sheriff: The United States after the Cold War (New York: Council on Foreign Relations Press, 1997); Colin S. Gray, The Sheriff: America's Defense of the New World Order (Lexington: University Press of Kentucky, 2004).

View all notes

[END FOOTNOTE]

Take away the police, or damage their credibility, and instability would soon return. “The present world order,” according to Robert Kagan, “is as fragile as it is unique,” and would collapse without sustained US efforts.53 “In many instances,” add Lawrence Kaplan and William Kristol, “all that stands between civility and genocide, order and mayhem, is American power.”54 Though this argument is commonly associated with neoconservatism55—and will be referred to as the neoconservative explanation from here on in—it is also accepted by a number of scholars and observers generally considered outside of that ideological approach.56

The two versions are united on this point: it is not unipolarity in general that accounts for the New Peace, but American unipolarity in particular. US hegemony is essentially benevolent, according to both liberals and neoconservatives. The United States has constructed an order that takes the interests of other states into account, which decreases revisionist impulses. At the very least, it is nonthreatening, and does not generate the kind of balancing behavior that might be expected to bring it to an end.57 In the liberal version, the order constructed by the United States is beneficial to all its members, who have a stake in its maintenance. Adherents of the more muscular version, whether neoconservative or not, assume that the default position of smaller states in a unipolar system is to bandwagon with the center.58 No one seems to suggest that there is an irenic structural logic of unipolarity independent of US behavior. The question is therefore not so much about the connection between unipolarity and the New Peace as much as it is whether US behavior, in one form or another, has brought it about.

Hegemonic stability is in some ways more theoretically elegant than the other possible explanations for the New Peace. For one thing, it does not suffer from questions regarding its causal direction. While it may be reasonable to suggest that peace produced the expansion of democracy and/or economic development rather than the other way around, peace did not produce unipolarity. In fact, if the United States is indeed supplying the global public good of security, it might be able to take credit for a number of these positive trends. Not just peace but democracy, economic stability, and development all might be beneficial side effects of unipolarity. 59 “A world without U.S. primacy,” argued Samuel P. Huntington, “would be a world with more violence and disorder and less democracy and economic growth.”60

There is a great deal at stake here, for both scholarship and practice. If hegemony is responsible for the New Peace, then its peaceful trends are unlikely to last much beyond the unipolar moment. The other proposed explanations described above are essentially irreversible: nuclear weapons cannot be uninvented, and no defense against their use is ever going to be completely foolproof; the pace of globalization and economic interdependence shows no sign of slowing; democracy seems to be firmly embedded in the cultural fabric of many of the places it currently exists, and may well be in the process of spreading to the few places where it does not. The UN, while oft criticized, shows no signs of disappearing. And finally, history contains precious few examples of the return of institutions deemed by society to be outmoded, barbaric, and/or futile.61 In other words, liberal normative evolution is typically unidirectional. Few would argue, for instance, that either slavery or dueling is likely to reappear in this century; illiberal normative recidivism is exceptionally rare.62 If the neoconservatives are correct and US hard power is primarily responsible for the New Peace, however, then it cannot be expected to last long after US hegemonic decline, or adjustment in its grand strategy toward retrenchment. If liberal internationalists are right and the New Peace is largely a product of the world order that the United States has forged, then it may have a bit more staying power beyond unipolarity, but not necessarily much.

Determining the relationship between hegemony and the New Peace has importance that goes beyond the academy. Whether or not decline is on the immediate horizon, unipolarity is unlikely to last forever. If the New Peace is essentially an American creation, that post-unipolar future is likely to be quite a bit more violent than the present.

Evidence for and against Pax Americana

Since the world had never experienced system-wide unipolarity prior to the end of the Cold War, judgments about its relative stability and likely duration are necessarily speculative.63 Extrapolations can be made from regional unipolar systems, like the Roman Mediterranean, but definitive system-wide statements cannot be made from one case. Still, if US power were primarily responsible for the New Peace, one would expect that it would leave some clues about its effects. This section reviews three kinds of evidence regarding Pax Americana in order to determine whether an empirical relationship can be said to exist between various kinds of US activity and global stability.

Conflict and Hegemony by Region

Even the most ardent supporters of the hegemonic-stability explanation do not contend that US influence extends equally to all corners of the globe. The **U**nited **S**tates has concentrated its policing in what George Kennan used to call “strong points,” or the most important parts of the world: Western Europe, the Pacific Rim, and Persian Gulf.64 By doing so, Washington may well have contributed more to great power peace than the overall global decline in warfare. If the former phenomenon contributed to the latter, by essentially providing a behavioral model for weaker states to emulate, then perhaps this lends some support to the hegemonic- stability case.65 During the Cold War, the United States played referee to a few intra-West squabbles, especially between Greece and Turkey, and provided Hobbesian reassurance to Germany’s nervous neighbors. Other, equally plausible explanations exist for stability in the first world, including the presence of a common enemy, democracy, economic interdependence, general war aversion, etc. The looming presence of the leviathan is certainly among these plausible explanations, but only inside the US sphere of influence. Bipolarity was bad for the nonaligned world, where Soviet and Western intervention routinely exacerbated local conflicts. Unipolarity has generally been much better, but whether or not this was due to US action is again unclear.

Overall US interest in the affairs of the Global South has dropped markedly since the end of the Cold War, as has the level of violence in almost all regions. There is less US intervention in the political and military affairs of Latin America compared to any time in the twentieth century, for instance, and also less conflict. Warfare in Africa is at an all-time low, as is relative US interest outside of counterterrorism and security assistance.66 Regional peace and stability exist where there is US active intervention, as well as where there is not. No direct relationship seems to exist **across regions**.

If intervention can be considered a function of direct and indirect activity, of both political and military action, a regional picture might look like what is outlined in Table 1.

These assessments of conflict are by necessity relative, because there has not been a “high” level of conflict in any region outside the Middle East during the period of the New Peace. Putting aside for the moment that important caveat, some points become clear. The great powers of the world are clustered in the upper right quadrant, where US intervention has been high, but conflict levels low. US intervention is **imperfectly correlated** with stability, however. Indeed, it is conceivable that the relatively high level of US interest and activity has made the security situation in the Persian Gulf and broader Middle East **worse**. In recent years, substantial hard power investments (**Somalia**, **Afghanistan**, **Iraq**), moderate intervention (**Libya**), and reliance on diplomacy (**Syria**) have been equally **ineffective in stabilizing** states torn by conflict. While it is possible that the region is essentially unpacifiable and no amount of police work would bring peace to its people, it remains hard to make the case that the US presence has improved matters. In this “strong point,” at least, US hegemony has **failed** to bring peace.

In much of the rest of the world, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Washington’s intervention choices have at best been erratic; Libya and Kosovo brought about action, but much more blood flowed uninterrupted in Rwanda, Darfur, Congo, Sri Lanka, and Syria. The US record of peacemaking is not exactly a long uninterrupted string of successes. During the turn-of-the-century conventional war between Ethiopia and Eritrea, a highlevel US delegation containing former and future National Security Advisors (Anthony Lake and Susan Rice) made a half-dozen trips to the region, but was unable to prevent either the outbreak or recurrence of the conflict. Lake and his team shuttled back and forth between the capitals with some frequency, and President Clinton made repeated phone calls to the leaders of the respective countries, offering to hold peace talks in the United States, all to no avail.67 The war ended in late 2000 when Ethiopia essentially won, and it controls the disputed territory to this day.

The Horn of Africa is hardly the only region where states are free to fight one another today without fear of serious US involvement. Since they are choosing not to do so with increasing frequency, something else is probably affecting their calculations. Stability exists even in those places where the potential for intervention by the sheriff is minimal. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. It seems hard to make the case that the relative peace that has descended on so many regions is primarily due to the kind of heavy hand of the neoconservative leviathan, or its lighter, more liberal cousin. Something else appears to be at work.

Conflict and US Military Spending

How does one measure polarity? Power is traditionally considered to be some combination of military and economic strength, but despite scores of efforts, no widely accepted formula exists. Perhaps overall military spending might be thought of as a proxy for hard power capabilities; perhaps too the amount of money the United States devotes to hard power is a reflection of the strength of the unipole. When compared to conflict levels, however, there is no obvious correlation, and certainly not the kind of negative relationship between US spending and conflict that many hegemonic stability theorists would expect to see.

During the 19**90s**, the **U**nited **S**tates cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 **The world grew dramatically more peaceful**

**[CUT HERE.]**

**while the United States cut its forces, however**, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same **nonrelationship** exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between **warfare** and **fluctuations in US GDP**, **alliance commitments**, and **forward military presence**. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there **does not seem to be much correlation** between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace.

It is possible that absolute military spending might not be as important to explain the phenomenon as relative. Although Washington cut back on spending during the 1990s, its relative advantage never wavered. The United States has accounted for between 35 and 41 percent of global military spending every year since the collapse of the Soviet Union.70 The perception of relative US power might be the decisive factor in decisions made in other capitals. One cannot rule out the possibility that it is the perception of US power—and its willingness to use it—that keeps the peace. In other words, perhaps it is the grand strategy of the United States, rather than its absolute capability, that is decisive in maintaining stability. It is that to which we now turn.

Conflict and US Grand Strategy

The perception of US power, and the strength of its hegemony, is to some degree a function of grand strategy. If indeed US strategic choices are responsible for the New Peace, then variation in those choices ought to have consequences for the level of international conflict. A restrained United States is much less likely to play the role of sheriff than one following a more activist approach. Were the unipole to follow such a path, hegemonic-stability theorists warn, disaster would follow. Former National Security Advisor Zbigniew Brzezinski spoke for many when he warned that “outright chaos” could be expected to follow a loss of hegemony, including a string of quite specific issues, including new or renewed attempts to build regional empires (by China, Turkey, Russia, and Brazil) and the collapse of the US relationship with Mexico, as emboldened nationalists south of the border reassert 150-year-old territorial claims. Overall, without US dominance, today’s relatively peaceful world would turn “violent and bloodthirsty.”71 Niall Ferguson foresees a post-hegemonic “Dark Age” in which “plunderers and pirates” target the big coastal cities like New York and Rotterdam, terrorists attack cruise liners and aircraft carriers alike, and the “wretchedly poor citizens” of Latin America are unable to resist the Protestantism brought to them by US evangelicals. Following the multiple (regional, fortunately) nuclear wars and plagues, the few remaining airlines would be forced to suspend service to all but the very richest cities.72 These are somewhat **extreme versions** of a

central assumption of all hegemonic-stability theorists: a restrained United States would be accompanied by utter disaster. The “present danger” of which Kristol, Kagan, and their fellow travelers warn is that the United States “will shrink its responsibilities and—in a fit of absentmindedness, or parsimony, or indifference— allow the international order that it created and sustains to collapse.”73 Liberals fear restraint as well, and also warn that a militarized version of primacy would be counterproductive in the long run. Although they believe that the rule-based order established by United States is more durable than the relatively fragile order discussed by the neoconservatives, liberals argue that Washington can undermine its creation over time through thoughtless unilateral actions that violate those rules. Many predicted that the invasion of Iraq and its general contempt for international institutions and law would call the legitimacy of the order into question. G. John Ikenberry worried that Bush’s “geostrategic wrecking ball” would lead to a more hostile, divided, and dangerous world.74 Thus while all hegemonicstability theorists expect a rise of chaos during a restrained presidency, liberals also have grave concerns regarding primacy.

Overall, if either version is correct and global stability is provided by US hegemony, then maintaining that stability through a grand strategy based on either primacy (to neoconservatives) or “deep engagement” (to liberals) is clearly a wise choice.75 If, however, US actions are only tangentially related to the outbreak of the New Peace, or if any of the other proposed explanations are decisive, then the **U**nited **S**tates can **retrench without fear of negative consequences**. The grand strategy of the United States is therefore crucial to beliefs in hegemonic stability. Although few observers would agree on the details, most would probably acknowledge that post-Cold War grand strategies of American presidents have differed in some important ways. The four administrations are reasonable representations of the four ideal types outlined by Barry R. Posen and Andrew L. Ross in 1996.76 Under George H. W. Bush, the United States followed the path of “selective engagement,” which is sometimes referred to as “balance-of-power realism”; Bill Clinton’s grand strategy looks a great deal like what Posen and Ross call “cooperative security,” and others call “liberal internationalism”; George W. Bush, especially in his first term, forged a strategy that was as close to “primacy” as any president is likely to get; and Barack Obama, despite some early flirtation with liberalism, has followed a restrained realist path, which Posen and Ross label “neo-isolationism” but its proponents refer to as “strategic restraint.”77 In **no case** did the various anticipated disorders materialize. As Table 2 demonstrates, **armed conflict levels fell** steadily, **irrespective** of the grand strategic path Washington chose.

Neither the primacy of George W. Bush nor the restraint of Barack Obama had **much effect** on the level of global violence. Despite continued warnings (and the high-profile mess in Syria), the world has not experienced an increase in violence while the United States chose uninvolvement. If the grand strategy of the United States is responsible for the New Peace, it is leaving **no trace** in the evidence. Perhaps we should not expect a correlation to show up in this kind of analysis. While US behavior might have varied in the margins during this period, nether its relative advantage over its nearest rivals nor its commitments waivered in any important way. However, it is surely worth noting that if trends opposite to those discussed in the previous two sections had unfolded, if other states had reacted differently to fluctuations in either US military spending or grand strategy, then surely hegemonic stability theorists would argue that their expectations had been fulfilled. Many liberals were on the lookout for chaos while George W. Bush was in the White House, just as neoconservatives have been quick to identify apparent worldwide catastrophe under President Obama.78 If increases in violence would have been evidence for the wisdom of hegemonic strategies, then logical consistency demands that the lack thereof should at least pose a problem.

As it stands, the **only evidence** we have regarding the relationship between US power and international stability suggests that the two are **unrelated**. The rest of the world appears **quite capable and willing** to operate **effectively** without the presence of a global police~~man~~. Those who think otherwise have **precious little empirical support** upon which to build their case. Hegemonic stability is a belief, in other words, rather than an established fact, and as such deserves a different kind of examination.

**Adv 2**

**1NC---No I/L**

**Zero empirical support for the theory of systemic risk.**

**Moosa 10** – professor of Finance at RMIT, Melbourne.

Imad Moosa, “The Myth of Too Big to Fail,” Journal of Banking Regulation, Volume 11, <https://link.springer.com/content/pdf/10.1057/jbr.2010.15.pdf>

There is only one argument for TBTF, the argument of **systemic risk and failure**. But there **is no support in history for the proposition that the failure of one institution could bring about havoc on the financial system and the economy at large**. There are numerous cases of financial institutions that were allowed to fail without significant systemic problems. **The resulting losses were shared by a large number of investors and creditors**, who would have been making good returns in previous years. Then some managers who had been accumulating huge personal fortunes through parasitic activities would lose their jobs and most likely find others. A failed institution would then disappear because of serious errors of judgements, **so what?** Is not this a feature of capitalism? Is not this the corporate version of the survival of the fittest? Is this not what Adam Smith believed in? **Failure is necessary in a free market as it improves economic efficiency.** When a company fails, a more successful company can buy its good assets, releasing them from incompetent management. The same applies to the labour force. **It is a hoax to believe that catastrophic systemic losses can result from the failure of a badly managed financial institution.**

**No impact if they do fail. Interdependency ensures no systemic collapse.**

**Moosa 10** – professor of Finance at RMIT, Melbourne.

Imad Moosa, “The Myth of Too Big to Fail,” Journal of Banking Regulation, Volume 11, <https://link.springer.com/content/pdf/10.1057/jbr.2010.15.pdf>

ALLOWING MISMANAGED FINANCIAL INSTITUTIONS TO FAIL

Finally, **if they have to fail, let it be**. In every case of government bailout, a typical argument is put forward that allowing a big institution to fail brings about havoc on the financial sector and the economy as a whole. A doomsday scenario would be used by the management of a failed institution and regulators alike to ‘bail out or else’. Some would argue that finance is deeply interconnected, so that even a moderately large player can take down the system if it implodes. Those who argue along these lines would say that it was the failure of Lehman Brothers (not Citi or Bank of America) that ‘brought the world to the brink’. **This claim is far-fetched because the world came to the brink as a result of the collective malpractice of financiers**. Saving Lehman in any shape or form could not have changed the course of the global financial crisis.

Take, for example, AIG whose management claimed that any failure by the government to bail it (or them) out would have ‘catastrophic’ consequences. **I do not believe that it would have been catastrophic** (a really big word) to let AIG's partners in derivative transactions (which are mainly buyers of the credit default swaps offered by AIG) to take substantial losses – this is business, is it not? They took a gamble, and it did not work. The alternative to bailout would have been to put AIG into Chapter 11, in which case the creditors (including derivative counterparties) would obtain the company's assets. They would end up with a certain recovery ratio on their claims (say 20 per cent), bearing the losses themselves. They can afford it, and if they cannot then bad luck. Governments do not compensate people for losses incurred in the stock market, so why compensate rich companies (and the rich people who mismanage them) for their gambles? This is like opening loss compensation offices in the casinos of Las Vegas.

Consider now the case of LTCM, which is analysed brilliantly by Dowd.4 He wonders what might have happened if LTCM had failed, and whether or not the Federal Reserve's fears were plausible. The underlying arguments for bailouts were that (i) financial markets were in a particularly fragile state in September 1998; (ii) LTCM was a big player that was heavily involved in derivatives trading; and (iii) it had significant exposures to many different counterparties, and many of its positions were difficult and costly to unwind. These were the justifications for why the Fed was nervous about the prospect of LTCM's failing. Dowd, however, argues that financial markets could have absorbed the shock of LTCM's failing without going into the financial meltdown that Federal Reserve officials feared. He supports his argument as follows:

• Although many firms would have taken large hits, the amount of capital in the markets is in the trillions of dollars. It is therefore difficult to see how the markets as a whole could not have absorbed the shock, given their huge size relative to LTCM.

• When firms are forced to liquidate positions in response to a major shock, there are usually other firms willing to buy at the right price. Sellers may have to take a loss to liquidate, but buyers can usually be found (ask Warren Buffet who was willing to buy LTCM at a fair price). Competition for good buys usually puts a floor under sellers’ losses.

• Market experience suggests that the failure of even a big derivatives player usually has an impact only on the markets in which that player is very active. Worldwide market liquidity has never been threatened by any such failure.

• Even in those rather extreme and unusual markets where liquidity might be paralysed in the immediate aftermath of a major shock, participants have every reason to resume trading as soon as possible. There is no reason to suppose that the market response would have been much different if LTCM had failed.

• There have been major developments in derivatives risk management over the last few years, which means that most firms’ ‘true’ exposures are now only a small fraction of what they might otherwise appear to be.

In short, **history does not provide even circumstantial evidence indicating that the failure of one institution can cause the failure of the whole system**. **Such a proposition cannot be substantiated by intuition or theoretical reasoning, neither can it be supported by empirical evidence**. Good economics tells us that if a firm must fail, we should let it fail.

