# 1NC

### 1NC---P---New Affs

#### Undisclosed new affs are bad –

#### A – Clash–preparation enables more effective research, preparation, and clash–new Affs only have negative educational externalities—forces zero-sum choices between flowing and reading the 1AC or using lots of prep at expense of speeches

#### B – Fairness–the Neg is already at a strategic disadvantage with aff choice, first/last speech and infinite prep—adding new affs uniquely tilts the playing field against teams with fewer resources

#### Disclosing the aff when we ask after the pairing rewards new research while allowing some neg prep. It at least justifies conditionality, other positions and justifies new block arguments.

### 1NC---Infrastructure DA

#### Biden has sufficient PC to tackle climate but message discipline is key

Strassel et al, 9-8 – Kimberley Strassel, a member of the editorial board at Wall Street Journal, along with Byron York, chief political correspondent Washington Examiner and Juan Williams and Shannon Beam of Fox. “Fox Special Report with Bret Baier (6:00 PM EST),” p. Nexis Uni – Iowa

JOE BIDEN, (D) PRESIDENT OF THE UNITED STATES: We're the only country in the world that goes into a crisis, and when we come out of it, we're stronger than before we went in it. That's by building back better.

Climate change poses an existential threat to our lives, to our economy, and the threat is here. It's not going to get any better. This is much, much bigger than anyone was willing to believe.

UNIDENTIFIED FEMALE: For this guy to pull this -- to leave them in ruins and leave Americans behind. Leave Americans behind, that's -- crazy. He will leave you behind.

BREAM: We're back with our panel, the president there trying to speak out on climate change and getting a bit of heckling in the process. Let's take a look at the Real Clear Politics average of how he is doing right now. His poll numbers have been dropping. His approval is at 45.3 percent on average, disapproval 49.5 percent. Juan, those numbers have been steadily moving in the wrong direction for the president. They were before Afghanistan, and since the chaotic withdrawal they have only continued downward. But he wants to move on to a different part of his agenda. Does he have the political capital to do it?

WILLIAMS: Well, I think that it's clear that long before the withdrawal, you had Afghanistan as the forever war, the forgotten war. And now without U.S. troops on the ground, Shannon, I think it is going to be in the rearview mirror pretty soon.

What Biden is doing, though, politically is pretty sound strategy. He's talking about local politics, things like the storm damage, people left in the dark, people suffering flood damage to their property and homes, left homeless in some cases, and also about the rise in COVID. He has got a speech scheduled for tomorrow, a major speech on COVID and what we should do going into the future.

So this is, to me, the politics of the moment. And I think that he is moving in the right direction in terms of his own political strategy.

BREAM: I thought it was interesting today, in "Politico" there was an article that talked about behind the scenes that there are staffers within the Biden administration that want him to stop talking, Kimberley, that they don't like some of his riffing or going off on topics when they need to so tightly control moving some of his domestic agenda forward?

STRASSEL: Yes, that was a pretty remarkable story, saying that they actually mute him. But, again, this is something that everyone in America is seeing.

And I have to disagree with Juan a little bit here. It was very, very clear from the beginning that the reason that this administration continued to push on with this artificial August 31st deadline despite being requested by allies, international allies, and members of Congress to please put the mission first, is they wanted to draw a line underneath this and turn and pivot back to their domestic agenda.

I think the problem with that is it doesn't necessarily stop the headlines from coming. And we are still going to be hearing about the people who have been left behind, the terrorists who are taking over positions in the government. And Joe Biden can pretend, he can ignore it, but Americans understand the complete disconnect. And I think the real risk to the administration is it makes him end up looking callous. It makes him end up looking as though he is ignoring a crisis and a problem. And that will not be good for his poll numbers, and it will be harder for him to push through a domestic agenda as members of his own party try to begin to distance themselves from that.

BREAM: "Wall Street Journal" talking about those attempts to move forward with the domestic issues says this, "He is seeking to press his legislative agenda and redouble efforts to combat the COVID-19 pandemic after Labor Day, but the tumultuous withdrawal from Afghanistan may cast a long shadow over the fall. The White House and congressional Democrats believe that the infrastructure and the broader legislative package are widely popular. It's a passage of those proposals as key to solidifying support ahead of the midterm elections." Byron, will it work?