**1NC---AT: Meltdown !**

**No deaths from nuclear meltdowns**

**Drum 11** Kevin, political blogger for Mother Jones, "Nukes and the Free Market", March 14, www.motherjones.com/kevin-drum/2011/03/nukes-and-free-market

We’re currently told that the death toll in Japan will be at least 10,000 people of whom approximately **zero seem to have perished in nuclear accidents**. What happens when a tsunami hits an offshore drilling platform or a natural gas pipeline? What happens to a coal mine in an earthquake? How much environmental damage is playing out in Japan right now because of gasoline from cars pushed around? The main lesson is “try not to put critical infrastructure near a fault line” but Japan is an earthquakey country, so what are they really supposed to do about this?

This is a good point: energy sources of all kind cause problems. Sometimes the problems create screaming headlines (nuke meltdowns, offshore oil explosions, mining disasters) and sometimes they don't (increased particulate pollution, global warming, devastation of salmon runs). **But the dangers are there for virtually every type of energy production**.

Still, it's worth pointing out that **the problem with nuclear power isn't** so much **its immediate capacity to kill people**. As Matt points out, no one has died in Japan from the partial meltdowns at its damaged nuclear plants, and **it's unlikely anyone ever will**. The control rods are in place, and even in the **worst case** the containment vessels will almost certainly restrict the worst damage.

**1NC---AT: Grid !**

**A grid blackout scenario is entirely unrealistic – hackers do not have the ability to carry out any significant attack**

David **Perera** 9/10/**14.** Perera is a cybersecurity reporter for POLITICO Pro. “Experts: Grid safe from big attack” Politico <http://www.politico.com/story/2014/09/power-grid-safety-110815>

The specter of a large-scale, destructive attack on the U.S. power grid is at the center of much strategic thinking about cybersecurity. For years, Americans have been warned by a bevy of would-be Cassandras in Congress, the administration and the press that hackers are poised to shut it down. But in fact, the half-dozen security experts interviewed for this article agreed it’s virtually impossible for an online-only attack to cause a widespread or prolonged outage of the North American power grid. Even laying the groundwork for such a cyber operation could qualify as an act of war against the U.S. — a line that few nation-state-backed hacker crews would wish to cross. None denied that determined hackers could penetrate the networks of bulk power providers. But there’s a huge gap between that and causing a civilization-ending sustained outage of the grid. Electrical-grid hacking scenarios mostly overlook the engineering expertise necessary to intentionally cause harm to the grid, say experts knowledgeable about the power generators and high voltage transmission entities that constitute the backbone of the grid — what’s called the bulk power system. There’s also the enormity of the grid and diversity of its equipment to consider. “The grid is designed to lose utilities all the time,” said Patrick Miller, founder and director of the Energy Sector Security Consortium. “I’m not trying to trivialize the situation, but you’re not really able to cause this nationwide cascading failure for any extended duration of time,” he added. “It’s just not possible.” ICS security in a nutshell Controlling the boilers, fans, valves and switches and other mechanical devices that turn raw inputs and high-voltage transmission into flip-of-a-switch electricity is a class of computers known as industrial control systems. Supervisory Control and Data Acquisition Systems, or SCADA, is a type of ICS. ICSs aren’t general purpose computers like desktops. At the level of direct control over electromechanical processes — via a device often classified as a Programmable Logic Controller — programming is mainly done in specialized languages on obscure operating systems. Even just accessing a PLC requires particular software. Hiding malware in field devices is difficult to impossible. Many of the devices “aren’t running multi-thread, multi-tasking operations like our laptops,” noted Chris Blask, chair of the Industrial Control System Information Sharing and Analysis Center. And penetration is just a starting point. “Just hacking into the system, and even taking complete control of a computer or crashing a bunch of computers, won’t necessarily bring down the bulk electric system,” said Dale Peterson, founder of Digital Bond, an industrial control system cybersecurity consultancy. For example, hackers could cause a SCADA system to crash, causing grid operators to lose system visibility — decidedly not a good thing. But the grid doesn’t need the SCADA system to continue operating. “There has to be an understanding that simply taking out the cyber assets doesn’t cause a blackout,” Peterson said. Exhibit A in the cyber-Cassandra’s arsenal is Project Aurora, a Homeland Security Department test undertaken in 2007 at the Idaho National Laboratory. The object was to hack a working, 2.25-megawatt, grid-connected diesel power generator. Seeing on CNN the resulting grainy video of smoke pouring from the jolting 27-ton machine was the moment that convinced many their worst fears could come true. Seven years later, however, Project Aurora’s status as a thunderclap of warning has been undermined by questions about the test and its real-life applicability. “That was a contrived test in a contrived environment,” said Miller, also a former Western Electricity Coordinating Council manager of audits and investigation. The Aurora attack consisted of rapidly opening and closing circuit breakers, knocking the generator out of phase with the grid — a state that engineers have long known causes physical damage through accumulation of excessive torque inside the generator’s spinning parts. Even at the time, the odds of an Aurora attack occurring in the wild were very low, said David Whitehead, vice president of research and development at Schweitzer Engineering Laboratories, a power relay manufacturer. Whitehead participated in a mitigation working group formed after the test. “There were a lot of ideal conditions that had to be in place before the actual rapid cycling and opening of a circuit breaker could occur,” he said. “For it to work, all the stars have to line up.” An Aurora attack is possible, he allowed — but “the probability of it happening in my lifetime is pretty small.” Of course, it’s perfectly possible that other cyber-physical attacks await discovery. “I think it would be naive to think that there are no more,” said Perry Pederson, a former DHS Control Systems Security Program director who oversaw the test. But even the possible existence of additional vulnerabilities doesn’t necessarily mean the grid is highly vulnerable. “I tend to think the grid is a little more robust than what we give it credit for. It’s not quite so fragile,” he added. Is the grid rigged? Undergirding the widespread perception of a power system fragile to hackers’ touch is a belief that foreign states have already penetrated the grid system and left behind malware ready for activation at any time. It’s a statement that pushes the envelope of technical and geopolitical realities — although it’s not impossible. “I think the U.S. is doing it, I assume Russia is doing it, I assume China is doing it,” said Peterson, also a former National Security Agency official, although not here claiming any direct knowledge. No such implanted code has been discovered, he acknowledged — at least, “not that I’m aware of, and it might not exist.” Planting power-grid malware, as opposed to hacking for purposes of reconnaissance, also “comes too close, and may even cross, a threshold that no one has been willing to cross,” asserted cybersecurity strategic thinker Jim Lewis. The electric grid will be a target for cyberattack during a future conflict, he said in a 2010 paper — but governments also have international norms of behavior to consider, and planting malware in a foreign nation’s grid could be considered an act of war. Terror groups aren’t bound by international norms nor necessarily deterred by U.S. military might. But absence of an attack against the grid to date suggests to many that they lack the ability to launch one. Hollywood hackers and hack authors love a digitally demolished grid. The media like it too, reporting, for example, that a 2007 power outage lasting two days in Brazil was the work of hackers. In fact, the outage was caused by sooty insulators on high voltage lines. “Fear makes stuff happen, unfortunately,” said Pederson, the Aurora test program manager. Fear also risks creating a backlash of complacency as the promised grid takedowns fail to materialize. And despite all the hubris, complacency still isn’t warranted. ICS devices increasingly resemble regular IT systems, with all the attendant benefits and vulnerabilities that represents. And as the smart grid takes shape, the number of entry points to the grid will increase. That, plus the growing availability of cyber weapons for sale on the Internet, means the time to head off the possibility of a future attack is now, said Paul Stockton, until recently the Defense Department’s top homeland security official. “Industry is investing very, very heavily, and effectively, against both cyber and kinetic threats. I agree with the assessment that it would still be a major challenge for an adversary to successfully take down the electric grid,” he said. Nonetheless, stronger cybersecurity today will have a future payoff. If state or nonstate actors “lose hope that an attack can be successful, their incentive to invest in building up cyber weapons to launch such an attack diminishes,” he said. “The sky isn’t falling. We don’t need to build a new sky, but the sky will fall eventually if we ignore it,” said ICS-ISAC’s Blask.

**1NC---No Cyber !**

**No escalation of hybrid war – vulnerabilities rapidly fixed, no offensive use and no retal**

**Jensen and Banks, ’18**, (Benjamin, dual appointment as a scholar-in-residence at American University, School of International Service and as an associate professor at the Marine Corps University and David, lecturer at the American University, School of International Service, “Cyber warfare may be less dangerous than we think,” The Washington Post, April 26, 2018, https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/26/what-can-cybergames-teach-us-about-cyberattacks-quite-a-lot-in-fact/?noredirect=on&utm\_term=.8e4acaaa9349)

“Frankly, the United States is under attack.”∂ This February 2018 warning to the Senate from Director of National Intelligence Dan Coats included a message that “there should be no doubt” that Russia, emboldened by its 2016 cyberattacks and informational warfare campaign, will target the U.S. midterm elections this year.∂ We agree. However, our research suggests that, although states like Russia will continue to engage in cyberattacks against the foundations of democracy (a serious threat indeed), **states are less likely to engage in destructive “doomsday” attacks** against each other **in cyberspace.** Using a series of war games and survey experiments, we found that **cyber operations may in fact produce a moderating influence on international crises.∂** Here’s why: Cyberspace offers states a way to manage escalation in the shadows. Thus, cyber operations are more akin to the Cold War-era political warfare than a military revolution.∂ Would you like to play a game?∂ To understand how actors use cyber operations to achieve a position of relative advantage, we designed a series of analytical war games. This methodology lets us assess how multiple factors could combine in a competitive environment, and helps identify recurrent strategic preferences associated with cyber operations. We ran military officers and university students through these war games. Next, we turned the war games into survey experiments via Amazon Mechanical Turk (MTurk) — so randomized respondents answered questions about how to respond to an international crisis.∂ War games offer a time-tested means of assessing the changing character of crisis and competition. Following scripted scenarios, players are assigned to different “teams” and armed with resources to meet their objectives. They earn points based on their choices, with referees guiding the play and military/security analysts interpreting the results.∂ [There’s more to Russia’s cyber interference than the Mueller probe suggests]∂ As players seek to win the game, they may choose previously unconsidered options or draw on or combine resources in unexpected ways. By observing these games, recording their results, repeating the plays and redesigning the scenarios, analysts can understand the nature of the complex and highly contingent problems the scenarios represent.∂ And political scientists use war games to create survey experiments to test hypotheses about strategic preferences. Our study of over 100 military officers and students, for instance, gave players a crisis scenario and a range of response options, all of which included the ability to escalate in cyberspace — as well as more traditional diplomatic, economic and military instruments. Players could also choose to de-escalate.∂ What would a great power cyber crisis in East Asia look like?∂ In our first round, “Island Intercept,” we sought to identify whether states escalated using cyber capabilities. Players took on the role of China or the United States in an escalating dispute in the South China Sea.∂ Over the course of multiple war games, we found our mix of military officers and university students often sought to de-escalate the crisis and rarely used offensive cyber operations. Players assigned to the Chinese side often combined cyber espionage and more traditional intelligence activities to identify the U.S. players’ intentions and capabilities. Players replicating strategic decision-making in Beijing seemed to prefer a “wait and see” approach involving increased intelligence and diplomatic lobbying, rather than escalatory offensive cyber operations.∂ [Did the U.S. ‘hack back’ at Russia? Here’s why this matters in cyber warfare.]∂ The broader survey experiment replicated these findings. The 800 MTurk respondents revealed a bias toward not escalating into the cyber domain. Specifically, about 52 percent chose to de-escalate while 30 percent opted for minor escalation in the diplomatic or economic arena. Only 18 percent of respondents preferred escalatory offensive cyber operations. These findings support other studies demonstrating that states do not prefer escalatory responses to cyber intrusions.∂ How will states employ cyber capabilities against their domestic populations? ∂ In a second round, we shifted to examine intrastate conflicts. In our “Netwar” game, players took on the role of either the government, a paramilitary organization, a multinational company or a transnational group of hackers and activists, all attempting to achieve their interests in a weak and corrupt state. This scenario sought to replicate the complex, often proxy, multiparty competition in cyberspace.∂ In these games, the results were more mixed. Players replicating the state tended to use offensive cyber operations as a means of targeting domestic opposition groups — while opposition groups used cyber to blackmail the state by leaking sensitive information.∂ In an MTurk survey experiment involving 800 respondents, we found that states still preferred not to jump into the cyber domain, opting about 43 percent of the time to limit escalation. Yet these results appeared to be a function of regime type. When we controlled for regime type in a second round of surveys involving 800 respondents, we found that democracies had a higher than expected count of de-escalatory measures (53 percent). But authoritarian regimes escalated to cyber measures 35 percent of the time, vs. 18 percent for democracies.∂ Where is the escalation? ∂ [The Netherlands just revealed its cybercapacity. So what does that mean?]∂ Our findings suggest that **cyber weapons may be far less destabilizing than many assume**. First, we found that actors in crisis situations were restrained in their use of cyber weapons. Indeed, actors were more likely to use military, economic or diplomatic alternatives before escalating into the cyber domain.∂ How might this work in the real world? We might interpret the Russian shift to cyber operations to be one of desperation, rather than evidence of a calculated strategy. Our findings suggest that **actors are uncomfortable in the cyber** domain and only operate there when they lack relative influence in other areas — or **seek to limit the risk of escalation**, likely due to attribution issues associated with cyber operations.∂ Second, fears of large-scale cyber operations are likely overblown due to cyber’s unique “use it and lose it” character. Individual **cyberattacks could** potentially wreak considerable damage, but any such exploits could — once deployed — **be quickly reverse-engineered and the vulnerability in target networks patched.∂** Here’s the catch: Once you convert network access and cyber espionage into an attack payload, you signal your capabilities and lose the ability to conduct similar attacks. There is a unique shadow of the future in cyber statecraft. States have to assess whether they want to jeopardize an exploit in the short term — and lose long-term coercive options against rivals.

**1NC---AT: Internet Collapse**

**Internet is resilient.**

Jonathan **Strickland 10**, "HowStuffWorks "What would happen if the Internet collapsed?"," 2-10-12, HowStuffWorks, http://computer.howstuffworks.com/internet/basics/internet-collapse4.htm, DOA: 10-1-2014, y2k

Here's the good news -- **a total collapse of the Internet would be** almost **impossible**. The Internet isn't a magic box with an on/off switch. It's not even a physical thing. It's a collection of physical things and it's constantly changing. The Internet isn't the same entity from one moment to the next -- machines are always joining or leaving the Internet. It's possible for parts of the Internet to go offline. In fact, this happens all the time. Whether it's a particular server that crashes and needs to be rebooted or replaced or a cable under the ocean gets snagged by an anchor, there are events that can disrupt Internet service. But the effects tend to be **isolated** and **temporary**. While there is such a thing as the Internet backbone -- a collection of cables and servers that carry the bulk of data across various networks -- it's not **centralized**. There's no plug you could pull out from a socket or a cable you could cut that would cripple [destroy] the Internet. For the Internet to experience a global collapse, either the protocols that allow machines to communicate would have to stop working for some reason or the infrastructure itself would have to suffer massive damage. Since **the protocols aren't likely to stop working spontaneously**, we can rule out that eventuality. As for the massive damage scenario -- that could happen. An asteroid or comet could collide with the Earth with enough force to destroy a significant portion of the Internet's infrastructure. Overwhelming gamma radiation or electromagnetic fluctuations coming from the sun might also do the trick. But in those scenarios, the Earth itself would become a lifeless hulk. At that stage it hardly matters whether or not you can log in to MySpace. The positive way to look at this is to realize that the men and women who helped design **the Internet** created an amazing tool that's **remarkably stable.** Even when sections of the Internet have a technical hiccup, the rest carries on with **business as usual**. While the collapse of the Internet would be a catastrophic event, it's not one you need to worry about.

**Adv 3**

### 1NC---AT: Digital Inequality---A/C

**Digital not key to global inequality---thousands of different industries rely on low wage workers in factories.**

### 1NC---Platforms Competitive

**Local platforms can effectively complete with dominant platforms.**

**Rossotto et al. 18** – Principal Investment Officer, Global Head, Upstream Telecom Media and Technology, Infrastructure at IFC

Carlo Maria Rossotto, Prasanna Lal Das, Elena Gasol Ramos, Eva Clemente Miranda, Mona Farid Badran, Martha Martinez Licetti, Graciela Miralles Murciego, “Digital platforms: A literature review and policy implications for development,” Competition and Regulation in Network Industries, Vol. 19, 2018, https://journals.sagepub.com/doi/abs/10.1177/1783591718809485

**Contrary** to the idea of sweeping ‘‘**data colonialism**’’ of **foreign platforms**, at least in large **emerging markets** like Russia, Indonesia, Turkey, and Brazil, among others, there seems to be a **large number of counterexamples** of **local platforms effectively competing with foreign platforms**. Go-Jek is a ‘‘unicorn,’’ a company that has reached at least US$1 billion of market capitalization in Indonesia and has the leading market share in the ride-share market in Indonesia. Jumia in Egypt effectively competes against Amazon and eBay. At the time of publication, Careem is still active in the Moroccan market, while Uber exited, and there is extensive evidence that Yandex and VKontakte in Russia were able not only to achieve market share leadership but to also sustain it for a certain period of time. What determines then this presence of a ‘‘winner-takes-some’’ scenario is so many emerging markets? One hypothesis, consistent with the standard MSP theory in high-income markets, suggests that in a two-sided market, a ‘‘winner-takes-all’’ scenario tends to prevail, unless there is sufficient consumer differentiation to determine a duopolistic/oligopolistic scenario.

**Cultural differences in emerging markets** may **play a role**. In Lebanon, consumers may subscribe to ‘‘Match.com’’ or ‘‘IslamicMarriage.com’’ according to their personal beliefs and cultural preferences. Another explanation for ‘‘winner-takes-some’’ scenarios in emerging markets is ‘‘**asymmetric**’’ **regulation**, or **regulation put in place to favor domestic platforms**, or to **aggressively curtail the marker power of foreign platforms** with regulatory or antitrust measures. A further question to explore in the ‘‘winner-takes-all’’/’’winner-takes-some’’ scenario is the sustainability over time of ‘‘winner-takes-some’’ scenarios, especially in light of technology advances such as artificial intelligence, which will, perhaps, tend to reduce linguistic or cultural effects on consumer differentiation.

### 1NC---AT: Populism !

**Populism won’t cause great power war**

Louis F. **Cooper 16**, His online writing includes “Reflections on U.S. Foreign Policy” at the U.S. Intellectual History Blog (July 16, 2014). His Ph.D. is from the School of International Service, American University., 12-6-2016, "WPTPN: Will Populist Nationalism Lead to Great-Power War?," No Publication, http://duckofminerva.com/2016/12/wptpn-will-populist-nationalism-lead-to-great-power-war.html

Several reasons present themselves. First, nuclear weapons have given the prospect of a global war, or any great-power war, a possibility of **civilization-ending finality** that it did not have in the past. Second, the security architecture created under U.S. leadership after World War II has arguably worked to **reduce the likelihood of major armed conflict** among the great powers. Third, the existence of a network of **international institutions**, both inside and outside the UN system, has pushed in the same direction. Fourth, it is very possible that, as John Mueller and Christopher Fettweis have argued, decision-makers have to come see great-power war as “**subrationally unthinkable**, or not even part of the option set for the great powers.”[ii] The extreme destructiveness of the twentieth century’s world wars, fueled partly by developments in technology, might well have produced long-term effects on how leaders and publics think about global or great-power war, in a way, for instance, that the Napoleonic Wars, for all their horror and bloodiness, did not. Phil Arena’s recent contribution to this series argues that if the U.S. under a Trump administration signals an unwillingness to defend its allies, then Putin might be tempted to gamble on an invasion of the Baltics or Kim Jong-Un similarly might gamble on an invasion of South Korea (and that would drag in China). Putting aside Kim Jong-Un for the moment as a special case, let’s consider Putin. As long as NATO exists – and Trump, despite his statements about the unfairness of the distribution of cost burdens, has not suggested, as far as I’m aware, that he wants to dissolve the alliance – then Putin would have to assume that an attack on the Baltics would trigger a NATO response. Even if Putin does not see great-power war as unthinkable or outside his “option set,” one would assume that for reasons of pure self-interest he would not want to risk a nuclear war. Nor, one might think, would he want to jeopardize the prospect of better (from his standpoint) relations with a U.S. administration less concerned with, among other things, his commission of war crimes in Syria or his annexation of Crimea than the Obama administration has been. For these reasons, I’m not too worried that the advent of the Trump administration will lead to a war with Russia over the Baltics. The Korean peninsula is, perhaps, a more worrisome situation. Chances are, however, that Trump, after taking office, will be prevailed upon to make reassuring noises about the U.S. commitment to South Korea, and that should suffice to deter Kim Jong-Un from doing anything too rash. The cautionary point here, admittedly, is that it’s not clear whether Kim can be counted on to behave in a minimally rational fashion. Putin, whatever one might think of him, is rational. It’s not entirely clear whether Kim is. However, if Kim is irrational then all bets are off regardless of what U.S. policy pronouncements are forthcoming. World politics is not invariably cyclical and states can **learn from experience** (as even Gilpin acknowledged). If one admits this and pays **due attention to history**, then it is plausible to think that **the force of populist nationalism**, as expressed in more erratic and/or less ‘internationalist’ official policy, will **not**, whatever its **other effects may be**, **increase the low likelihood of a global war**.

# 2NC

**T Expand the Scope**

**“On” means that prohibitions must be placed on currently anticompetitive practices**

**Hogan 10** – Judge, Ohio Common Pleas Court, Franklin County

Daniel T. Hogan, Telsat Inc. v. Micro Ctr., 2010 Ohio Misc., Ohio Common Pleas Court, February 2010, LexisNexis

The statute says that price does not include "Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale." RC 5739.01 (H)(1)(c)(i). The word "**on**" is not used in the spatial sense of one thing being on top of another, but in a metaphorical sense. The metaphorical sense is metaphorical because it **retains some of the logical relations**. **One cannot place X on Y unless Y is present**. **X cannot be placed on Y if Y was present in the past but is no longer present**. Thus, even when "on" is used in the metaphorical sense, a discount cannot be taken "on" a sale after that sale has already been completed. Thus, the statute could reasonably be construed as not including post-sale rebates within the provision for discounts taken "on" a sale.

**To “increase” requires a baseline against which the “increase” is to be measured---that means the anticompetitive practices requires pre-existence, which is not the aff since they make new practices anticompetitive**

**Ortega 07** – Judge, Oregon Appeals Court, Oregon Supreme Court

Darleen Ortega, Papas v. Or. Liquor Control Comm'n, 213 Ore. App. 369, Court of Appeals of Oregon, June 2007, LexisNexis

We begin with whether OLCC's interpretation of the rule, as developed and applied in this case, is consistent with the rule's text. Certainly, OLCC's understanding that the rule applies to "competitions" is consistent with the rule's use of the term "contest." See Webster's Third New Int'l Dictionary 492 (unabridged ed 2002) (defining the noun "contest" as a "competition"). However, by its terms, the rule refers and applies to specific types of drinking contests: as pertinent here, ones that involve "increase[d] consumption \* \* \* in increased quantities" of alcoholic beverages. OLCC's interpretation and application in this case fail to account for that qualification or to yield any pertinent point of reference in that regard; that is, nothing in OLCC's interpretation or application of the rule here identifies the consumption or quantities **against which the required** "**increase**" **is to be**, or was, **measured**. See Webster's at 1145 (defining the transitive verb "**increase**" as "**to make greater** in some respect (as in bulk, quantity, extent, value, or amount) : **add to** : enhance" and defining the adjective "increased" as "made or become greater"). Thus, OLCC's proposed interpretation--that mere competition between participants constitutes conduct violating the rule--is inconsistent with the latter, qualifying aspects of the rule.

**“Anticompetitive business practices” are already antitrust violations**

**Scott 91** – Associate Professor of Law, Georgia State University College of Law

Charity Scott, “Medical Peer Review, Antitrust, and the Effect of Statutory Reform,” Maryland Law Review, Vol. 50, Winter 1991, LexisNexis

Congressman Waxman made it clear during the congressional hearings that "[t]here is one thing [HCQIA] will not do. It will not shield doctors from liability for what are truly **anticompetitive business practices**." 206 "Truly **anticompetitive business practices**" would seem **by definition** to be **antitrust violations**. The sponsors thus seem to be saying that the Act provides no immunity for peer-review participants who violate the antitrust laws. If so, then the implication is inevitable that "immunity" is granted only to peer-review conduct that would not constitute a violation of the antitrust laws in the first place. Thus, in the context of antitrust litigation, HCQIA's immunity is so "limited" as to be virtually nonexistent.

**That is, except for immunities and exemptions, which are not antitrust violations yet still anticompetitive**

**Elhauge 1991** – Acting Professor of Law, Boalt Hall School of Law, University of California

Einer Richard Elhauge, "The Scope of Antitrust Process," Harvard Law Review , Jan., 1991, Vol. 104, No. 3, pp. 667-747, 1991, https://www.jstor.org/stable/pdf/1341573.pdf?refreqid=excelsior%3Ac7b3817844888740616351077bd8b875

This paradigm of conflict and accommodation is both odd and unfortunate. It is odd because the notion that state regulatory interests can trump conflicting interests embodied in constitutionally valid federal statutes defies our ordinary understanding of preemption law. The very meaning of the supremacy clause4 is that conflicts between federal and state law must be resolved in favor of federal law. This principle is fully applicable to conflicts involving federal antitrust law.5 If, then, there is a genuine conflict between state regulation and federal antitrust law, state regulation cannot preempt federal law, even if this "inverse preemption" is confined to only some types of conflict.6 Yet preemption of federal law is exactly what **in effect** follows from a finding of **state action immunity** under the current paradigm, for the state regulation **nullifies the application** of federal law to an anticompetitive restraint that (by hypothesis) would otherwise be **within its scope**.

**Doesn’t overlimit---here’s a caselist**

**Bona 21** – founder and CEO of Bona Law PC

Jarod Bona, "What are the Available Exemptions to Antitrust Liability?," The Antitrust Attorney Blog, 11-7-2021, https://www.theantitrustattorney.com/what-are-the-available-exemptions-to-antitrust-liability/

Congress and the federal courts have—over time—created several **exemptions** or **immunities** to antitrust liability.

The US Supreme Court in National Society of Professional Engineers v. United States explained that “The Sherman Act reflects a legislative judgment that ultimately competition will produce not only lower prices, but also better goods and services.” 435 U.S. 679, 695 (1978). And “[t]he heart of our national economy long has been faith in the value of competition.” Id.

National Society of Professional Engineers holds, effectively, that those that think that they should not be subject to competition—for whatever reason—don’t get a free pass.

But there are several situations that do create limited exemptions to federal antitrust liability. Importantly, however, the US Supreme Court has repeatedly emphasized that courts should narrowly interpret these exemptions.

Here are the primary antitrust exemptions created by Congress and the federal courts:

**State-Action Immunity**. State-action immunity comes up a lot at Bona law, as we work hard to enforce the federal antitrust laws against anticompetitive state and local conduct. This exemption allows certain state and local government activity to avoid antitrust scrutiny. Lately, the US Supreme Court has narrowed the doctrine, including for state licensing boards that seek its protection when sued under the antitrust laws (North Carolina State Board of Dental Examiners v. Federal Trade Commission). Bona Law also advocates a market-participant exception to state-action immunity, but the courts are split on that issue. We expect that this exemption will continue to narrow over time.

**Filed-Rate Doctrine**. The filed-rate doctrine is a defense to an antitrust action that is premised on the regulatory rates filed with a federal administrative agency. In many regulated industries (like insurance, energy, shipping, etc.), businesses must, generally, file the rates that they offer to customers with federal agencies. The filed-rate doctrine eliminates antitrust liability for instances in which, to satisfy the antitrust elements, a judge or judge must question or second guess the level of these filed rates (i.e. that they included overcharges resulting from anticompetitive conduct). So a business filing rates with a regulator is not, by itself, sufficient to create an exemption from antitrust liability. There are nuances.

**Business of Insurance**. The McCarran-Ferguson Act exempts certain acts that are the business of insurance and regulated by one or more states from antitrust scrutiny. You can read more about the McCarran-Ferguson Act and its requirements here.

**Baseball**. That’s right—there is a baseball exemption to antitrust liability. This is a judge-made doctrine developed long ago. The other sports don’t have an antitrust exemption and the question of whether baseball should have one comes up periodically. If you want to learn more, you should read the five-part series on baseball and antitrust that Luke Hasskamp authored.

**Agricultural Cooperatives**. The Capper-Volstead Act provides a limited antitrust exemption to farm cooperatives. Under certain circumstances, this Congressional Act allows farmers to pool their output together and increase their bargaining power against buyers of agricultural products. You can read more about this in Aaron Gott’s article on the Capper-Volstead Act. And you can read about production restraints here.

The **Noerr-Pennington doctrine**. The Noerr-Pennington immunity—named after two US Supreme Court cases—is a limited antitrust exemption for certain actions by groups or individuals when the intent of that activity is to influence government actions. The Noerr-Pennington doctrine can apply to actions that seek to influence legislative, executive, or judicial conduct. There is, however, an important sham exception to Noerr-Pennington immunity that often comes up in litigation.

You can learn more about the Noerr-Pennington doctrine and antitrust liability here.

Statutory and Non-Statutory **Labor Exemptions**. The statutory labor exemption allows labor unions to organize and bargain collectively in limited circumstances, including requirements that the union act in its legitimate self-interest and that it not combine with non-labor groups. The non-statutory labor exemption arrives from court decisions that further exempt certain activities that make collective bargaining possible, like joint action by employers that is ancillary to the collective bargaining process.

You can read more about both the statutory and non-statutory labor antitrust exemptions here.

**Implied Immunity**. Implied immunity occurs in the rare instances in which there is no express antitrust exemption, but the anticompetitive conduct falls into an area of such intense federal regulatory scrutiny that antitrust enforcement must yield to the pervasive federal regulatory scheme.

The typical area where this comes up is with the federal securities laws, which is a good example of pervasive federal regulation. The US Supreme Court case to read for this antitrust exemption is Credit Suisse Securities (USA) LLC v. Billing, from 2007.

Keep in mind that courts do not easily find implied immunity of the antitrust laws—there must be a “clear repugnancy” or “clear incompatibility” between the antitrust laws and the federal regulatory regime. A broad interpretation of this immunity could create massive antitrust loopholes because even a regulator with a heavy hand on an industry may not consider anticompetitive conduct as part of its command and control. And regulation itself creates barriers to entry in a market that is more likely to lead to less competition.

**Export Trade Exemptions**. A little-known exemption involves export trade by associations of competitors. This antitrust exemption arises primarily from the Webb-Pomerene Act and the Export Trading Company Act. These FTC and DOJ guidelines provide more information about this antitrust exemption.

**The test is clear-cut---if the practices in question have to be evaluated on pro-competitive merits, then they are not immunities or exemptions**

**Hovenkamp 3** – Ben V. & Dorothy Willie Professor of Law and History, University of Iowa

Herbert Hovenkamp, "Antitrust Violations in Securities Markets," Journal of Corporation Law, Vol. 28, No. 4, pp. 607-634, Summer, 2003, https://heinonline.org/HOL/Page?handle=hein.journals/jcorl28&div=35&g\_sent=1&casa\_token=&collection=journals

Logically, the question of **immunity** **arises prior** to consideration of the **antitrust merits**-that is, once **immunity is found** then the **merits** **need not be resolved**. Practically, however, the best road to resolution is the simplest one and in some cases the immunity question need not be resolved at all because it seems quite clear that there is no antitrust violation. This road may be the preferred one because the question of "implied" antitrust immunity has become unnecessarily complex.

**It's best---the scope of antitrust covers all commerce, with only exemptions or immunities limiting its reach**

**ABA 7** (American Bar Association, ABA Section of Antitrust Law, Monograph 24, “Chapter 1 Introduction,” *Federal Statutory Exemptions from Antitrust Law*, American Bar Association, 2007, ISBN: 978-1-59031-864-5, pp.4-7)

A. Background: The Broad **Scope of Antitrust**, and an Introduction to Statutory Exemptions

Because this monograph concerns statutory constraints on the reach of antitrust law, a word is in order about the broad scope of antitrust principles.

**Sherman** Act sections 1 and 2 apply to “trade or commerce among the several States, or with foreign nations,”11 but the act leaves that phrase undefined. The **Clayton** and **F**ederal **T**rade **C**ommission **A**cts both define the “commerce” to which they apply,12 but give it only a jurisdictional meaning similar to that under the **Commerce Clause** of the federal Constitution.13 The courts have thus been left to decide just how broadly antitrust applies. Despite some uncertainty in the first half of the twentieth century,14 and with **one** lingering **exception**,**15**

**[FOOTNOTE 15]**

**15**. Namely, neither the Court nor Congress has ever overruled the Court’s sui generis 1922 rule that professional **baseball** is not “commerce.” See Fed. Club. 259 U.S. at 209.

**[/FOOTNOTE 15]**

modem **courts define this scope very broadly**. The inclusive modem definition is perhaps the natural culmination of the Supreme Court’s long-held belief that “Congress intended to strike as broadly as it could in Section 1 of the Sherman Act,”16 a view it developed because “[l]anguage more comprehensive” than that in Section 1 “is difficult to conceive.”17

This view probably also reflects the broad definition given to the terms “trade” and “commerce” for various purposes at common law, as some courts have explicitly held that antitrust was meant to incorporate those ideas." Thus, the courts have held generally that any exchange of money for a good or service, between any persons, is in ‘trade or commerce,”19 and the Supreme Court itself has described “commerce” to include any “exchange of...a service for money.’00 Indeed only in very limited, and sometimes exotic, circumstances have modem courts found conduct to be outside the scope of antitrust.**21**

**[FOOTNOTE 21]**

**21**. See. e.g., Dedication & Everlasting Love to Animals v. Humane Soc’y of the U.S., 50 F.3d 710 (9th Cir. 1995) (holding that solicitation of gratuitous charitable donations is not trade or commerce).

**[/FOOTNOTE 21]**

Therefore, **in the absence of an explicit statutory exemption or a judicially created immunity**, and so long as it is in the interstate or foreign commerce of the United States, the giving of essentially **anything** in return for money or barter **is subject to federal antitrust**.

Understanding the **scope** of modem antitrust also requires recognition of contemporary developments that **affect** **enforcement** of antitrust and its **substantive reach**. The United States is one of the few of more than 100 nations with competition laws that permit private antitrust suits.22 U.S. antitrust has permitted those suits dating from the initial adoption of the Sherman Act in 1890,23 and they comprise by far the largest component of antitrust enforcement.24 However, recent caselaw developments may increase barriers to the private lawsuits on which U.S. enforcement heavily depends. During the past thirty years or so, the federal courts have gradually raised doctrinal barriers to private enforcement of federal antitrust law, particularly through the rule of antitrust injury and the developing doctrine of antitrust standing.25 Partly as a result of these developments, private enforcement has declined.26

**Adv CP**

**[B]---Government collaboration uniquely creates competition**

**Almeida et al 10** – Former vice chairman of PricewaterhouseCoopers.

Don Almeida, Raman Chitkara, Brad Nakamoto, Bo Parker, Diane Baylor, Johan Furstenberg, Chris Monteleone, Malcolm J. Moss, Feargal O’Rourke, James D. Robinson, Jim Shanahan, Carolyn Singh, Krisztian Toth, and Angela Wiesner, “Innovation: Government’s Many Roles in Fostering Innovation,” *PricewaterhouseCoopers*, 2010, pp. 61, <https://www.pwc.com/gx/en/technology/pdf/how-governments-foster-innovation.pdf>.

**Government initiatives that encourage new entrants focused on innovative products or services have an additional**, bracing **effect of putting pressure on existing market participants to compete**, through modernization and innovation. **These incumbent players will respond only when they feel the consequences of their decisions**; if they continue to lose money but know the government will rescue them anyway in order to preserve jobs, they will have little motivation to compete or innovate.

**[C]---China proves---government funding fosters competition without inhibiting incumbents**

**Almeida et al 10** – Former vice chairman of PricewaterhouseCoopers.

Don Almeida, Raman Chitkara, Brad Nakamoto, Bo Parker, Diane Baylor, Johan Furstenberg, Chris Monteleone, Malcolm J. Moss, Feargal O’Rourke, James D. Robinson, Jim Shanahan, Carolyn Singh, Krisztian Toth, and Angela Wiesner, “Innovation: Government’s Many Roles in Fostering Innovation,” *PricewaterhouseCoopers*, 2010, pp. 7, <https://www.pwc.com/gx/en/technology/pdf/how-governments-foster-innovation.pdf>.

Take the case of China. **Many emerging economies have one dominant player in a specific market and lack** the **competition** that promotes innovation and performance improvements. In most of the developed world, by contrast, there is sufficient private capital and enterprise to create those circumstances. But **China has created a competitive domestic environment** in part **through funding of municipally owned enterprises** (MOEs) **competing amongst themselves** and with state-owned enterprises (SOEs). What distinguished China’s treatment of MOEs, in contrast to the historical approach with SOEs, was the decision to let MOEs retain their earnings. This created incentives for further investment, productivity improvements, and higher-quality products.

**China did not try to change existing SOEs directly**. These highly subsidized entities had little freedom of action and primarily served a social safety net function of providing employment. **Instead, China’s central and provincial governments funded the MOEs with the proviso that they were controlling their own destiny**. In many cases, **competition from MOEs over time forced moribund SOEs to become more innovative and competitive, or to shut down**.