YORK: Well, that's why he is desperately trying to change the subject, because, if you look at Biden's job approval for handling the mess in Afghanistan, it's in the 20s. That's down with George W. Bush in the worst days of Iraq. But he's still underwater, the problem is he is still underwater with other things. His handling of the economy, approval of that is under water. And even with COVID, which has always been the most important part of his approval rating, the number of Americans who approve of the way he is handling this has gone down significantly.

And I think what you are going to see tomorrow is an effort to try to show the American people that his administration is on one page, and it knows what to do next in the COVID crisis because the administration has seemed confused. It has had mixed messages. And it, frankly, hasn't had a lot new to think and say about COVID in the last few weeks as people have been so worried about the Delta variant. So he really is trying, I think, to get control of what was his strongest issue.

BREAM: The administration also investing heavily in the Newsom recall effort and fighting that out in California. Quickly, Juan, is it going to be a sort of a litmus test for looking ahead to 2022 how that goes, or is it sort of its own outlier?

WILLIAMS: I think it's an important step. Obviously, for Democrats, there is a lot on the line here. You think about the future of the court, Shannon, something you know a lot about, but also even Senator Feinstein, who at 88 could retire any moment. So all of that is at play and driving.

So I think this is all part of an effort by Democrats to focus on issues where they do have control. They got out 120,000 in the evacuation. I think they can take some pride in that. But this has been a messy exit, as we have all said today. And they have to deal with that reality.

#### Antitrust decks PC and tanks agenda

Carstensen, 21 – Peter C. Carstensen is Chair in Law Emeritus, University of Wisconsin Law School. “The “Ought” and “Is Likely” of Biden Antitrust,” Concurrences, February, N° 1-2021 On-Topic The new US antitrust administration, <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen> – Iowa

12. But given a hostile judiciary, the agencies are likely to limit their challenges to the most obvious cases. Important cases will die on the courthouse steps without ever getting into court. To be sure, the agencies are less likely to waste time investigating minor marijuana mergers and to focus resources on more important matters. The emergent judicial demands for detailed proof of actual adverse competitive effects will limit the scope of what can be done. The resources to develop a major case in light of these expectations will be significant and so constrain the agencies further. Thus, while merger enforcement may see an uptick especially where the merger involves two major direct competitors in more than moderately concentrated markets, the incentives to pursue vertical or potential competition cases will be very limited. Similarly, despite the growing recognition of how dominant firms, especially in the high-tech arena, buy up nascent competitors, the current standards for merger analysis will make such challenges very unlikely.

13. Given the American Express decision, the burden of challenging anticompetitive vertical restraints is likely to deter the enforcers from following up on the Dentsply [89] and McWane [90] cases except, where, as in those cases, a clear monopoly existed. Given existing market concentrations in many industries, this will result in the continuation of a plethora of harmful restraints.

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### PC is make or break for meaningful climate action

Okun and Ross, 9-7-21 – Eli Okun and Garrett Ross, POLITICO Playbook (PM), “Playbook PM: Biden’s climate/infrastructure challenge,” <https://www.politico.com/newsletters/playbook-pm/2021/09/07/bidens-climate-infrastructure-challenge-494225> -- Iowa

President JOE BIDEN is putting climate change and his infrastructure agenda front and center today as he journeys to New Jersey and New York to survey Ida’s devastating damage across several communities.

It’s a moment that lays bare both the power and the pitfalls of Biden’s approach to this global existential threat.

First, the power: This summer, nearly a third of Americans suffered an extreme weather event fueled by climate change — massive fires in California, flooding throughout the Midwest and Northeast, supercharged hurricanes on the Gulf Coast and so on.

All of which means that as Biden marshals the bully pulpit to spotlight the ways in which climate change is already altering our lives, he has plenty of tangible examples to draw from.

“For decades, scientists have warned of extreme weather — would be more extreme, and climate change was here. And we’re living through it now,” Biden said in New Jersey this afternoon. “We don’t have any more time. … We’re at one of those inflection points where we either act, or we’re gonna be in real, real trouble.”

Now, the potential pitfalls: As congressional Democrats gear up for a crucial few weeks in which they’ll craft their massive $3.5 trillion reconciliation bill, the White House is linking climate disaster directly to its Build Back Better policy agenda — both the spending package and the bipartisan infrastructure bill that already passed the Senate.

That’s where things get dicier. We don’t need to remind you how difficult it will be for Democrats to thread the needle and get these bills to the president’s desk.