**No trade conflict**

Doreen M. **Edelman 21**, Chair of Global Trade & Policy at Lowenstein Sadler, JD from the George Washington University Law School, and Christian C. Contardo, Associate at Lowenstein Sadler and JD from the American University Washington College of Law, “The Tightrope of Biden’s Global Trade Policy”, Lowenstein Sadler, 8/23/2021, https://www.lowenstein.com/news-insights/publications/articles/the-tightrope-of-biden-s-global-trade-policy-edelman-contardo

At the same time, the **admin**istration is making efforts to resolve disputes with traditional U.S. allies. In June Biden struck a deal with the EU to end the 17-year old subsidies to Boeing and Airbus, ensuring no rapid fire tariff squabbles for the next 5 years. Next, he will focus on **resolv**ing disputes over the digital services tax by working with the Organization for Economic Co-operation and Development (OECD) structure. The **admin**istration is reengaging with strategic partners like the EU and Australia to reform the WTO, bolster the Paris Agreement on climate change, and to promote an option to China’s Belt and Road Initiative with the OECD and G-7. Congressional recommendations on securing U.S. national security supply chains recommend similar outreach, developing processes to foster closer cooperation on resources and investments from traditional U.S. allies as an alternative to reliance on adversaries such as Russia and China.

**Trade doesn’t solve war**

**Musgrave 20** --- Paul Musgrave is an assistant professor of political science at the University of Massachusetts Amherst, “The Beautiful, Dumb Dream of McDonald’s Peace Theory”, Foreign Policy, NOVEMBER 26, 2020, https://foreignpolicy.com/2020/11/26/mcdonalds-peace-nagornokarabakh-friedman/

**Of course**, I would explain to my students, war could also proceed from other causes. **Economic integration may be no panacea** to interstate war after all. John Vasquez writes: “War among equals has followed the failure of power politics to settle certain highly salient issues”—none, he writes, more than “issues involving territory, especially territorial contiguity.”

In the former Soviet Union, the wars over Chechnya, Georgia, Ukraine, and now Nagorno-Karabakh have all involved territory as a crucial element, a story much closer to what Vasquez’s theory would predict than to Friedman’s.

Globalization may have increased the costs of these wars, **but** **they have** obviously **not prevented them**. To be sure, Armenia has no McDonald’s, an issue grave enough to have been raised in the parliament at Yerevan earlier this year. The Azerbaijan franchise’s cheerleading was also slapped down by the Home Office.

Regardless, Friedman’s logic suggests the conflict shouldn’t have begun, or shouldn’t have been so bloody once it did. Both Armenia and Azerbaijan score highly (and almost identically) on the ETH Zurich KOF Globalisation Index. The pace of deaths suggests that the conflict could qualify as a so-called real war by the traditional 1,000 battle-related-deaths criterion. (Indeed, some reports say the death toll blew past that level quickly.)

And if the conflict has knocked the final support from the Golden Arches theory, it has also finally toppled whatever confidence remained in the 1990s belief in the eternal sunshine of the American order.

The resurgent Nagorno-Karabakh conflict provides yet another reason to worry that the world is entering a new phase of more violent conflict—including major wars—and globalization will **no more prevent them** than **burgeoning** trade before Archduke Ferdinand’s assassination prevented World War I.

After all, **wars keep emerging** that challenge the optimistic assessment that war is a relic of the past. The specific ways these conflicts emerge, moreover, point to the possibility that **new wars** could break out that make **even** **bloody conflicts** like those in Syria and Yemen **seem** **relatively** **minor.**

Driven by processes of imperial dysfunction and internal breakdown, today’s wars have causes that are enormously difficult to heal.

The conflicts in the former Soviet Union, from Chechnya in the 1990s to Nagorno-Karabakh today, represent a set of wars in the post-Soviet succession. Russia has attempted to maintain its central role against real and perceived rivals throughout that vast region including transnational Islam, the European Union, the United States, China, and now arguably Turkey.

In the Middle East, revisionist regional powers like Saudi Arabia and Iran contend for power as the United States continues to loudly proclaim that it is unwilling to continue playing its imperial stabilizing role (even if Washington never actually seems to find the exit).

And China, which once preferred to keep its border disputes quiet, seems increasingly willing to saber-rattle from the Taiwan Straits to the Himalayas.

**Adv 1**

**It zeroes the aff---captured agencies protect established players to the detriment of newcomers**

**Childson**, former chief technologist at the FTC, **‘19**

(Neil, “Creating a new federal agency to regulate Big Tech would be a disaster,” October 30, <https://www.washingtonpost.com/outlook/2019/10/30/creating-new-federal-agency-regulate-big-tech-would-be-disaster/>)

Companies find it **much easier** to influence narrowly focused institutions than institutions with **broader law enforcement mandates**. Where the latter hear from a wide range of companies with a variety of concerns, the former hear **only from one type of company**. Think about how much easier it is to talk your way out of a speeding ticket **from the local police officer**, **who knows your family**, than it is to deal with an **effectively anonymous city cop** who pulls over dozens of drivers a day. Similarly, **big companies** would much rather deal with a select group of bureaucrats **whom they know well** — and who hear only their perspective most of the time.

**Captured agencies don’t hold companies accountable; instead, they act to benefit the industry’s established players,** disadvantaging newer firms and the public at large. In worst-case scenarios, such agencies **can block new, disruptive competitors that threaten the established, regulated industry.**

**The FTC is especially prone to regulatory capture**

Rick **Claypool** is a research director for Public Citizen’s President’s Office, 20**19**, The FTC’s Big Tech Revolving Door Problem, Public Citizen, https://www.citizen.org/article/ftc-big-tech-revolving-door-problem-report/

Revolving door conflicts are **rampant** at the U.S. **Federal Trade Commission**, where most **top officials** **become lobbyists** and lawyers representing major technology companies when they leave – or bring Big Tech conflicts with them when they arrive to work at the agency.

Public Citizen found that **just over 75 percent of top FTC officials** (31 out of 41) **over the past two decades** have either left the agency to serve corporate interests confronting FTC issues, joined the agency after serving corporate interests on these issues, **or both**. More than 60 percent of the officials studied (26 out of 41) have revolving door conflicts of interest involving work on behalf of the technology sector.

This report examines revolving door conflicts among current and former FTC commissioners and directors of its Bureau of Consumer Protection and its Bureau of Competition for the past two decades. The regulatory revolving door conflicts described here are defined broadly as instances when individuals employed defending corporate interests from regulatory enforcement become regulatory enforcement officials, or when regulatory enforcement officials leave public service and become employed as defenders of corporate interests.

**These endemic conflicts** may help explain the FTC’s **chronic reluctance** to **strictly enforce consumer protection** and **antitrust laws**, and should serve as a call to arms for supporters of strong, independent consumer protections and enforcement against corporate monopolists and wrongdoers.

The revolving door conflicts are not evenly distributed across the agency’s leadership. Of the 25 FTC commissioners, including chairs, who have served over the past two decades, two-thirds (17) have corporate revolving door conflicts. More than half (13) have tech sector revolving door conflicts, while others have represented or were hired by companies facing FTC investigations, including Amway, Herbalife, Proctor & Gamble and Teva Pharmaceutical Industries. (See Tables 1 and 2.)

Six of the ten Democratic commissioners who served during the past two decades have revolving door conflicts involving the technology sector, as do seven of the 14 Republican commissioners. Three additional Republican and one independent commissioner all have non-tech corporate revolving door conflicts.

Remarkably, all nine officials who have served as a director of the Bureau of Competition since the late 1990s have revolving door conflicts with the technology sector. (See Table 3.) At the Bureau of Consumer Protection, six of the seven officials who served over the same time period have corporate revolving door conflicts, four of which include technology sector clients. (See Table 4.)

The revolving door is **one of the most pernicious influence-peddling tools** abused by corporations and wealthy special interests. It **undermines** the **integrity of the governmental process** in three ways:

Business and special interest groups may **“capture” a federal regulatory agency** by getting their own personnel appointed to key government posts.

Public officials may be influenced in official actions by the implicit or explicit **promise of a lucrative job** in the private sector with an entity seeking to shape public policy, or, more subtly by the prospect of future employment.

Public officials-turned-lobbyists will have **access** to lawmakers and regulatory officials that is not available to others, **access that can be sold** to the highest bidder among industries seeking to lobby.

**Conflicts involving the FTC** and the technology sector **are particularly concerning** given the FTC’s jurisdiction over the industry and light approach to regulation on privacy, consumer protection issues and antitrust issues involving tech firms.

Since 2010, several major technology sector firms have recently been subject to FTC investigations over antitrust, consumer protection and especially data privacy concerns, including Facebook, Google, Apple and Uber. In February, the FTC’s Bureau of Competition announced the creation of a new task force to monitor competition in technology markets. In March, the FTC’s Bureau of Consumer Protection launched an investigation into the privacy practices of major Internet broadband service providers, including AT&T, Comcast, Google, T-Mobile and Verizon.

The FTC’s failure to effectively police the technology sector is **clear**. The transfer of 87 million Facebook user records to Cambridge Analytica **while Facebook was operating under a consent order with the FTC** evidences the **failure** of the agency **to prevent abuses**. The FTC failed to enforce its consent order against Google even after then-FTC chair Jon Leibowitz warned that Google’s consolidation of Internet services would be bad for consumers. Uber was found twice in violation of a consent order and the FTC imposed no fines. On the antitrust front, **the FTC failed to block mergers** that stifled competition and innovation, including Google’s acquisition of DoubleClick and Nest Labs­ and Facebook’s acquisition of WhatsApp and Instagram.

**The revolving door conflicts and** the FTC’s history of deference to industry are an important backdrop as Congress considers new proposals to regulate the tech sector and protect consumer privacy. **Enhanced FTC rulemaking** and enforcement powers **will not be enough to curb technology company abuses** **if pervasive revolving door conflicts create an agency culture that is solicitous of the tech sector.**

**Market concentration doesn’t reduce competition and is *positively correlated* with productivity gains.**

**Litan 18** – B.S. in Economics, the Wharton School; J.D., Yale Law School; Ph.D., Yale University. Non-Resident Senior Fellow at the Brookings Institution; previously Vice President and Director of Economic Studies

(Robert Litan, “A Scalpel, Not an Axe: Updating Antitrust and Data Laws to Spur Competition and Innovation, September 2018, <https://www.progressivepolicy.org/wp-content/uploads/2018/09/PPI_AntitrustandDataLaws_2018.pdf>)

**National market concentration measures**, however, **do not** necessarily **prove that actual competition is declining.** Carl Shapiro, one of the nation’s leading industrial organization economists and former chief economist for the Justice Department’s antitrust division, has shown that national concentration measures of product or service markets do not always constitute a relevant geographic market where competition takes place.23 Shapiro identifies several industries where this difference is important. Although national chains may account for larger shares of revenue in these industries, there is (yet) no evidence of reduced competition at the local level where these firms tend to compete: accommodations and food, finance, health care, professional services, property, retail trade, transport and warehousing, utilities, and wholesale trade.24

Nonetheless, the growth rate of labor productivity in the U.S. has remained low by historical standards – at around 1 percent – over the past decade. This is worrisome because productivity growth is the key to rising living standards.

One reason for the productivity growth slowdown may be the decline in the rate of formation of new firms, which, over the past two centuries, have been disproportionately responsible for commercializing disruptive innovations.25 Likewise, workers are moving less frequently than they once did – either between firms in the same city or between cities.26

**The temptation is great also to blame poor productivity** performance on **increasing industry concentration**, but **it should be resisted** for several reasons. For one thing, as already noted, **trends in national concentration statistics are poor measures of the state of competition.** Moreover, as Shapiro has noted, even the increases in concentration that have occurred in narrowly defined industries at the national level – some of which can be attributed to relaxed merger enforcement by the Department of Justice after it updated its Merger Guidelines in 1982 – are mostly in unconcentrated industries and not of a magnitude that would indicate any material diminution of competition.27 And, if competition has not materially declined, then the state of competition cannot be linked to the decline in productivity growth or other measures of economic “dynamism” such as startup activity or worker mobility.

**Statistical studies also do not support any connection between the modest increases in national industry concentration and the decline in productivity growth**. David Autor and colleagues, who have been critical of increased concentration for its impacts on the labor market, have **found a statistically positive relationship between an industry’s concentration level and its productivity improvements**.28 Likewise, there is evidence linking investment in information technology (which is productivity enhancing for the firms making the investment), with more industry concentration. However, Bessen argues that – because much IT investment is proprietary and not diffusing to the rest of the economy – the economy-wide impact on productivity may be less than optimal.29

**The vast majority of innovation comes from firm improvement, not competitors**

**Garcia-Macia et al. 19** – Garcia-Macia, International Monetary Fund; Chang-Tai Hsieh, Booth School of Business, University of Chicago and National Bureau of Economic Research; Peter J. Klenew, Department of Economics, Stanford University and National Bureau of Economic Research

Daniel Garcia-Macia, Chang-Tai Hsieh, and Peter J. Klenew, "How Destructive Is Innovation?," Econometrica, Vol. 87, No. 5 (September, 2019), 1507–1541, September 2019, <http://klenow.com/DestructiveInnovation_GHK.pdf>

Likewise, when a new product replaces an existing product, one would like to identify whether the new product is owned by another firm (“**creative destruction**”) or the same firm (“**own innovation**”). Based on case studies, Christensen (1997) argued that innovation largely takes the form of creative destruction, and almost always from new firms. Akcigit and Kerr (2018) looked at whether patents cite earlier patents by the same firm or by other firms. The case studies and the sample of patenting firms, however, may **not be representative** of firms in the **broader economy**. Many innovative firms, particularly outside of manufacturing, do not patent.

In the absence of more direct evidence, we try to infer the sources of growth indirectly from the patterns of job creation and job destruction among all private sector firms in the U.S. nonfarm economy. We use data from the U.S. Longitudinal Business Database (LBD) from 1983 to 2013. The seminal work of Davis, Haltiwanger, and Schuh (1996) documents the magnitude of job flows within U.S. manufacturing, and these flows are commonly used as proxies for the intensity of creative destruction. For example, Decker, Haltiwanger, Jarmin, and Miranda (2014) pointed to the decline in U.S. job reallocation since the 1970s as evidence of a decline in the rate of creative destruction.

We view the LBD data through the lens of an exogenous growth model featuring creative destruction, own innovation, and new varieties. For industries such as manufacturing, the object of innovation may be products. For services and retail, which make up the bulk of the LBD data, innovation may take the form of new and improved establishments. For example, Walmart opening a new store may be akin to adding a new product. A new Walmart store arguably gains market share by offering a distinct variety (the store format, including all the items for sale within it) and/or by offering low prices (due to high process efficiency) relative to existing stores in the local market.

We reach four conclusions from our indirect inference based on LBD data. First, **most growth** appears to come **from incumbents rather than entrants**. This is because the **employment share of entrants is modest**. Second, most growth seems to occur through **quality improvements rather than brand new varieties**. Third, own-variety improvements by incumbents **loom larger** than creative destruction (by entrants and incumbents). The contribution of creative destruction is around 25 percent of growth, with the remainder mostly due to own **innovation by incumbent firms**. Fourth, the contribution of entrants and creative destruction declined from 1983–1993 to 2003–2013, while the contribution of incumbent firms, **particularly through own innovation**, increased.

**‘Slow growth’ is inevitable AND is proof of a strong economy.**

Dietrich **Vollrath 20**, Professor of economics at the University of Houston, "Slow economic growth is a sign of success," USAPP, 02/22/2020, https://blogs.lse.ac.uk/usappblog/2020/02/22/slow-economic-growth-is-a-sign-of-success/.

We’re accustomed to looking at the growth rate of GDP to evaluate the **health of our economy**. Which is why the recent slowdown in growth **appears** so troubling. In the US, GDP growth for 2019 was **2.3%**, meaning it has been nineteen years since growth hit 4%, and nearly as long since it touched **3%**. For the UK the story is similar, as it has been fifteen years since growth hit 3%. In the Eurozone as a whole, growth last came close to 4% in 2000. These slowdowns across developed economies **predates** the financial crisis, and leads to **natural questions**: what went wrong with the economy, and how do we fix it?

But the slowdown we’re observing isn’t something **we can fix** – or that we would want to fix – because the slowdown was never a **consequence of things that went wrong**. Instead, as I show my new book, the slowdown is a **consequence** of things that went right.

From a simple accounting perspective, there are **two main factors** behind slower growth: the **fall in fertility** during the 20th century, and the **shift** of our expenditures **away from goods and towards services**. And both of those explanations can be traced back to economic success.

The fall in fertility had a **significant** impact on economic growth for decades, particularly **in the US**. The baby boom generated a one-time wave of human capital that hit the economy during the middle of the 20th century. As those new workers hit the workforce, the proportion of **workers to population** rose **substantially**, as evidenced by the fall in the youth dependency ratio between 1960 and 1980 (see Figure 1). Combined with the relatively high educational attainment of the baby boomers compared to prior generations, this provided a substantial boost to the growth rate, increasing it around 1.25 percentage points in 1990 compared to immediately after World War II.

Chart, line chart

Description automatically generated

As that wave of **human capital** receded, so did the growth rate. Starting in the early 2000s, the old age dependency ratio started to rise (see Figure 1) the inevitable consequence of the **drop** in youth dependency back in the 1960s and 1970s. As workers **aged out of the workforce** – and continue to do so – this **dragged down** the growth rate of the aggregate economy. That 1.25 percentage point boost during the 20th century disappeared in the 21st, explaining most of the slowdown in the US.

But why should we see these demographic shifts as a success? The drop in **fertility** after the baby boom which explains the shifts was driven by **several successes**. **Expanded access to college education** pushed back the age at which people were willing to marry. The opening up of many **professions** to women, along with **growth in overall wages**, meant that it made sense for many women to delay marriage. Finally, advances in contraceptive technology meant it was **possible** for women to take advantage of the new **educational and professional** opportunities that arose. The growth slowdown today is a **consequence** of family decisions made decades ago in response to **rising** living standards and the **expansion** of women’s rights.

The second source of the slowdown, the **shift from goods towards services**, was also driven by success. In the past one hundred years we became **incredibly efficient** at producing goods like clothes, food, furniture, and computers. The consequence was a **steady reduction in the price** of those goods relative to services. We could have used that reduction to buy even more goods than we did, but instead we took advantage of the savings to purchase more services like education, healthcare, and travel. Therefore the composition of our expenditures shifted away from goods and towards services (see Figure 2). We still consume more goods than before; it is just that they got so cheap that their share of our **total expenditure** fell relative to services.

Chart, line chart

Description automatically generated

This had a consequence for overall economic growth, however. Productivity growth in services is lower than for goods. That wasn’t a failure of services in the last few years. It appears to be an inherent quality noted by economist William Baumol in the 1960s. If a restaurant — a service — tried to operate with half their normal staff, you’d complain about the slow service and lack of attention. In comparison, if a manufacturer produced a laptop – a good – with half as much labour, you’d never know. This makes productivity growth harder for services than for goods. As we shifted expenditures towards services, aggregate productivity growth was thus bound to fall. Between the middle of the 20th century and today, that probably shaved another 0.2 to 0.25 percentage points off of the growth rate. But note that this only happened because of the productivity growth we experienced in the first place, a success.