— If Biden and Democratic leaders go too big with their climate planks in the infrastructure bill, they risk losing the support of the moderate JOE MANCHIN types. (That, too, faces its own political obstacles: Speaker NANCY PELOSI this morning, when a reporter indicated she’d have to lower the reconciliation price tag to accommodate moderates, simply responded: “Why?”)

— The perils of going too small, on the other hand, are neatly exemplified by this NYT story about electric cars , a key piece of the economy-wide shift ahead that’s necessary to tamp down emissions and combat climate change: “The country has tens of thousands of public charging stations — the electric car equivalent of gas pumps — with about 110,000 chargers. But energy and auto experts say that number needs to be at least five to 10 times as big to achieve the president’s goal,” write Niraj Chokshi, Matthew Goldstein and Erin Woo. “Building that many will cost tens of billions of dollars, far more than the $7.5 billion that lawmakers have set aside in the infrastructure bill.”

With a crammed legislative calendar, the White House will have to keep the pressure on to make sure meaningful climate provisions don’t fall by the wayside — as seems likely to happen with legislation concerning abortion rights, police reform, immigration reform and raising the minimum wage.

— Our colleagues Anita Kumar and Chris Cadelago have more on “Biden’s growing policy backlog” — and the political risks for Democrats if they let down key constituencies.

Asked this morning how he’d win over Democrats on infrastructure, Biden said simply, “[T]he sun is going to come out tomorrow,” per pooler Brian Bennett of Time. That’s true. But he’s just gotta make sure it’s not warming the earth too quickly.

#### Warming causes extinction

Bryce, 20 – Emma, citing Nelson, Roman, and Kemp---Cassidy *Nelson* is Co-lead of the biosecurity team at Oxford), Sabin *Roman* earned a PhD in Complex Systems Simulation from the University of Southampton, and both Roman and Luke *Kemp* are research associates at the Cambridge University. "What Could Drive Humans to Extinction?" Real Clear Science, 7-27-2020, <https://www.realclearscience.com/articles/2020/07/27/what_could_drive_humans_to_extinction.html> -- Iowa

Nuclear war

An existential risk is different to what we might think of as a "regular" hazard or threat, explained Luke Kemp, a research associate at the Centre for the Study of Existential Risk at Cambridge University in the United Kingdom. Kemp studies historical civilizational collapse and the risk posed by climate change in the present day. "A risk in the typical terminology is supposed to be composed of a hazard, a vulnerability and an exposure," he told Live Science. "You can think about this in terms of an asteroid strike. So the hazard itself is the asteroid. The vulnerability is our inability to stop it from occurring — the lack of an intervention system. And our exposure is the fact that it actually hits the Earth in some way, shape or form."

Take nuclear war, which history and popular culture have etched onto our minds as one of the biggest potential risks to human survival. Our vulnerability to this threat grows if countries produce highly-enriched uranium, and as political tensions between nations escalate. That vulnerability determines our exposure.

As is the case for all existential risks, there aren't hard estimates available on how much of Earth's population a nuclear firestorm might eliminate. But it's expected that the effects of a large-scale nuclear winter — the period of freezing temperatures and limited food production that would follow a war, caused by a smoky nuclear haze blocking sunlight from reaching the Earth — would be profound. "From most of the modeling I've seen, it would be absolutely horrendous. It could lead to the death of large swathes of humanity. But it seems unlikely that it by itself would lead to extinction." Kemp said.

Pandemics The misuse of biotechnology is another existential risk that keeps researchers up at night. This is technology that harnesses biology to make new products. One in particular concerns Cassidy Nelson: the abuse of biotechnology to engineer deadly, quick-spreading pathogens. "I worry about a whole range of different pandemic scenarios. But I do think the ones that could be man-made are possibly the greatest threat we could have from biology this century," she said. As acting co-lead of the biosecurity team at the Future of Humanity Institute at the University of Oxford in the United Kingdom, Nelson researches biosecurity issues that face humanity, such as new infectious diseases, pandemics and biological weapons. She recognizes that a pathogen that's been specifically engineered to be as contagious and deadly as possible could be far more damaging than a natural pathogen, potentially dispatching large swathes of Earth's population in limited time. "Nature is pretty phenomenal at coming up with pathogens through natural selection. It's terrible when it does. But it doesn't have this kind of direct 'intent,'" Nelson explained. "My concern would be if you had a bad actor who intentionally tried to design a pathogen to have as much negative impact as possible, through how contagious it was, and how deadly it was.” But despite the fear that might create — especially in our currently pandemic-stricken world — she believes that the probability that this would occur is slim. (It's also worth mentioning that all evidence points to the fact that COVID-19 wasn't created in a lab.) While the scientific and technological advances are steadily lowering the threshold for people to be able to do this, "that also means that our capabilities for doing something about it are rising gradually," she said. "That gives me a sense of hope, that if we could actually get on top [of it], that risk balance could go in our favor." Still, the magnitude of the potential threat keeps researchers' attention trained on this risk.