Relative to the successes in the demographic shifts and spending shifts, the usual suspects are not capable of explaining the growth slowdown. Tax rates fell right as the slowdown started, and evidence from across states and industries shows that, if anything, more regulation was associated with faster growth, not slower. Trade with China exploded in the last twenty years, but evidence suggests that this had little effect on growth for the economy as a whole, even though individual regions and industries saw booms or busts. Economy-wide measures of the mark-up of price over cost rose, but it turns out that this didn’t lower growth. The shift of activity to high mark-up industries kept economic growth rates from falling even further than they did, as it meant we produced more valuable products.

If you’re still **uncertain** that the growth slowdown is a **consequence of success**, ask yourself what you’d give up to bring growth back to 4%. We could destroy half of **all our goods**: cars, couches, TVs, laptops, houses, trampolines, and so on. That would lead to a **massive** shift of spending towards goods as we scrambled to replace everything, and we’d see a jump in productivity growth. Alternatively, we could roll back contraceptive rights and women’s participation in the workforce in the hopes of starting a new baby boom. Wait twenty years and we’d have another surge of human capital into the economy. Would either of those be worth it just to see growth hit 4% again, perhaps not until 2040? Assuming the answer is “no”, that tells us the growth slowdown happened because of things that went **right**, things we would not sacrifice.

**Chinese regulatory regimes are good**

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Beijing’s AI policy priorities are clear. The “Next Generation Artificial Intelligence Development Plan,” announced by China’s State Council in July 2017, called for China to catch up on AI technology and applications by 2020, and to become a global AI innovation hub by 2030. Chinese President Xi Jinping hammered the point home in his 19th Party Congress speech in October, when he mentioned the development of advanced manufacturing and the promotion of further integration of the Internet, big data and artificial intelligence with the real-world economy. Beijing has placed huge bets on AI for a host of political and economic reasons, from improving governance capacity to improving policy development and surveillance. The plan calls for China to lead the way in developing a **regulatory environment** to both encourage AI development and to **mitigate the** potential **downsides of AI.** A few months after the national plan’s announcement in July, the Ministry of Science and Technology (MOST) designated Baidu to lead the autonomous vehicle platform, Tencent for medical, Alibaba for Smart Cities, and iFlyTek for speech interfaces. These plans should be taken seriously, as the Chinese government has shown a strong track record in delivering results. For example, Beijing announced in 2010 that China would become the world’s leader in adopting high-speed rail (HSR). Today it has 60% of the world’s HSR market. In 2014, the Chinese government announced the “Mass Entrepreneurship and Innovation Plan.” Today there are business 8000 incubators in China, compared to 1400 in 2014. These plans have teeth, both due to the deadlines and metrics set out at the national level, as well as the local companies that are likely to take these directions as top priorities. We can expect a similar trajectory for China’s AI policies. Historically, the Chinese government has been open-minded towards technology development. When a new technology comes out, the government will give it the benefit of doubt and let it grow, rather than stifle it with policy or endless debates. Also, the environment in China is more conducive to fast launch and iteration. There is a general belief that it is better to launch something and then get it approved later. This allows Chinese businesses to generate real data at scale, which in turn allows technology to improve over a shorter period of time, particularly once AI is introduced into the equation. For example, while in the US, truckers’ unions are petitioning the Department of Transportation to delay autonomous truck testing, in China, the Xiong’an New Area, a planned smart city development southwest of Beijing, is being designed from the ground up with full autonomy in mind. Various highway authorities are willing to develop road augmentation, special lanes, or move warehouses near highway exits, all to facilitate faster deployment of autonomous trucks. We also see major initiatives in cities, following the central government’s call to action. Shanghai, Nanjing, Wuhan, and Tianjin are but a few of the cities coming out with their own AI initiatives. As with past policies, much of the resources will be applied at the provincial and city government levels. The types of resources may include subsidies for top talent (especially overseas talent); guidance for top VC funds, with the government playing the role of limited partner (LP) but offering some of its upside to the general partners (GPs) of the funds; special programs for top AI companies and start-ups (free rent, subsidy for local hiring, housing and private school for top talents); and technical awards for companies and individuals. Finally, the US, EU, and China will also compete to be out in front on developing a regulatory regime around AI technologies and applications. The National Plan’s explicit recognition of the need for regulatory, legal, and ethical principles for AI development and use represents an **uncommonly foresighted approach.** Of course, the government’s approach to AI regulation, ethics, and economic adjustment will reflect Beijing’s broader model of **governance and ideology**. Given its preference for a **state-centric approach** to international issues, for example, it is possible China will launch an initiative via the UN to establish first an automation/AI-related “code of conduct,” or basic regulatory approach, followed by a special committee on the topic and eventually an oversight body operating within a UN framework. Such an initiative would put **China at the forefront of developing a global approach to these issues.** Beijing has attempted a similar approach on cybersecurity issues, which it argues have a global impact and require a global regulatory response.

**Adv 2**

**Grid shut down is physically impossible – three warrants**

**Pollet 14** (JONATHAN POLLET, founder of Red Tiger Security, and a 17 year veteran of the US ciritcal infrastructure Nov. 23, 2014 "Here's What Chinese Hackers Can Actually Do To The US Power Grid Read more: http://www.businessinsider.com/what-hackers-can-do-to-our-power-grid-2014-11#ixzz3hTq8klee" www.businessinsider.com/what-hackers-can-do-to-our-power-grid-2014-11 \*Edited for ableist language\*)

There’s been a lot of discussion lately about the risks posed by hackers to America’s critical infrastructure systems, with terms like “cyber-Pearl Harbor” and “cyber-9/11” being bandied about by government officials and other prominent figures. Invariably, one of the worst scenarios often depicted by these cyberwar predictions is an attack on the US power grid that would cause a widespread blackout. In his testimony before the House Intelligence Committee on November 20th, NSA Director Adm. Michael Rogers went into some detail on those risks: House Intelligence Committee Chairman Mike Rogers: “It was determined that malware was on those (critical infrastructure) systems. Can you be a little more definitive about what does that mean? If I’m on that system and I want to do some harm, what does that do … ? Do the lights go out? Do we stop pumping water? What does that really mean? And the fact that it was there, does that mean they already have the capability to ‘flip the switch’ if they wanted to?” Admiral Michael Rogers: “Well let me address the last part first. There shouldn’t be any doubt in our minds that there are nation-states and groups out there that have the capability to do that. To enter our systems, to enter those industrial control systems, and to shut down, forestall our ability to operate, our basic infrastructure. Whether it’s generating power across this nation, whether it’s moving water and fuel … Once you’re into the system and you’re able to do that, it enables you to do things like, if I want to tell power turbines to go offline and stop generating power, you can do that. If I wanted to segment the transmission system so that you couldn’t distribute the power that was coming out of the power stations, this would enable you to do that. It enables you to shut down very segmented, very tailored parts of our infrastructure.” A number of media outlets interpreted these comments as a claim by the NSA that a country like China could take down our nation’s power grid. But is that what the NSA director really said? And is a widespread, national blackout caused by hackers a realistic scenario? While it’s easy to draw that conclusion from the generalized nature of Adm. Rogers’ responses, it’s important to re-read the last line in that exchange: “It enables you to shut down very segmented, very tailored parts of our infrastructure.” (Emphasis added.) This line is important because it clarifies the types of risks we’re actually talking about when it comes to the electric grid. No, hackers can’t take down the entire, or even a widespread portion of the US electric grid. From a logistical standpoint, this would be far too difficult to realistically pull off - and it’s not what we should be devoting our attention to. What is more realistic is for a cyber attack to cripple [devastate] an individual utility, causing a blackout or disruption of service at the local level. The power grid is vulnerable to attack — there’s no question about that. In my own work, testing the security readiness of US and global energy companies and utilities, I regularly find serious vulnerabilities on these networks and I am often called in to deal with compromises that have already taken place — including cyber-espionage activities by state-sponsored groups. Adm. Rogers testimony is extremely important as it provides a strong authoritative voice to what is an urgent problem facing this country right now: America’s critical infrastructure is vulnerable to attack, it’s a complicated problem to fix it and an attack is eminent. But the notion that a hacker could basically turn off the country’s power with the ‘flip of a switch,’ as Rep. Rogers called it, is more science fiction than reality. Here’s why: The US energy grid is owned and operated by hundreds of various regional utilities that all use different hardware and software. That means hackers would have to tunnel into hundreds of diverse networks, which would take several years, and then write custom exploits which are unique for each specific environment they’re targeting. For those who would argue that China or Russia have the money, time and capability to do that, try to understand that developing a functional exploit, getting it placed on the exact part of the network that it needs to be on in order to have the desired effect (i.e., specific programmable logic controllers that run the utility’s machinery), then keeping it hidden on that network over a period of months or years while security teams try to hunt it down, and doing all of this at the same time on hundreds of networks is extremely difficult. To put it in perspective, it would be like trying to rob a hundred different banks at the exact same time. However, even if a hacker group was able to pull this off, there is a catch-all that would create yet another hurdle. There are high-voltage DC interconnects at various points that were specifically designed to prevent widespread outages. By clarifying what we mean when we warn about attacks on the electric grid and other critical infrastructure, I’m not trying to downplay this risk at all. US critical infrastructure networks, which include the electric grid, utilities, oil/gas refineries and pipelines, water treatment plants, transportation networks, etc., are all highly vulnerable to cyber attacks, and this threat should be prioritized at the highest level by the federal government. In the meantime, the individual asset owners who are the ones technically responsible for securing their networks and facilities need to start taking more aggressive steps immediately to guard against highly sophisticated cyber actors.

**Adv 3**

**No modeling---other countries see US antitrust as irrational**

William E. **Kovacic 15**, Professor of Law and Policy at George Washington University, former General Counsel for the Federal Trade Commission, J.D. from Columbia University, “The United States and Its Future Influence on Global Competition Policy,” George Mason Law Review, Vol. 22, 2015, accessed via Lexis

One force that reduces the perceived legitimacy of the U.S. system is a widely accepted narrative, reflected in popular discourse and scholarly commentary, which portrays **federal enforcement as irrational and unstable**. 65 [\*1172] In this interpretation of modern U.S. enforcement history, antitrust policy undergoes **recurring erratic shifts**, with a small number of lucid intervals. For the most part, the irrationality narrative suggests that U.S. antitrust policy embraced unsupportable extremes of over-enforcement in the 1960s and 1970s, under-enforcement from 1981 to 1988 and 2001 to 2008, and achieved a sensible, balanced equilibrium only from 1993 to 2000 and 2009 to the present. 66 This accounting of antitrust history raises a troublesome question: why should any jurisdiction outside the U.S. respect a system that **has lost its mind** in roughly 41 of the past 55 years?

Policy-making in the irrationality narrative is sharply discontinuous, and the enforcement institutions have little evident capacity for self-assessment or correction over time. 67 Individual leaders count for everything, and **institutional arrangements fail to discipline policy-making**; 68 appoint a wise official and you get good results, but pick a zealot and the agency swerves toward frantic hyperactivity or utter indolence. The irrationality narrative is the public policy equivalent of an interpretation of Formula One racing that attributes the outcome in races entirely to the driver and treats the quality of the car and supporting team as largely irrelevant.

The irrationality account of U.S. enforcement history derives power from the stature of the narrators. Despite its unreliable reading of U.S. experience, the narrative's **academic pedigree is daunting**. Some of the greatest scholars in U.S. competition law have contributed to the story. If nonentities constructed the narrative, foreign observers would dismiss it out of hand. Instead, the narrative of irrationality and instability, often presented with the metaphor of a wildly swinging pendulum, originated and developed in the work of some of the field's most influential commentators. On many occasions outside the U.S., I have heard enforcement officials, practitioners, and scholars speak of the irrationality narrative as though it were an established truth. To these observers, the stature of the scholars who popularized the irrationality narrative invariably lends verisimilitude to the story.

As described below, the irrationality narrative of the U.S. system serves the aims of the right and the left in the debate about federal enforcement policy. For those who favor more intervention or less intervention, alike, the image of a system dangerously out of control serves to frame their own "sensible" policy proposals. By this technique, the narrator emerges as the voice of wisdom in a crazed policy environment.

[\*1173] The architecture of the modern irrationality narrative took shape in 1978 when Professor Robert Bork published the first edition of his transformative treatise, The Antitrust Paradox. 69 Professor Bork's central thesis was that "modern antitrust has so decayed that the policy is no longer intellectually respectable." 70 Each institution with a role in the implementation of the antitrust laws--the courts, the Congress, and the federal enforcement agencies--caused the decay. On antitrust matters, the Congress displayed the mentality of "the sheriff of a frontier town" who "did not sift evidence, distinguish between suspects, and solve crimes, but merely walked the main street and every so often pistol-whipped a few people." 71 With few exceptions, the courts embraced a view of antitrust law that "teaches the necessity for government intervention when no such necessity exists, and even when intervention is positively harmful." 72 Without regard to adverse economic effects, the DOJ and the FTC "must continually press on to fresh territory, seeking theories that broaden the application of the law and make violations easier to establish." 73

In Professor Bork's telling, the implementing institutions were capricious, reckless, or bent upon self-aggrandizement. 74 As a group, the institutions have gone mad, for they have no tendency or, perhaps, any capacity to reflect on their experience, identify error, and make corrections. 75 Instead, the U.S. antitrust system had "an inbuilt thrust toward greater severity or further extension." 76 Nothing, Professor Bork warned, seemed able to contain the destructive march of intervention: "This process has no obvious stopping point." 77

The image of a system out of control served Professor Bork's rhetorical aims; it showed the urgency for reform by presenting a system in shambles. The image also **distorted** (more mildly, misread) **current trends substantially**. When The Antitrust Paradox appeared in January 1978, each institution Professor Bork rebuked--the Congress, the courts, and the federal enforcement agencies--had taken steps to rebalance the antitrust system. 78 The adjustments came slowly, but they were coming, nonetheless. If Professor Bork had acknowledged that the seemingly out-of-control institutions [\*1174] were making important adjustments, his book would have lost some (maybe much) of its force.

A second decisive contribution to the irrationality narrative came in the late 1980s and early 1990s from one of Professor Bork's harshest critics, Professor Robert Pitofsky. Though Professor Pitofsky scorned Professor Bork's calls for a vast retrenchment of antitrust enforcement, he used his own version of the irrationality narrative while setting out a more interventionist agenda. 79 Describing federal merger enforcement from the early 1960s through the early 1990s, Professor Pitofsky wrote:

American antitrust policy has tried to balance possible threats to competition against merger benefits, but remarkably, has careened from one extreme to another in this balancing process. For example, the United States had by far the most stringent antimerger policy in the world in the 1960s, striking down mergers among small firms in unconcentrated markets. By the 1980s, the United States maintained an extremely lenient merger policy, regularly allowing billion dollar mergers to go through without government challenge, even when they involved direct competitors. 80

Like Professor Bork in The Antitrust Paradox, Professor Pitofsky presented a system run amok. Federal policy "careen[s] from one extreme to another," like an automobile with an impaired driver swerving across the centerline. 81 No institutional feature in the U.S. system provided needed balance. 82

In Professor Pitofsky's version of the narrative, the solution to the aberrant enforcement behavior came by way of appointments--including his own--to the federal agencies. 83 In 2002, after chairing the FTC from 1995 to 2001, Professor Pitofsky said federal merger control by the late 1990s "stopped careening from aggressive enforcement based in some part on a populist ideology to minimalist enforcement based on hostility to the core assumptions of antitrust . . . ." 84 Under the Clinton Administration's appointees, federal policy stopped "careening," avoiding the extremes of an overheated, populist-inspired activism of the 1960s and the "minimalist" program of the Reagan presidency with its "hostility to the core assumptions of antitrust." 85

For Professor Pitofsky, like Professor Bork, the narrative of a system gripped by irrational, erratic variations in behavior served an important instrumental purpose. The portrayal of a regime swinging wildly between extremes allowed Professor Pitofsky to claim the role--as suggested in the [\*1175] title of his 2002 article, Antitrust at the Turn of the Twenty-First Century: A View from the Middle--of the wise centrist. 86 Professor Pitofsky underscored the rationality of his own program by juxtaposing it against the irrationality of his predecessors. 87 Clinton Administration antitrust officials strove to claim the mantle of wise centrism. 88 As the following passage from an essay in The Economist in 2000 shows, they framed their program as a sensible middle way between the irrational interventionism of the 1960s and 1970s and the inactivity of the 1980s:

It helps that [DOJ Assistant Attorney General Joel] Klein and his counterpart at the FTC, Robert Pitofsky, have been deliberately low-key in talking about their activities, claiming that they are modest and in the legal mainstream of legal thought and economics. They concede that they have been more interventionist than the laissez-faire ideologues of the Reagan years, but they say they are nothing like the trust-busting zealots of the 1960s who saw evil in every big company or merger. 89

In reporting on the Clinton administration strategy, The Economist presents the federal enforcement policy just as the DOJ and FTC leadership wished: a "modest" and "mainstream" program standing between two eras of irrationality; one guided by "trust-busting zealots" and the other led by "laissez-faire ideologues." 90

Taken on its own terms, the irrationality interpretation of U.S. antitrust history provides **a grim picture of the American system**. One should be wary of a system that intermittently has lucid policymaking intervals, but its **normal state is irrationality**. If everything depends on the appointment of wise centrists to head the agencies, nothing good can happen when the [\*1176] choice of DOJ or FTC leadership is not so inspired

. Because personalities are decisive, when the wise centrists depart, nothing in the institutions themselves can prevent the system from returning quickly to bad old habits.

As the quotation presented above illustrates, the wise centrism story acquires force if periods of thoughtless extremism bracket the sensible policy era. As developed by Professor Pitofsky and other antitrust scholars, the irrationality narrative derives its power from the system's tendency to embrace extremes. 91 Dramatic variations in performance demonstrate the absence of thoughtful policy-making. The narrator seems sane by comparison if all others appear to be deranged. Professor Pitofsky's article in 2002 about the future of antitrust policy used this framing technique. 92 He wrote that "during the Reagan years, there was no enforcement whatsoever against non-horizontal mergers and joint ventures, boycotts, minimum resale price maintenance, exclusive dealing contracts, tie-in sales, attempts to monopolize, and monopolization." 93

The passage quoted above highlights two recurring features of the irrationality narrative. First, Professor Pitofsky's statement uses sweeping, categorical language ("no enforcement whatsoever") to describe the period of extreme inactivity. 94 In the 2002 article and in other papers, Professor Pitofsky made strong claims of inactivity to portray the Reagan Administration antitrust program as a gross departure from good practice. 95 Second, the portrayal of events, though written with the utmost self-assurance, often cannot withstand fact-checking and is verifiably incorrect. 96

[\*1177] Professor Pitofsky has plenty of esteemed company in telling the U.S. irrationality story by making bold claims belied by actual enforcement experience. As noted above, Professor Bork's denunciation of antitrust policy circa 1978 ignored important doctrinal and policy developments that fit poorly with a system out of control. 97 The story of horrible decay is less compelling if the asserted flaws are not so horrible. Other accounts of U.S. enforcement experience by the field's leading commentators include claims that during the Reagan Administration "merger enforcement ground to a halt," 98 that antitrust "[e]nforcement ceased," 99 and that the DOJ and the FTC "did not file a single vertical case." 100 Why did the U.S. system lose its mind? The answer, say two of America's best scholars, is that "extremists" took control of the enforcement agencies. 101 Experts in the U.S. might excuse these descriptions of federal enforcement as careless hyperbole. In my experience, foreign observers are more likely to take them at face value.