From climate change to AI

A tour of the threats to human survival can hardly exclude climate change, a phenomenon that (is) already driving the decline and extinction of multiple species across the planet. Could it hurl humanity toward the same fate?

The accompaniments to climate change — food insecurity, water scarcity, and extreme weather events — are set to increasingly threaten human survival, at regional scales. But looking to the future, climate change is also what Kemp described as an "existential risk multiplier" at global scales, meaning that it amplifies other threats to humanity's survival. "It does appear to have all these relationships to both conflict as well as political change, which just makes the world a much more dangerous place to be." Imagine: food or water scarcity intensifying international tensions, and triggering nuclear wars with potentially enormous human fatalities.

This way of thinking about extinction highlights the interconnectedness of existential risks. As Kemp hinted before, it's unlikely that a mass extinction event would result from a single calamity like a nuclear war or pandemic. Rather, history shows us that most civilizational collapses are driven by several interwoven factors. And extinction as we typically imagine it — the rapid annihilation of everyone on Earth — is just one way it could play out.

### 1NC---Advantage CP

#### The United States federal government should substantially increase redistributive efforts through increasing taxes on the rich.

#### The United States federal government should provide monetary prizes to companies that create effective AI innovation.

#### Adopt a non America first policy

### 1NC---Guidance CP (AI)

#### The United States federal government should:

#### phase out legislative rulemaking for guidance documents,

#### end the Office of Information and Regulatory Affairs’ oversight of guidance documents, and

#### issue guidance documents that favor prohibition of

#### Solves agency flex and speed

Potter 7/8 (Rachel Augustine Potter 21, 7-8-2021, "Improving White House review of agency guidance," Brookings, <https://www.brookings.edu/blog/up-front/2021/07/08/improving-white-house-review-of-agency-guidance/> //ArchanSen)

The term “guidance” includes a wide range of agency actions, including more familiar documents like the Centers for Disease Control and Prevention’s (CDC) pandemic guidance as well as agency white papers, “Dear Colleague” letters, frequently asked questions, policy statements, advisories, circulars, bulletins, memoranda, enforcement manuals, webinars, and press releases, among others. Agency guidance is both necessary and common. These nonbinding policy statements allow agencies to communicate with affected publics about how to comply with agency programs. They provide clarity and detail that is often helpful to (and appreciated by) regulated communities. And they give agencies a mechanism by which to quickly respond to issues as they emerge. In recent years, agency guidance documents have become a source of concern for some and drawn the interest of reformers. Some reform proposals fall under the banner of good governance, such as proposed requirements that guidance documents should clearly disclose that they are nonbinding and that they be readily accessible on agency websites. One question that has received less attention is the role that the White House—through its regulatory review arm, the Office of Information and Regulatory Affairs (OIRA)—should play in reviewing, shaping, and otherwise overseeing agency guidance. OIRA’s role in reviewing draft regulations has been ensconced since the Reagan years, but its review of guidance is a newer development. Since 2007, OIRA has reviewed a subset of the most significant agency guidance documents.[1] Subsequently, each president since George W. Bush has tweaked the process, scope, and in some cases the authority governing this process.[2] The result is an inexorable march toward incorporating guidance review and oversight into OIRA’s portfolio. Indeed, like it did under his predecessors, OIRA continues to review guidance under President Biden. As the new administration evaluates its approach to guidance, there are several questions that need answering. Should this administration reaffirm OIRA’s role in reviewing agency guidance or scale it back? Should OIRA review guidance with a “lighter touch” than regulation? If so, what does that look like? Fortunately, since OIRA was first created in 1981, scholars have had four decades to mull over the institutional implications of centralized regulatory review. In this post I build on insights from research in law, political science, and public administration to draw out the implications of extending presidential review to agency guidance documents. OIRA’s many supporters are quick to point to the benefits of regulatory review. The two that are most frequently touted are improvements to the quality of regulations and coordination within the executive branch. When agencies send a draft regulation to OIRA for review, that regulation has often been through an internal agency vetting process, but people outside of the agency have not given it close scrutiny. OIRA review ensures that rules are internally consistent and analytically sound, address alternatives, and avoid unintended consequences. OIRA also serves as a procedural check, ensuring that agencies have met key legal and process requirements. Finally, OIRA coordinates activities across the executive branch as part of its review, ensuring that new regulatory policy avoids redundancy and conflict. These benefits of review presumably extend to guidance as well but with additional wrinkles. Critics have charged that agencies inappropriately turn to guidance, which is not subject to the Administrative Procedure Act’s notice and comment provisions, to avoid the burdensome rulemaking process. OIRA review can help ensure that this maneuvering does not occur. This mitigates potential legal risk while also depriving critics of a favorite target. Coordination is also particularly useful for many types of guidance that have cross-cutting effects like the pandemic guidance issued by federal agencies. Of course, OIRA review is no free lunch. For regulations, OIRA’s operative executive order allots the office 90 days to review draft rules. Yet, OIRA frequently exceeds this timeframe, and critics often point to this delay as a contributor to the already-slow rulemaking process. Some research has even shown that delays in OIRA review are exacerbated when there is a vacancy in OIRA’s politically-appointed administrator position—as there is right now—and when OIRA is relatively understaffed, a somewhat chronic condition at this point. The implication for guidance is straightforward—adding OIRA review has the potential to slow the guidance process down. This is important, since a key benefit of agency guidance is its flexibility, speed, and agility.