The story of U.S. antitrust policy in the 1980s is considerably more complex. Crucial factual tenets of the irrationality narrative are unsupportable. Merger enforcement never halted, 102 enforcement never ceased, 103 and vertical restraints cases (at least a few) still appeared. 104 To look beyond the categorical statements of inactivity and recount enforcement developments [\*1178] accurately would reveal a more thoughtful enforcement program at work. There is a major difference, for example, between saying a merger enforcement program has disappeared, and saying that boundaries have been reset, but policed actively.

Would a fuller, more accurate account of federal enforcement trends over time reveal intense debate about the proper direction of policy? Of course. Has policy shifted across administrations, especially after a regime change? No doubt. Yet, liberated from the irrationality narrative's determination to accentuate the magnitude of changes and cast decision-makers as senseless extremists, a more faithful account of U.S. federal enforcement history would portray adjustments as more gradual and nuanced, in most cases, than the irrationality narrative suggests. The discipline imposed by institutional arrangements, not simply patterns in leadership appointments (whether irrational officials or prudent centrists), would account for refinements over time.

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## Innovation DA

#### Business confidence is powering growth to full-blown recovery by 2022.

Dodd ’11-9 [David; November 9; Market strategist and analyst; Customer Think, “Economic Forecasters Predict a Strong 2022 . . . Mostly,” <https://customerthink.com/economic-forecasters-predict-a-strong-2022-mostly/>]

Several organizations have recently released economic forecasts that cover all or part of 2022, and I'll describe some of these predictions in this post. All of the forecasts discussed here are regularly updated, so marketers should check them often to ensure they are working with the latest economic outlooks.

Real GDP Growth

Most economists and other forecasters now expect the overall U.S. economy to experience above-average growth in 2022. In September, U.S. Federal Reserve Board members and Federal Reserve Bank presidents predicted that U.S. real GDP will increase by 3.8% next year (mean of individual forecasts). In October, The Conference Board also estimated that real GDP will grow 3.8% in 2022.

Several Wall Street economists tracked by CNBC and Moody's Analytics are predicting GDP growth of 3.9% in 2022 (average of individual forecasts).

To put these forecasts in perspective, many economists believe that the maximum sustainable growth rate of the U.S. economy (measured by real GDP) is 2% - 3%.

Unemployment

The U.S. unemployment rate has fallen dramatically since the pandemic high of 14.7% in April 2020. Last month, it stood at 4.6, according to the U.S. Bureau of Labor Statistics.

Most economists expect the unemployment rate to continue declining in 2022. For example, the Federal Reserve is now estimating that the average unemployment rate in the fourth quarter of 2022 will be 3.8%. The Conference Board is forecasting that the unemployment rate will fall from 4.8% in the fourth quarter of this year to 4.1% in the second quarter of next year.

Consumer Spending

Consumer sentiment declined sharply in August of this year and remained low in September and October, according to the University of Michigan's [Index of Consumer Sentiment](http://www.sca.isr.umich.edu/). Many economists have attributed this decline in consumer confidence to the summer-early fall surge of COVID-19 cases fueled by the Delta variant. In the October report, the University of Michigan researchers noted that the continuing low level of consumer optimism was primarily due to growing concerns about inflation.

Despite these downbeat readings on consumer confidence, most forecasters expect consumer spending to be strong next year. For example, The Conference Board expects real consumer spending to increase at annualized rates of 4.2% in the first quarter and 3.5% in the second quarter of 2022. And [Deloitte](https://www2.deloitte.com/us/en/insights/economy/us-economic-forecast/united-states-outlook-analysis.html) predicts that real consumer spending will increase by 3.5% over all of 2022.

Business Investment

Historically, business investment levels have been closely correlated with CEO confidence about future economic and business conditions. This relationship bodes well for business investment in 2022. In the latest McKinsey Global Survey of business executives, 51% of North American respondents said they expect economic conditions in their home country to improve over the next six months.

The Conference Board is estimating that "nonresidential investment" will increase at annual rates of 5.0% in the first quarter and 5.2% in the second quarter of next year. For all of 2022, [Deloitte](https://www2.deloitte.com/us/en/insights/economy/us-economic-forecast/united-states-outlook-analysis.html) is forecasting that "real fixed business investment" will grow 3.2%.

Inflation

Taken together, these forecasts suggest that the overall U.S. economy will continue to be in full-blown recovery mode in 2022. If these forecasts are accurate, most B2B companies should be operating next year under business conditions that are generally favorable.

#### Confidence is robust, shows no signs of declining, and is closely linked to concentration---only new regulations curb optimism.

Nguyen ’10-19 [Lananh; updated October 19; Reporter covering Wall Street, expected to receive an M.S. in Finance and Economic Policy from the University of London in 2021; New York Times, “Wall Street Sees a Record Deal Spree as a Reason for Optimism,” <https://www.nytimes.com/2021/10/15/business/wall-street-banks-earnings-mergers.html>]

The dealmakers at the nation’s biggest banks are the busiest they’ve ever been. Interest rates are low, private equity firms flush with cash are looking for promising investments, and companies are aggressively pursuing mergers at a breakneck pace.

Wall Street banks announced blockbuster quarterly profits this week from a record wave of transactions that shows no signs of ebbing: Even in the face of surging inflation and shaky consumer sentiment, corporate clients are ready to deal — and bank leaders say that’s a reason to be optimistic about the economic recovery.

“Whenever C.E.O. confidence is high, M&A activity increases,” David M. Solomon, Goldman Sachs’s chief executive, said in an interview Friday after the bank reported third-quarter earnings of $5.38 billion, surpassing analyst forecasts. “The world’s resettled a bit coming out of the pandemic, and that is now giving a lot of companies an opportunity to really take note of where they want to go.”

A record $1.6 trillion in mergers and purchases were struck worldwide in the quarter, according to a research report from Refinitiv. That, in turn, set records for advisory businesses across Wall Street: Goldman Sachs and Morgan Stanley tallied record revenues, JPMorgan Chase and Bank of America announced all-time high fees, and Citigroup’s mergers and acquisitions bankers had their best quarter in a decade.

Goldman Sachs has already had the most profitable year in its history — earning $17.7 billion so far — with three months to go. In the most recent quarter, its bankers closed transactions including the $32 billion spinoff of Universal Music Group by the French conglomerate Vivendi and Salesforce.com’s $28.1 billion purchase of Slack Technologies. Those were two of the 10 biggest deals completed in the three-month period ending in September, according to Dealogic.

Morgan Stanley also had two top-10 deals: the chip maker Analog Devices’s $20 billion acquisition of a competitor, Maxim Integrated, and the $12.3 billion purchase of Proofpoint, a cybersecurity company, by the private equity firm Thoma Bravo.

Sharon Yeshaya, Morgan Stanley’s chief financial officer, said the financial, health care and technology industries in the Americas and Europe have been the hottest areas, but momentum was building elsewhere, too.

“What we’re seeing is really strong pipelines,” Ms. Yeshaya said in an interview after the bank reported a jump in profits to $3.7 billion. “The strength is broadening.”

The frenetic pace has persisted despite the economic upheaval caused by the pandemic, trade disputes and geopolitical tension, Matt Toole, director of deals intelligence at Refinitiv, wrote about the record quarter. Buoyant stock markets, low borrowing costs and the emergence of new buyers from special purpose acquisition companies will continue to prop up activity, he wrote.

“With the all-time full-year deal making record broken in less than nine months and five consecutive quarters of more than $1 trillion in M&A activity, we have very little data to make true historical comparisons,” Mr. Toole wrote.

Even so, there are plenty of factors that could put the brakes on. Tougher regulators in the United States, rising prices for goods and services and central banks’ moves to cut back on stimulus efforts “will all contribute to how much further this cycle has to go,” he wrote.

#### A new wave of innovation is imminent, reaching all sectors---large firms are key.

Gourevitch ’21 [Antoine and Massimo Portincaso; March 11; Managing Director and Senior Partner at the Boston Consulting Group, M.B.A. from INSEAD, M.A. from Ecole Centrale in Paris; Boston Consulting Group, “Deep Tech and the Great Wave of Innovation,” <https://www.bcg.com/publications/2021/deep-tech-innovation>]

Despite the inherent risks of failure, businesses and investors have shown increasing interest in deep tech. According to our preliminary estimates, investment in deep tech (including private investments, minority stakes, mergers and acquisitions, and IPOs) more than quadrupled over a five-year period, from $15 billion in 2016 to more than $60 billion in 2020. The average disclosed amount per private investment event for startups and scale-ups rose from $13 million in 2016 to $44 million in 2020. For early-stage startups, the most recent survey by Hello Tomorrow found that the amount per investment event increased from $36,000 to $2 million between 2016 and 2019.

And funding sources are expanding. While information and communications technology (ICT) and biopharma companies continue to invest substantially in deep tech, more traditional large enterprises are becoming increasingly active. For example, Sumitomo Chemical has signed a multiyear partnership with Zymergen to bring new specialty materials to the electronics products market, and Eni has invested $50 million in Commonwealth Fusion Systems and joined its board of directors. Bayer has joined forces with Ginkgo Bioworks to reduce agriculture’s reliance on carbon-intensive nitrogen fertilizers. The resulting venture, Joyn Bio uses synthetic biology to engineer nitrogen-fixing microbes that enable cereal crops to extract nitrogen from the air in a usable form. Sovereign wealth funds are playing too. Singapore’s Temasek Holdings invested in JUST (plant-based egg alternatives), Commonwealth Fusion Systems (commercial fusion energy), and Memphis Meats (animal-cell-based meat).

More and more mainstream companies and institutions are recognizing that solutions to big problems—and the future of innovation—lie in deep tech.

The Fourth Wave of Innovation

The first wave of modern business innovation started in the nineteenth and early twentieth centuries with breakthroughs such as the Bessemer process for manufacturing steel and the Haber-Bosch process for making ammonia.

Following World War II, the second wave of modern business innovation—the information revolution—gave birth to large-company R&D, particularly in the ICT and pharma sectors. Bell Labs, IBM, and Xerox PARC became household names and Nobel Prize workshops. Merck alone launched seven major new drugs during the 1980s.

In the third wave, the digital revolution, two guys in a garage (or a Harvard dorm room) led the innovation charge, which resulted in the rise of Silicon Valley and, later, China’s Gold Coast as global centers of computing and communications technology and economic growth. At the same time, the new field of biotech, also driven by entrepreneurs, fueled much of the innovation in pharmaceuticals.

The wave now taking shape as older barriers to innovation crumble embraces a new model and promises to radically broaden and deepen innovation in every business sector. The increasing power and falling cost of computing and the rise of technology platforms are the most important contributors. Cloud computing is steadily improving performance and expanding breadth of use. Biofoundries are becoming for synthetic biology what cloud computing already is for computation. Similar platforms are emerging in advanced materials (Kebotix and VSPARTICLE are two examples).

Meanwhile, costs continue to fall, including those related to equipment, technology, and access to infrastructure. Increasing use of standards, toolkits, and an open approach to innovation, paired with the ever-increasing availability of information and data, plays an important role as well.

#### Innovation and competition are high---concentrated markets don’t imply a lack of competition

Thibault Schrepel 20, Assistant Professor at Utrecht University School of Law, Associate Researcher at University of Paris 1 Pantheon-Sorbonne and Invited Professor at Sciences Po Paris, 2020, “ARTICLE: Antitrust Without Romance,” 13 NYU J.L. & Liberty 326

The first risk created by the moralization of antitrust law is economic disorganization. At this point, it appears worth returning to the reasons moral concepts are thriving in antitrust law. We have seen that the moralization of antitrust, made possible by a populist discourse arguing that the system is broken by elites, serves personal interests. Moralists play on fears and predict a dark future in the absence of governmental action. 228

[\*388] By doing so, they ignore positive tendencies which undermine the role they would like to play in order to save "the people." Several studies suggest that the U.S. economy is, overall, more concentrated today at the national level than it was in the early 2000s. 229 This concentration does not, however, imply a corresponding decrease in competition. Concentrated markets may show great dynamism because of strong competitive pressure between the players. 230 For that reason, in 2018, the United States regained a first place ranking as the world's most competitive economy. 231 The country is also [\*389] ranked first in the annual ranking of the Global Competitiveness Report, 232 standing out in particular for its "business dynamism" as well as its "innovation capability." 233

In the Eurozone, although it would be useful to distinguish between countries, the overall level of concentration has been stable over the last ten years. 234 On average, the Herfindahl-Hirschman Index has remained relatively constant at a level of 330 since the Great Recession. 235 Entry and exit of firms in the evaluated industries stayed close together and at similar levels in recent years. 236 Moreover, markups, an indication of market power, have not increased significantly and have yet to reach pre-crisis levels. 237 Competitiveness remains high, with Germany ranking as the world's third most competitive economy, Switzerland the fourth, the Netherlands the sixth, the United Kingdom the eighth, Sweden the ninth, Denmark the tenth, and Finland the eleventh. 238 There has [\*390] been no noticeable change in the trend of economic dynamism in the Eurozone over the last twenty years or so. 239

In short, as the Global Competitiveness Report indicates, "Europe and North America are, combined, home to seven of the ten most competitive economies." 240 The 2018 IMD World Ranking shows similar results. 241 Most importantly, examining the U.S. economy since the creation of the Sherman Act in 1890, and the European economy since the Rome Treaty in 1958, growth and wealth have increased more than in the history of humankind, benefiting society as a whole. 242 Some economists go even further, arguing that our prosperity is understated because our metrics to measure growth lead us to miss around half a percentage point per year. 243 While it is easy to identify individual adverse events (generally, anticompetitive practices or mergers), it is much harder to take notice of positive trends, as they are usually not embodied in a single, easily noticeable event.

These tendencies do not indicate antitrust law should not be improved, or suggest the absence of market failures, but they do indicate that antitrust law, as currently applied, produces good results, or at least does not hinder good results. 244 In short: antitrust law is not broken; it works rather effectively. This conclusion calls into question the merits of drastic changes to antitrust policy on the grounds that economies must be restored or revamped when, in fact, [\*391] they are already competitive. 245 The same goes for integrating new concepts and objectives into antitrust law to address problems raised by tech giants; micro-legal analyses of anticompetitive practices must not oust macroeconomic trends. 246 As pointed out by the OECD, the "simplicity" of the rationale for more oppressive antitrust law, based on the analysis of a handful of practices, raises questions. 247

#### Zero empirical evidence supports the link between dominant platforms and reduced innovation

Patrick F. Todd 20, Trainee Solicitor, Herbert Smith Freehills LLP, London, 3/3/20, ““You don’t get to be the umpire and have a team”: should we regulate the activities of digital platforms in neighboring markets?,” <https://truthonthemarket.com/2020/03/03/you-dont-get-to-be-the-umpire-and-have-a-team-should-we-regulate-the-activities-of-digital-platforms-in-neighboring-markets/>

2. Widespread harm in adjacent markets

To ban platform owners from leveraging anti- and pro-competitively, one would expect there to be cogent evidence of harm to competition across a multitude of adjacent markets that depend on the platforms for access to consumers. However, as Feng Zhu and Qihong Liu note, there is a dearth of empirical evidence on the effects of platform owners’ entry into complementary markets. Even studies that support the proposition that such entry dampens or skews innovation incentives of firms in adjacent markets conclude that the welfare effects are ambiguous, and that consumers may actually be better off (see e.g. here and here). Other studies show that third-party producers can benefit from platform entry into adjacent markets (see e.g. here and here). It is therefore clear that this criterion, which should also be a prerequisite to imposing blanket regulation to control the behavior of platform owners, has not been satisfied.

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#### Wrong—big firms are the largest contributors to R&D spending, anticipate new competition, and create new markets

Jan Rybnicek 20—Antitrust Attorney, former Advisor at FTC, Editor for the Antitrust Law Journal. ("Innovation in the United States and Europe," November 11, 2020, from The Global Antitrust Institute Report on the Digital Economy 13, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3733698>) edited for ableist language

A key indicator of a vibrant economy that is characterized by vigorous competition and intense innovation is high levels of spending on research and development. Research and development fuels economic growth, job creation, and competition by allowing researchers and entrepreneurs to discover new technologies, design new products, tap new markets, and improve efficiency and enhance performance. Critics of U.S. competition policy have argued that today’s largest firms have become so large that they are untouchable by competition from current or future rivals and, as a result, have lost the incentive to innovate that once may have been part of their core identity as scrappy upstarts but that has since faded as they rest on their laurels, happy in their dominant positions.37 They further argue that dominant firms snuff out would-be entrants that otherwise would be devoting capital to research and development initiatives to build competing offerings for consumers.38 These critics allege that this purported dampening in the incentive to innovate has deprived consumers of better products and services that would otherwise arise through the push and pull of competition.

But the actual data tell a different story about the state of research and development in the United States and how it compares to its counterparts in Europe. In fact, companies in the United States lead the world in research and development. As shown in Figure 6, out of the top companies globally investing in research and development spending, 11 out of the top 20 (55 percent) and seven out of the top 10 (70 percent) are based in the United States as of 2018.39 By comparison, only six of the top 20 are located in Europe (30 percent), and only two find themselves in the top 10 (20 percent). The remaining firms on the list based on research and development spend are based in Asia.

Contrary to critics’ claims, there is no lack of research and development in the United States, and U.S. firms continue to outpace global counterparts in investing in new technologies and products. The reality is that companies in the United States invest in a broad range of research and development initiatives despite the presence of large, successful tech companies. Unsurprisingly, just as no one today would invest in developing a new combustion engine-powered car that would have to compete against established and mature competitors that have considerable expertise in the market, it would be unwise to try to compete against any of the large tech companies with a “me too” product. Instead, innovators (and, as discussed below, the venture capital and other sources of capital that fund them) devote resources to discovering new and different solutions that may indirectly replace incumbents by disrupting old markets and creating new ones. Indeed, this how many of today’s most successful tech firm achieved success— by building new products and creating new markets, not by mimicking yesteryear’s giants, such as IBM, Microsoft, and Intel.

A closer look at research and development investment in the United States further shows that tech firms are leading the way. In fact, many of the tech firms that have allegedly contributed to the decline of competition and innovation in the United States are the biggest spenders. As shown in Figure 7, Amazon, Alphabet, Intel, Microsoft, and Apple comprise the nation’s topic five spenders, with investments totaling more than $75 billion in 2018.40 These companies are pouring money into innovation not because they have nothing else to do with it but because they are attempting to stay ahead of the competition in their core markets by introducing even better products and services, and to break into adjacent markets where they see opportunities to use their expertise to be disruptive forces.