#### Biden will regulate AI now, but agency power and flexibility are key to enforcement.

Engler 21, Rubenstein Fellow - Governance Studies, teaches classes on large-scale data science and visualization at Georgetown’s McCourt School of Public Policy, where he is an Adjunct Professor and Affiliated Scholar. (Alex, 1-21-2021, "6 developments that will define AI governance in 2021", *Brookings*, https://www.brookings.edu/research/6-developments-that-will-define-ai-governance-in-2021/)

This year is poised to be a highly impactful period for the governance of artificial intelligence (AI). The Trump administration successfully pushed for hundreds of millions of dollars in AI research funding, while also encouraging the formalization of federal AI practices. President Joe Biden will start his new administration with federal agencies already working to comply with executive guidance on how to use and regulate AI. Beyond passing the AI spending increases, Congress also tasked the White House with creating a new National AI Initiative Office to orchestrate these developments. All this comes as the European Commission (EC) has put forth the Digital Services Act, which will create oversight for how internet platforms use AI. The EC is also poised to propose a comprehensive approach to AI safeguards in the spring. Taking all this into account, 2021 promises to be an important inflection point for AI policy.

1) AI REGULATIONS BY THE FEDERAL GOVERNMENT

On Nov. 17, 2020, the Office of Management and Budget (OMB) issued final guidance to federal agencies on when and how to regulate the private sector use of AI. This document presents a broad perspective on AI oversight, offering a set of guiding principles and generally adopting an anti-regulatory framing. Critically, it also prompts immediate action by requiring federal agencies to provide compliance plans by May 17, 2021. According to the OMB’s template, these plans should document the agency’s authorities over AI applications, information collections on the use of AI, perceived regulatory barriers to AI innovation, and planned regulatory actions. This information could be quite valuable to the Biden administration in considering what additional support the agencies might need to effectively regulate AI, and may play a role in next steps.

Major legislative changes to AI oversight seem unlikely in the near future, which means that regulatory interventions will set precedent for the government’s approach to protecting citizens from AI harms. For instance, some regulations need to be adapted to ensure consumer safety, such as for autonomous vehicles by the Department of Transportation and AI-enhanced medical devices by the Food and Drug Administration. Other cases require new rules, including at the Equal Employment Opportunity Commission for enforcing anti-discrimination laws on AI hiring systems. Still others need to be reversed, such as a regulation that places an insurmountable burden of proof on claims of discrimination against algorithms used for mortgage or rental applications. In the absence of guiding legislation, these agency-driven interventions, framed by the OMB guidance, will significantly inform future AI oversight.

#### Extinction.

Salmon et al. 19, \*Paul Salmon, Professor of Human Factors at the University of the Sunshine Coast. \*\*Peter A. Hancock, D.Sc., Ph.D. is Provost Distinguished Research Professor in the Department of Psychology and the Institute for Simulation and Training, as well as at the Department of Civil and Environmental Engineering and the Department of Industrial Engineering and Management Systems at the University of Central Florida (UCF). \*\*\*Tony Carden, PhD, Researcher, University of the Sunshine Coast. (1-24-2019, "To protect us from the risks of advanced artificial intelligence, we need to act now", *Conversation*, https://theconversation.com/to-protect-us-from-the-risks-of-advanced-artificial-intelligence-we-need-to-act-now-107615)

The risks associated with AGI There is no doubt that AGI systems could transform humanity. Some of the more powerful applications include curing disease, solving complex global challenges such as climate change and food security, and initiating a worldwide technology boom. But a failure to implement appropriate controls could lead to catastrophic consequences. Despite what we see in Hollywood movies, existential threats are not likely to involve killer robots. The problem will not be one of malevolence, but rather one of intelligence, writes MIT professor Max Tegmark in his 2017 book Life 3.0: Being Human in the Age of Artificial Intelligence. It is here that the science of human-machine systems – known as Human Factors and Ergonomics – will come to the fore. Risks will emerge from the fact that super-intelligent systems will identify more efficient ways of doing things, concoct their own strategies for achieving goals, and even develop goals of their own. Imagine these examples: - an AGI system tasked with preventing HIV decides to eradicate the problem by killing everybody who carries the disease, or one tasked with curing cancer decides to kill everybody who has any genetic predisposition for it - an autonomous AGI military drone decides the only way to guarantee an enemy target is destroyed is to wipe out an entire community - an environmentally protective AGI decides the only way to slow or reverse climate change is to remove technologies and humans that induce it. These scenarios raise the spectre of disparate AGI systems battling each other, none of which take human concerns as their central mandate. Various dystopian futures have been advanced, including those in which humans eventually become obsolete, with the subsequent extinction of the human race. Others have forwarded less extreme but still significant disruption, including malicious use of AGI for terrorist and cyber-attacks, the removal of the need for human work, and mass surveillance, to name only a few. So there is a need for human-centred investigations into the safest ways to design and manage AGI to minimise risks and maximise benefits. How to control AGI Controlling AGI is not as straightforward as simply applying the same kinds of controls that tend to keep humans in check. Many controls on human behaviour rely on our consciousness, our emotions, and the application of our moral values. AGIs won’t need any of these attributes to cause us harm. Current forms of control are not enough. Arguably, there are three sets of controls that require development and testing immediately: the controls required to ensure AGI system designers and developers create safe AGI systems the controls that need to be built into the AGIs themselves, such as “common sense”, morals, operating procedures, decision-rules, and so on the controls that need to be added to the broader systems in which AGI will operate, such as regulation, codes of practice, standard operating procedures, monitoring systems, and infrastructure. Human Factors and Ergonomics offers methods that can be used to identify, design and test such controls well before AGI systems arrive. For example, it’s possible to model the controls that exist in a particular system, to model the likely behaviour of AGI systems within this control structure, and identify safety risks. This will allow us to identify where new controls are required, design them, and then remodel to see if the risks are removed as a result. In addition, our models of cognition and decision making can be used to ensure AGIs behave appropriately and have humanistic values. Act now, not later This kind of research is in progress, but there is not nearly enough of it and not enough disciplines are involved. Even the high-profile tech entrepreneur Elon Musk has warned of the “existential crisis” humanity faces from advanced AI and has spoken about the need to regulate AI before it’s too late. The next decade or so represents a critical period. There is an opportunity to create safe and efficient AGI systems that can have far reaching benefits to society and humanity. At the same time, a business-as-usual approach in which we play catch-up with rapid technological advances could contribute to the extinction of the human race. The ball is in our court, but it won’t be for much longer.

### 1NC---Must Abandon Consumer Welfare

#### Expand requires them to change underlying principles of antitrust, not merely clarify versions of the standard.

Hatter 90 (Terry J. Hatter, Jr., Judge, US District Court, California Central, 1990, “In re Eastport Assoc.,” 114 B.R. 686, Lexis)

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would expand the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### The current “scope of antitrust” is economic goals based on consumer welfare--- “anticompetitive practices” are practices that reduce market wide output below the competitive level where prices equal marginal cost

Hovenkamp 20 (Herbert J. Hovenkamp, James G. Dinan University Professor, University of Pennsylvania Carey Law School and The Wharton School. He also has an h-index of 64 and is a Fellow of the American Academy of Arts and Sciences. In 2008 won the Justice Department’s John Sherman Award for his lifetime contributions to antitrust law. In 2012 he served on the ABA’s Committee to advise the President-elect on antitrust matters., 7-20-2020 “Antitrust: What Counts as Consumer Welfare?” <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3196&context=faculty_scholarship>)

The temptation to use antitrust to achieve broader goals is understandable. The broad and brief language of the antitrust laws incorporate an elastic mandate and is directed at the courts. They can become a vehicle for achieving goals through the judicial system that are more difficult to achieve legislatively. By contrast, the consumer welfare principle is a way of limiting the scope of antitrust to a set of economic goals with consumers identified as the principal beneficiaries.