#### Their evidence doesn’t account for cost spreading and returns on innovation

Joe Kennedy 20—Senior Fellow at ITIF, previously chief economist with the U.S. Department of Commerce, JD, and PhD in economics from George Washington University. ("Monopoly Myths: Is Big Tech Creating ‘Kill Zones?’" November 9, 2020, from Information Technology and Innovation Foundation, https://itif.org/publications/2020/11/09/monopoly-myths-big-tech-creating-kill-zones)

The Assumption That Small Firms Are Inherently More Innovative Than Large Firms Is Not Borne Out by the Evidence

One core argument made by anti-monopolists who oppose large companies and argue that kill zones and killer acquisitions are real and harmful is that small firms are inherently more innovative than large firms. As FTC Commissioner Christine Wilson argued, “[M]any today believe that small firms are inherently more innovative than large ones, so that the acquisition of a small firm by a large one necessarily reduces innovation.”45 For example, Tim Wu recently testified before Congress that innovation in technology sectors would increase if government imposed greater regulations and increased antitrust enforcement because “[o]ver the last century, competitive, open sectors—ecosystems—have proved themselves superior to those monopolized or dominated by a ‘big three’ or ‘big four.’”46

In fact, large companies are as or more innovative than small firms. In a 1996 paper, Wesley M. Cohen and Steven Klepper found that large firms invest more in R&D as a share of sales.47 The number of patents and innovations produced per R&D dollar decline with increasing firm size. But they argued that this reflects a mismeasurement of innovation outputs. Large firms benefit from “cost spreading,” because they can spread the benefits from one innovation across more units and products, leading to a greater overall level of innovation per unit of R&D. They wrote, “Not only does cost spreading provide the basis for explaining the R&D-size relationship, it also challenges the consensus that has emerged from the R&D literature that large firm size imparts no advantage in R&D competition.”48

More recently, in 2016, business professors Anne Marie Knott and Carl Vieregger estimated that a 10 percent increase in the number of employees increases R&D by 7.2 percent, and a 10 percent increase in firm revenues increases R&D productivity by 0.14 percent. This shows that large firms not only invest more in R&D activities, they also enjoy higher returns on innovation output per dollar invested in R&D.49

Other research has found that “small firms prevail in the early stages and innovation tends to concentrate in larger firms as industries evolve towards maturity.”50 In the 1990s, many small firms emerged and competed to be the winners in IT platforms. But only a few firms could emerge as winners, and the ones that did continue to invest in innovation.

#### Even if small businesses innovate, they rely on bigger firms to compete

Joshua D. Wright & Jan M. Rybnicek 21—Law professor at George Mason University, executive director of the Global Antitrust Institute, former member of the Federal Trade Commission; Antitrust Attorney, former Advisor at FTC, Editor for the Antitrust Law Journal. ("A Time for Choosing: The Conservative Case Against Weaponizing Antitrust," Summer 2021, from National Affairs, https://nationalaffairs.com/time-choosing-conservative-case-against-weaponizing-antitrust)

But that is only part of the story. These major tech firms not only directly employ Americans, but through their investment and innovation, they have created entirely new markets that also have created millions of jobs. Take for instance the app economy—a more than $1 trillion global industry—that has created millions of U.S. jobs since Apple’s iPhone launched in 2007. According to one estimate, the U.S. had more than two million app-related jobs as of April 2019.[xvii] America’s large tech companies also benefit small businesses in yet another way: by connecting them to new markets that they could not access before. Today small businesses are able to take advantage of the major tech firms’ size and scale to grow domestically and compete globally with affordable and secure services.

#### COVID encouraged *more* innovation and productivity growth

Michael Spence & James Manyika 21—Winner of the 2001 Nobel Prize in Economics, Philip H. Knight Professor, and Dean Emeritus at Stanford University's Graduate School of Business; Chair and Director of the McKinsey Global Institute. ("A Better Boom: How to Capture the Pandemic’s Productivity Potential," July/August 2021, from Foreign Affairs, https://www.foreignaffairs.com/articles/united-states/2021-06-22/better-boom)

The pandemic has primed advanced economies for another period of rapid productivity growth. It is too early to say for sure whether such growth will be the product of a virtuous or a vicious cycle, but signs point to the former. Despite uncertainty, stress, and plummeting economic activity in the early days of the COVID-19 crisis, many firms boldly deployed and used new general-purpose technology—especially digital technology—in ways that have driven virtuous productivity gains in the past. In October 2020, we surveyed 900 C-suite executives in various sectors and countries and found that many had digitized their business activities 20 to 25 times as fast as they had previously thought possible. Often, this meant shifting their businesses to online channels, since roughly 60 percent of the firms we surveyed experienced a significant increase in customer demand for online goods and services as a result of the pandemic.

Before the pandemic, e-commerce was forecast to account for less than a quarter of all U.S. retail sales by 2024. But during the first two months of the COVID-19 crisis, e-commerce's share of retail sales more than doubled, from 16 percent to 33 percent. And that growth did not just reflect brick-and-mortar firms setting up shop online for the first time. Firms that were already highly digitized before the pandemic significantly expanded their online capabilities to meet the surge in demand. They also reorganized their operations, including their logistics, to complement what they were doing digitally-for example, by expanding their direct-to-home delivery capabilities.

Businesses also strove to become more efficient and agile. In Europe and North America, nearly half of the respondents to our survey said that they had reduced their operating expenditure as a share of revenue between December 2019 and December 2020. Two-thirds of senior executives said they had increased investment in automation and artificial intelligence, whether to help warehouse and logistics operations cope with higher e-commerce volumes or to enable manufacturing plants to meet surging demand. Many companies used technology to reduce the physical density of their workplaces or to enable contactless service-for instance, by expanding self-checkout in grocery stores and pharmacies and employing online ordering apps for restaurants and hotels. Other businesses, such as meatpacking and poultry plants, accelerated the deployment of robotics to reduce their need for labor. If there was one lesson from the pandemic, it was that digital capability and resilience go hand in hand.

But even as the arrival of vaccines has made it possible to imagine a return to relative normalcy in parts of the developed world, continued digitization and the adoption of other technological innovations promise to deliver still more productivity gains. The largest of these gains—roughly an additional two percentage points per year—could come in the health-care, construction, information technology, retail, pharmaceutical, and banking sectors. In health care, for instance, accelerating the use of telemedicine beyond the pandemic could drive incremental productivity growth for years. According to one recent U.S. poll, 76 percent of patients expressed interest in using telemedicine in the future, and industry experts project that the services for 20 percent of health-care spending could be delivered virtually-up from 11 percent before the pandemic. Other sectors, including automotive, travel, and logistics, show less-but still substantial-potential for productivity growth as a result of more flexible task scheduling, leaner operations, and smarter procurement.

Overall, these innovations and organizational changes could accelerate productivity growth by around one percentage point per year between now and 2024 in the United States and the six large European economies that we analyzed (France, Germany, Italy, Spain, Sweden, and the United Kingdom). This gain would result in a productivity growth rate twice as high as the rate after the 2008 global financial crisis, and in the United States, it would expand per capita GDP by roughly $3,500 by 2024. That would be a stunning outcome, but it will hinge on continued technology adoption by firms and the maintenance of robust demand.

Even more productivity gains could be on the horizon thanks to other advancements. The accelerating revolution in biology, for instance, could transform sectors from health care and agriculture to consumer goods, energy, and materials. Biological innovation has already enabled the rapid development of new vaccines for COVID-19. Equally impressive revolutions in energy could make possible the widespread adoption of solar and wind power, especially in light of recent progress toward better (and cheaper) batteries. Artificial intelligence is also advancing rapidly, but is still a long way from being deployed widely across companies and sectors. When and if that happens, the productivity gains could be enormous.

#### Structural separation decks innovation---third parties rely on platforms to handle logistics and scale up quickly

Kennedy 20 – Senior fellow at the Information Technology and Innovation Foundation, former chief economist for the U.S. Department of Commerce

Joe Kennedy, "Breaking Up Is Hard to Do—So Don’t Do It," Information Technology and Innovation Foundation, 10-7-2020, <https://itif.org/publications/2020/10/07/breaking-hard-do-so-dont-do-it>

\*\*edits in brackets\*\*

The proposal to prevent companies from selling on their own platforms is a mistake for many reasons, most importantly because [it] would reduce total **economic welfare and competition**. First, consider who benefits from the way platforms operate now. On one side of the equation, Internet companies themselves obviously benefit from their own platforms. The more transactions they facilitate over the same infrastructure—for themselves and for third parties—the more they lower their average operating costs. More product and service offerings also attract more consumers. And more third parties for using the platform mean more sales commissions. (Interestingly, those commissions reduce at least somewhat platform operators’ incentive to compete with third parties, because profits that platforms make selling their own products and services are partially offset by lost commissions they would otherwise earn.)

On the other side of the equation, platforms also benefit third-party sellers ranging from **small, family businesses to large, established companies.** These providers get access to many more potential buyers than they could **ever connect with** on their own. The commission they pay is at least partially offset by savings on advertising and running their own websites. Some platforms, such as Amazon’s marketplace, also offer to take over services such as billing and logistics, allowing sellers to **scale up faster** and concentrate on making the **best products they can**. The vast majority of third parties **benefit greatly** from the platform, which is precisely why the platforms have grown so fast. Meanwhile, almost all sellers work through more than one platform.

Finally, platforms benefit consumers by letting them search offerings from a large number of possible suppliers on one site. This makes price comparison much easier and reduces fears about whether the seller is trustworthy. Economist Thomas Philippon has estimated that the benefits of online commerce are equivalent to a permanent **increase in consumption of 1 percent**. This is partly because the increase in online commerce prices has been running at 1 percent below general inflation, saving buyers millions of dollars.

When a platform operator competes with one of its third-party providers by offering its own product, consumers again benefit. They now have additional options, possibly of better quality or lower price. What Amazon does in competing with suppliers is no different than what most major brick and mortar retailers do when they advertise and sell their own branded product right next to those of their competitors. And in these cases, the retailers collect and analyze real-time electronic sales data of products to decide whether it makes sense to sell a similar product under their own brand. Why is doing this online any different than offline? The committee report anticipated that objection—having heard it many times—but sloughs it off by making the inaccurate claim that big bricks-and-mortar retailers don’t have as much data as online commerce retailers. With point-of-sale terminals and mainframe computers keeping track of sales and inventory, this claim is just wrong.

The majority report’s recommendation to prevent companies from selling on their own platforms stems from the fact that platform operators have information on which products are especially popular and profitable, and they can use this information and their control over the platform to handicap the sellers of those products while they offer their own version. Merchants claim to fear that unfair competition from platform owners will either put them out of business or force them to sell out. These fears are buttressed by a few anecdotes of past cases.

But these **fears are exaggerated**. First, many of these anecdotes don’t hold up under careful scrutiny. In one of the most widely cited, Amazon’s purchase of diaper merchant Quidsi, Amazon actually lost a great deal of money selling below cost because, despite its size, its margins in what continued to be a highly competitive market were not high enough to recoup the investments it had made. These anecdotes represent only a small fraction of the sales and sellers on the platform. The **vast majority** of third-party sellers benefit substantially from the platforms. Finally, where sellers have legitimate complaints, remedies far short of breaking up the company are available.

#### It's uniquely devastating---they falsely assume unleashed innovations can come from innovative, competitive companies, but the opposite is true

Portuese 20– Aurelien Portuese, Director, Antitrust and Innovation Policy @ Information Technology and Innovation Foundation

(Aurelien Portuese, 10-28-2020, "A Search for Sanity in Antitrust: Move (Too) Fast, Break (Innovative) Things?," ITIF, <https://itif.org/publications/2020/10/28/search-sanity-antitrust-move-too-fast-break-innovative-things>)

A 1978 article titled “A Search for Sanity in Antitrust” published in Fortune argued that antitrust enforcement was fraught with “an oligopoly of opposites” where the regulators welcomed economic efficiency of business but enforced populist decisions that preserved an atomized market structure at the expense of economic efficiency and against scale economies of companies. More than 40 years later, antitrust enforcement is yet again in search of sanity in antitrust where enforcement diverges between, on one hand, an atomized market structure protective of small competitors irrespective of their efficiencies, and on other hand, a tolerance for corporate bigness as long as it can be justified based on superior efficiency. This debate has noisily resuscitated in recent weeks.

Rarely has a week in U.S. antitrust been as historical as the one we have just been through. In choreographed moves, the House Judiciary Committee and the Department of Justice (DOJ) have initiated forceful attacks on big tech companies. The Judiciary Committee published a 450-page report on big tech in which it has recommended breaking up of companies such as Google, Apple, Amazon, and Facebook. A few days later, Attorney General William Barr initiated a lawsuit against Google, the alleged “gatekeeper of the Internet,” in what resembles the historical lawsuit against Microsoft 20 years ago. Inspired by Europe’s first moves against big tech, where reports, legislative proposals, and fines have already been issued, American antitrust appears to be undergoing a massive transformation with momentum for “platform busting” in the digital economy. This platform-busting outbreak has its origins with an influential group of scholars and policy advocates—the so-called “Neo-Brandeisians”—who wish to resurrect the anti-monopoly / anti-bigness sentiments that spurred the populist momentum of the late 19th century when the antitrust laws were adopted. Obviously, big is not always bad (in fact it is usually good), and corporate champions may generate social benefits and collective pride, but the current antitrust moment reneges on decades of improvement in economic knowledge in favor of the originalist antimonopoly, over-interventionist stance, which embodies a substantially different approach to the optimal level of interventionism in the market and innovation processes.

The breakups of big tech companies are explicitly called for in the House Judiciary report and suggested again Google in the DOJ’s lawsuit. Aimed at generating a “forceful antitrust enforcement” (p. 20), the report recommends “structural separations and prohibitions of certain dominant platforms from operating in adjacent lines of business” (p. 20). Structural remedies mean breakups of companies by divestitures of assets with an associated prohibition to subsequently buy out or merge these assets. Structural remedies as regulatory tools impose blatant limitations on fundamental liberties such as property rights, entrepreneurship, and freedom to contract. Thus, antitrust enforcement has wisely been reluctant to hastily resort to such intrusive administration tools, unless an unexceptionally strong case can be made. The first breakup took place in 1911 when the Supreme Court decided, in Standard Oil v United States (221 US 1, 1911), to break up John D. Rockefeller’s Standard Oil Trust into spinoff companies after having being accused of having secretly conspired against consumers and rivals. Such conspiracies are prohibited under Section 1 of the Sherman Act of 1890—the main statute of antitrust laws. The other major breakup took place in 1982 with the Supreme Court’s decision in United States v. AT&T (552 F. Supp. 131, 1982), wherein the telecom company, which enjoyed regulated monopoly status, went through judicially imposed asset divestitures to create seven regional companies. Subsequently, spinoff companies merged back to “baby Bells” as well as “baby Standards,” which emerged after the breakup of Standard Oil. Competition was spurred in long-distance telephony, but only to a limited extent and for a short time, because innovation costs and economic disintegration cannot be underestimated: In particular, the coming of the Internet, cable broadband, and mobile telecommunications as outside innovations created more competition than the breakup could have ever expected and realized.

The breakups of companies, beyond the legal obstacles inherent to the consequences they generate, represent the regulators’ desire to reorganize the market to structure it more optimally, irrespective of the fundamental synergies and network effects that are crucial for these firms’ innovativeness and competitiveness. It may perhaps be the acknowledgment of the detrimental effects of breakups which led the DOJ to settle with Microsoft in 2001 so that no structural remedy was imposed on Microsoft. To ditch the accusations of violation of Section 1 of the Sherman Act against Microsoft, which was alleged to have tied-in its browser with its operating system, the DOJ only imposed a less intrusive behavioral remedy: Microsoft had to remove the default installation in PCs of Microsoft’s browser (Internet Explorer) and Microsoft’s media application (Windows Media Player). These regulatory requirements implicitly acknowledged the unreasonableness of a breakup, and correspondingly, recognized the appropriateness of the behavioral remedies over structural remedies, especially when it comes to the removal of default settings.

Default settings are precisely, again, at the heart of the DOJ’s lawsuit against Google. The accusations indeed echo those formulated 20 years ago against Microsoft, and that formulated a couple of years ago against Google by the European Commission. Be that as it may, default settings are incredibly complicated business common practices when it comes to assessing them from an antitrust perspective. On their anticompetitive effects, one can arguably say that they are established only by dominant players and self-reinforced their very dominance without giving other competitors a chance to compete given the alleged status quo bias of consumers. The DOJ lawsuit takes the controversial view that for Google to require preinstalled default status of its search engine on Android-based mobile devices grants Google “de facto exclusivity,” since consumers do not switch to alternative search engines despite none of the traditional switching costs being present with the search engine.

Of course, consumers’ status quo bias exists as first documented in 1988 by Samuelson and Zeckhauser. Under uncertainty, the rational choice model indeed suggests that risk-averse consumers may reveal some inevitable path-dependency. This rationally minded decision does nevertheless not suggest that it is welfare-increasing or welfare-decreasing if consumers both are satisfied with the current quality of services provided and are reluctant to engage in search-and-find costs for alternatives that may not use marketing strategies to appeal to consumers. Also, contrary to Microsoft’s former practice which created obstacles to exit, the costs and obstacles to leaving Google search engines are almost null since alternative search engines are just “one click away.” Indeed, how could consumers be worse off if they are satisfied with the product, if switching costs for alternative search engines are close to zero, and if rivals do not engage in reaching out to consumers via alternative media? It appears thus rational for consumers to stick to the status quo, especially so when there are minimal learning costs involved. Furthermore, the status quo bias is somehow overcome when one looks at the trends: Only 57 percent of consumers use search engines for online product research. Also, digital apps are increasingly used for accessing the Internet: Google may very well be one of the Internet gateways but not its gatekeeper.

Neither the Standard Oil breakup nor the AT&T breakup can serve as inspirations for a breakup of Google. First, the two historical breakups are precedents Google cannot be compared with. The breakup of Standard Oil Trust took place mainly under Section 1 of the Sherman Act, which is designed to prohibit and prevent price-fixing conspiracies by cartels. Of course, Google is not a cartel and does not conspire with competitors against consumers. If a case can be made against Google, it can only be under Section 2 of the Sherman Act, which prevents monopolization attempts by a single firm—here, Alphabet Inc. the mother company of Google. Thus, one cannot apply the rationale behind Standard Oil to Google as the former organized a “trust” while the latter is a vertically integrated single company. Antitrust law may legitimately bust trusts; it can hardly disintegrate vertically integrated companies. The AT&T breakup equally is an inadequate source of inspiration for the DOJ, since AT&T benefited from a government-enticed monopoly that included regulated prices which had to be abandoned in order to foster competition.

Second, Google has emerged neither out of a trust-organizing business model (à la Standard Oil) nor out of a government enticed monopoly business model (à la AT&T). Google has emerged out of massive investments and innovation to compete with many incumbents (i.e., Yahoo! for search engine, Nokia and Blackberry for mobile OS, etc.). While it may no longer be the “scrappy start-up” as colloquially referred to in the DOJ’s lawsuit, Google has invested massively in its search algorithm to best suit consumer preferences and in its business model so that its success enabled it to enter, not always successfully, adjacent markets to compete with incumbents or to create new markets of its own.

Finally, it appears that breaking up Google would immediately benefit both Apple and Microsoft. Apple would gain because its business model of iPhone’s iOS based on a closed, priceable digital ecosystem will prevail over Google’s ad-funded free-of-charge business model enforced through contractual arrangements. Apple may eventually suffer or benefit as payments from Google will end. Should Apple choose to discontinue its use of Google’s search engine subject to the fact that the financial incentives were truly decisive, then either an inferior quality search engine alternative will be chosen for iPhones, and the price-quality ratio of iPhones will worsen at the expense of Apple’s end-consumers, or Apple could launch its own search engine incurring massive costs of replication of Google at the expense of Apple’s other investments and overall profitability. Should Apple choose to continue to use Google’s search engine despite the lack of financial incentives, then the profitability of each iPhone, iPad, and iWatch would decrease so that either consumers may be charged higher prices or the company’ investments in innovation may decrease, or a mixture of these two detrimental implications will occur. Also, breaking up Google would immediately benefit Microsoft’s Bing search engine. Awkwardly left unaddressed by the House Judiciary report, Microsoft’s strengths and capabilities appear ignored, but the Bing search engine (as well as Microsoft Edge’s browser) and associated ad revenue will correspondingly increase with the regulatory fall of Google should a breakup ever occur. The current competition for Bing to tackle the incumbent Google would be artificially bent so that it favors one competitor over another irrespective of consumer benefits or harms. Moreover, if it is not Bing that will win from Google’s breakup, it may very well be the Chinese Baidu or the other Chinese entrant, Huawei.

The breakup of Google will unleash some innovations as argued by those suggesting it, but it will prevent Google from being the engine of innovation we currently have to “escape” competition by a superior efficiency. Google’s trading partners writ large will be harmed (from Apple to device manufacturers through online advertisers) as well as Google’s consumers. Unleashed innovations might be expected from breakups, but only if the targeted company is neither innovative nor competitive. With billions of dollars spent annually on R&D for innovation, and with hundreds of innovations made reality, the breakup of Google can hardly unleash any sort of innovation from the market, except some rents undeservedly earned by rivals thanks to rent-seeking through strategic lawsuits as we have seen in Europe.

Breakups of companies are provided for by antitrust laws, especially for busting trusts—these inefficient cartels which conspire to harm consumers and stifle innovation. Breakups of companies are extremely unfair for dominant players that earned their success through innovative products, competitive offers, and a long-term vision that discounted short-term benefits in favor of long-term corporate strategy. Breakups may eventually yield much greater costs to consumers and to overall innovation than the expected rivals’ benefits to be generated with short-lived spinoff companies. For sure, breakups of these companies may always generate massive media coverage, popular support—especially when announced two weeks before a historical presidential election. Political tactics force decisions to be rushed out with little gains for consumers or democracy but with great self-inflicted pains imposed on innovation and the quality of regulatory decision-making processes. Searching for sanity in electoral politics may prove as complicated as searching for sanity in modern antitrust enforcement.

#### 1) Increasing competition causes de-concentration without increasing aggregate data

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The distribution of new companies will also be a critical factor. These companies could create new markets, products, and platforms distinct from existing firms, yielding previously untapped sources of data and new forms of innovation. Facebook and Amazon have successfully engaged in these practices. On the other hand, a more even playing field might prompt emerging companies to compete directly with broken-up giants. Incumbent firms could challenge Google’s internet search monopoly, YouTube’s video dominance, and Apple’s smartphone market share. Although this competition may spur innovation and shake up the marketplace—just as today’s large tech companies did when they arrived—it could also de-concentrate data sources without increasing aggregate data quantities.

#### Guts deep learning

Foster 20 (Dakota Foster is a graduate student at Oxford University and a former visiting researcher at the Center for Security and Emerging Technology. “Antitrust investigations have deep implications for AI and national security”, https://www.brookings.edu/techstream/antitrust-investigations-have-deep-implications-for-ai-and-national-security/)

Changes to firms’ scale also may impact their access to data, another key resource required for AI innovation. Studies have linked the performance of deep learning models to the quantity of data fed into them. At present, tech giants have access to unprecedented volumes of data about their users. Google, for example, can harness data from Google Search, Maps, YouTube, Gmail, and other sources. If antitrust enforcement leads to divestment or broader break-ups, access to data may diminish, lessening innovation.

#### a) transaction costs are too high AND no political will

Foster & Arnold 20 (Dakota Foster, Visiting Researcher at Georgetown’s Center for Security and Emerging Technology (CSET). She is a graduate student in the Department of War Studies at King’s College London, where she is studying the Third Offset Strategy and the national security implications of changing innovation patterns between the public and private sectors. Previously, she has conducted research on terrorism and U.S. national security policy for the U.S. military, the House Foreign Affairs Committee, and the Washington Institute. She holds a B.A. from Amherst College and is an incoming student at the University of Oxford. Zachary Arnold, Research Fellow at Georgetown’s Center for Security and Emerging Technology (CSET), where he focuses on AI investment flows and workforce trends. His writing has been published in the Wall Street Journal, MIT Technology Review, Defense One and leading law reviews. Before joining CSET, Zach was an associate at Latham & Watkins, a judicial clerk on the United States Court of Appeals for the Fifth Circuit and a researcher and producer of documentary films. He received a J.D. from Yale Law School, where he was an editor of the Yale Law Journal, and an A.B. (summa cum laude) in Social Studies from Harvard University, “Antitrust and Artificial Intelligence: How Breaking Up Big Tech Could Affect the Pentagon’s Access to AI”)

Breaking up large tech firms would scatter the inputs to AI innovation, such as datasets, computing power, and human talent, across more companies. However, these same inputs could be reconsolidated through joint ventures, data sharing agreements, industry consortia, and other forms of collaboration between smaller post-breakup companies. If reasonably easy to implement and sustain, interfirm cooperation could drive innovation as effectively as intrafirm coordination pre-breakup, or even more so. In fact, this sort of cooperation is already emerging in the market. Microsoft and Graphcore, for example, just announced the development of Graphcore Intelligence Processing Units, designed to support machine learning.83 Recent DARPA challenges, like the Spectrum Collaboration Challenge, also indicate that the Pentagon values a collaborative approach to AI.84

In practice, though, cooperation is not always easy.85 When different parties supply set components for larger products, the end product can suffer because no entity has high-level, comprehensive control over it. 86 Similarly, existing research suggests that cooperation driven by vague or short contracts often falls short for “projects involving advanced innovation.”87 Greater reliance on contractual relationships and collaboration for critical inputs like data and compute could also make AI firms more vulnerable to supply shocks.

Finally, a more collaborative environment also raises questions of integration. Instead of drawing on central, intrafirm sources, companies will have to leverage diverse inputs from multiple vendors, which could complicate coding, cleaning, and sorting data. Although contracts could serve as substitutes for intrafirm resources, negotiating and enforcing contractual relationships entails potentially significant transaction costs; large firms can avoid this inefficiency and accelerate innovation by bringing inputs together under one roof, making contracts unnecessary.88

activity,161 yet “Defense Technology” and “Information and Communication Technology” are two of six industries identified by the National Counterintelligence and Security Center as the most likely targets for foreign intelligence collectors.162

#### 3) cash—AI is a loss-leader! Smaller firms can’t lose $500M every year. Only megafirms like Google can maintain strength

Foster 20 (Dakota Foster is a graduate student at Oxford University and a former visiting researcher at the Center for Security and Emerging Technology. “Antitrust investigations have deep implications for AI and national security”, https://www.brookings.edu/techstream/antitrust-investigations-have-deep-implications-for-ai-and-national-security/)

As Silicon Valley’s largest companies consolidate AI talent and novel ideas through acquisitions, these companies gain an ever-larger say in the future of AI. This consolidation, which antitrust action could disrupt, may not favor innovation. But breaking up major tech firms also has potential pitfalls for AI innovation. With scale comes resources, and AI innovation is resource-intensive, requiring large quantities of data, diverse datastores, and vast computing power—known as “compute” in industry jargon.

American tech giants’ huge revenues uniquely equip them to fund costly AI research. Google’s DeepMind, arguably the world’s leading AI-research organization, is billions of dollars in debt and lost over $500 million in 2018 alone. Google’s fortress-like balance sheet can easily absorb the costs associated with such cutting-edge research, but smaller firms likely cannot. The economics of compute offer a concrete example of this dynamic. The rapidly increasing volume of compute required for deep learning research, coupled with compute’s prohibitively expensive prices, creates significant barriers to entry and innovation for smaller AI firms. As Microsoft co-founder Paul Allen noted in 2019, the “exponentially higher” costs of compute may leave the U.S. with only “a handful of places where you can be on the cutting edge.” Even the most well-funded independent AI organizations rely on Big Tech’s compute resources. OpenAI’s billion-dollar compute partnership with Microsoft, reached after OpenAI spent millions renting compute from leading tech firms, offers one example.

#### Link turn – antitrust FORCES foreign cooperation, empirics.

Robert D. Atkinson, president of the Information Technology and Innovation Foundation, Antitrust Can Hurt U.S. Competitiveness; Actions against RCA, AT&T and Xerox gave a leg up to European and Japanese firms, July 5, 2021, WSJ

When it comes to technology and the economy, the U.S. is grappling with two contradictory goals: competing with China in advanced technology industries and ramping up antitrust enforcement against leading U.S. tech companies.

Antimonopoly advocates argue that we can have our cake and eat it too. Go ahead and break up big tech, they say; we can still compete with China. But there is a long history of U.S. antitrust actions against technology companies, and the results suggest regulators should exercise caution.

Consider the case of Western Electric, AT&T's equipment subsidiary. By the early 1920s, it had factories in Austria, Belgium, Canada, China, Germany, France, Italy, Japan, the Netherlands, Russia and the U.K. But because AT&T relied on it exclusively for equipment, in 1925 the Justice Department threatened AT&T with breakup unless it divested Western Electric's foreign assets, creating International Telephone & Telegraph and ultimately giving birth to robust foreign-owned competitors.

Antitrust regulators also pressured AT&T's Bell Labs in the early 1950s to license its newly invented transistor technology. That spurred innovation because it helped emerging companies such as Texas Instruments and Fairchild. But because of government pressure, AT&T also licensed its technology, almost for free, to foreign companies. This eventually enabled Sony to take global leadership from the U.S. in consumer electronics, and it gave a major leg up to Europe's Ericsson and Siemens.

The U.S. also used to be the global leader in television technology thanks to the Radio Corp. of America, the pathbreaker in color television. But in the 1950s the Justice Department required RCA to let other U.S. companies use its patents at no charge. RCA had long relied on licensing revenue, so it started making money where it could—in Japan. "RCA licenses made Japanese color television possible," technology historian James Abegglen has written.

In 1972, the Federal Trade Commission brought a similar antitrust suit against Xerox, the world's then-leading producer of copier technology thanks in part to its Silicon Valley-based innovation incubator Xerox PARC. Evidently unimpressed, the head of the FTC's Bureau of Competition F.M. Scherer said he would be "dissatisfied if Xerox's market share isn't significantly diminished in several years." To that end, the FTC forced Xerox to give up its blueprints and other discoveries, allowing an estimated 1,700 patents to make their way to Xerox competitors. Sure enough, Xerox lost half its market share—mostly to Japanese firms such as Canon, Toshiba and Sharp. Xerox's only viable path to survival was to strengthen its alliance with Fuji, creating a new giant, Fuji Xerox.

Two years later in 1974, the Justice Department targeted AT&T again, forcing it to break up over the objections of Commerce Secretary Malcolm Baldridge that the suit jeopardized America's leadership position. This was the death knell for Bell Labs, arguably the most innovative organization that has ever existed.

None of this is to say that antitrust authorities should be passive or turn a blind eye to anticompetitive behavior. But they should recognize that firms' size can be an important factor in their ability to innovate. Rather than rely on market share as the alarm bell that signals the need for antitrust enforcement, regulators should focus more on firms' conduct, and they should look first to behavioral remedies, not structural ones. Antitrust analysis should also consider that tech companies compete globally, not nationally, so cutting them down to size usually has significant economic consequences.

The Federal Communications Commission has provided a model for the behavioral approach by conducting a series of inquiries starting in 1970 to investigate the convergence of telephone and computing services and establish rules enabling competition among established and upstart players across sectors that are increasingly intertwined. U.S. courts also provided a model in judgments against Microsoft, which compelled it to let other companies more easily integrate their software into Windows.

As policy makers now consider competition issues related to today's large technology firms, they would be well advised to learn from this history. With Chinese internet and tech companies waiting in the wings, aggressive antitrust actions against U.S. leaders run the risk of giving a new generation of foreign rivals the boost they need to dominate global markets, just as Japanese and European firms have benefited in the past.

#### [A]---Major deals are up and only increasing

McGee 21 – FT San Francisco Correspondent

Patrick Mcgee, 5-16-2021, "Silicon Valley reboots its relationship with the US military," Financial Times, https://www.ft.com/content/541f0a02-ea27-43a4-b554-96048c40040d

But for all the headlines suggesting that Big Tech is shunning work with the military, major deals continue.

Earlier this year, Microsoft won a 10-year, $22bn contract to supply 120,000 close-combat US soldiers with augmented reality headsets. In 2019, it was awarded a $10bn cloud computing contract for the Pentagon that many assumed was going to Amazon, which had also been an enthusiastic bidder.

Brandon Tseng, co-founder of Shield AI — a start-up helping the Pentagon build unmanned systems for conflict zones — says that, for every example of a Google stepping back, there is a Microsoft stepping in. “It’s a myth that talented engineers don’t want to work with the military,” claims Tseng, a former Navy Seal. “We’re close to 200 employees now, doubling year-to-year, and there’s tons of inbound interest . . . By and large, you find an enthusiastic workforce interested in helping the government solve these problems.”

#### [B]---Err neg---their ev doesn’t account for the *thousands* of subcontracts tech companies earn each year

Glaser 20– NBC news reporter

April Glaser, 7-8-2020, "Google, Amazon, and Microsoft hold thousands of contracts with the U.S. military and federal law enforcement, new research shows," NBC News, https://www.nbcnews.com/tech/tech-news/thousands-contracts-highlight-quiet-ties-between-big-tech-u-s-n1233171

On Wednesday, newly published research from the technology accountability nonprofit Tech Inquiry revealed that the Department of Defense and federal law enforcement agencies including Immigration and Customs Enforcement, the FBI, the Drug Enforcement Agency and the Federal Bureau of Prisons, have secured thousands of deals with Google, Amazon, Microsoft, Dell, IBM, Hewlett Packard and even Facebook that have not been previously reported.

The report offers a new window into the relationship between tech companies and the U.S. government, as well as an important detail about why such contracts are often difficult to find.

Tech Inquiry's research was led by Jack Poulson, a former Google research scientist who quit the company in 2018 after months of internal campaigning to get clarity about plans to deploy a censored version of its search engine in China called Project Dragonfly. Poulson has publicly opposed collaborations between American technology companies and the U.S. and foreign governments that aid in efforts to track immigrants, dissenters, and bolster military activity.

Poulson analyzed more than 30 million government contracts signed or modified in the past five years. The Department of Defense and federal law enforcement agencies accounted for the largest share of those contracts, with tech companies accounting for a fraction of the total number of contracts.

He found that the majority of the deals with consumer-facing tech companies involved subcontracts, a relationship in which the government contracts with one company, which in turn contracts with another company to complete obligations it doesn’t have the resources to fulfill.

Procurement contracts tend to be terse, Poulson said, masking the depth of the ties between tech companies and federal law enforcement agencies and the Department of Defense.

“Often the high-level contract description between tech companies and the military looks very vanilla and mundane,” Poulson said in an interview. “But only when you look at the details of the contract, which you can only get through Freedom of Information [Act] requests, do you see the workings of how the customization from a tech company would actually be involved.”

Out of all the companies that surfaced in Tech Inquiry’s research, Microsoft stood out with more than 5,000 subcontracts with the Department of Defense and various federal law enforcement agencies since 2016.

Amazon has agreed to more than 350 subcontracts with the military and federal law enforcement agencies, like ICE and the FBI, since 2016, and Google has more than 250, according to Tech Inquiry’s analysis.

#### AND, it actually excludes small companies.

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(Dakota Foster and Zachary Arnold, “Antitrust and Artificial Intelligence: How Breaking Up Big Tech Could Affect the Pentagon’s Access to AI,” May 2020, https://cset.georgetown.edu/publication/antitrust-and-artificial-intelligence-how-breaking-up-big-tech-could-affect-pentagons-access-to-ai/)

Contracting with the Pentagon is difficult, expensive, and time-consuming. Smaller AI firms may be less able to navigate the federal procurement process, effectively preventing the Pentagon from accessing their technology. The few DOD programs that do partner with smaller firms are under scrutiny for their efficacy.

The high barriers of entry, coupled with an unstable budgetary environment and the high certification costs of federal contracting, favor larger companies.148 Simply put, large firms have more resources and deeper institutional knowledge to bring to the federal contracting process.

#### Drives competition.

Atkinson ’21 [Robert D; March 10; Ph.D. at UNC-Chapel Hill, the founder and president of ITIF; Information Technology & Innovation Foundation, “How Progressives Have Spun Dubious Theories and Faulty Research into a Harmful New Antitrust Doctrine,” https://itif.org/publications/2021/03/10/how-progressives-have-spun-dubious-theories-and-faulty-research-harmful-new]

Myth 8: Big Technology Companies Create Innovation Kill Zones28

Large U.S. technology platforms invest almost as much in R&D as the entire U.K. economy does (business and government).29 But knowing that innovation is important, neo-Brandeisians have argued that big technology companies actually limit innovation, either by acquiring start-ups in order to terminate the development of innovations that threaten their continued dominance (“killer acquisitions”) or by creating areas of the market in which they exert dominance to the extent others won’t invest in them (“kill zones”). Either way, large tech companies supposedly limit prospective challengers from being able to take root and grow, thereby limiting not only competition but overall U.S. innovation.

In fact, acquisitions may be beneficial, at least to innovation, if they allow the larger firms to benefit from economies of scale or network effects, and enable the smaller firms to reach many more customers much more quickly with a higher quality product. Moreover, the prospect of being purchased by a larger company often motivates founders and venture capitalists to invest. Making it more difficult for them to sell therefore might make it harder for promising firms to find funding.

And rather than looking at so-called kill zones as an innovation deterrent, it is more accurate to view them as an innovation enabler that guides entrepreneurial resources (talent and capital) to areas that have the best chance of success. Why invest in companies seeking to duplicate mature products offered by large firms that benefit from economies of scale or network effects? It is better for society if new companies concentrate instead on other markets they can break into. Indeed, that seems to be occurring, as venture capital investment, especially in early-stage deals, has grown significantly over the last decade, indicating that there is no shortage of innovation opportunities.

Moreover, if they are creating kill zones, why did the number of angel and seed deals rise almost sixfold between 2006 and 2019, peaking in 2015? The number of early deals rose by 2.4 times. It is hard to see any sign of investor activity slowing down. (See figure 5.)