Most descriptions of the consumer welfare principle refer to prices: the goal of the antitrust laws should be to combat monopolistic prices. Articulating the goal in this way raises conceptual problems when we think about suppliers. For example, the antitrust concern with labor is with wage suppression, which means that wages are anticompetitively low. This can collide with a common misperception, which is that low wages invariably produce low consumer prices.

One thing that buyers and sellers have in common, however, is that both are injured by anticompetitive output reductions. Price and output move in opposite directions. While monopoly involves prices that are too high and monopsony (monopoly buying) involves prices that are too low, both require lower output. As a result, when consumer welfare is articulated in terms of output rather than price, it protects both buyers and sellers, including sellers of their labor.

There are other reasons for preferring output rather than price as the primary indicator of consumer welfare. In most markets, firms have more control over output than they do over price. This is most true in competitive markets, although it is less true as markets are more monopolized. A seller in a perfectly competitive market lacks any control over price but usually has full control over output. A corn farmer cannot meaningfully ask “what price should I charge” for this year’s crop. She will charge the market price. While she has the power to charge less, she has no incentive to do so because she can sell all she produces at the market price. The one absolute power she does have, however, is to determine output. The decision whether to plant 1000 acres in corn, 500, 100 acres or even zero is entirely hers and depends only on her capacity to produce.

The consumer welfare principle in antitrust is best understood as pursuing maximum output consistent with sustainable competition. In a competitive market this occurs when prices equal marginal cost. More practically and in real world markets, it tries to define and identify anticompetitive practices as ones that reduce market wide output below the competitive level. Output can go higher than the competitive level, but then at least some prices would have to be below cost. As a result, the definition refers to “sustainable” but competitive levels of output. If output is too high some firms will be losing money and must eventually raise their prices or exit.

Consumer welfare measured as output serves the customer’s interest in low prices and also in markets that produce as wide a variety of goods and services as a competition can offer. It also serves the interest of labor, which is best off when production is highest. Concurrently, it benefits input suppliers and other participants in the market process. For example, if the output of toasters increases, consumers benefit from the lower prices. Labor benefits because more toaster production increases the demand for labor. Retailers, suppliers of electric components, shipping companies, taxing authorities and virtually everyone with a stake in the production of toasters benefits as well.

Antitrust is a microeconomic discipline, concerned with the performance of individual markets rather than the economy as a whole. It is worth noting, however, that a goal of high output in a particular market contributes to a well-functioning overall economy. For example, macroeconomic measures such as GDP are based on the aggregate production of goods and services in the entire economy under consideration. All else being equal, when a particular good or service market experiences larger competitive output the overall economy will benefit as well.8 That issue would almost never be relevant in any particular antitrust case, but it can be important at the legislative or policy level. Increasingly people have observed a link between competition policy – particularly high price-cost margins – and the performance of the economy as a whole.9

What is not included in consumer welfare under the antitrust laws? First, bigness itself is not an antitrust issue unless it leads to reduced output in some market. That is, the consumer welfare principle is consistent with very large firms. It favors economies of scale and scope.10 To be sure, very large firms can injure small firms that have higher costs or lower quality products. The impact of the consumer welfare principle on small firms is complex, however, and requires close analysis of individual cases. While small competitors of a large low cost and high output firm can be injured, many other small firms benefit, including suppliers and retailers. A good illustration is Amazon, which is a very large firm that generally sells at low prices and has maintained high consumer satisfaction.11 Amazon has undoubtedly injured many small firms forced to compete with its prices and distribution. At the same time, however, Amazon acts as broker for millions of small firms who use its retail distribution services.12 When a very large firm produces more, it creates opportunities for other firms that sell complements, that distribute the products that a large firm produces, or that supply it with inputs. So once again it is important not to paint with too broad a brush. Blowing up Amazon could ruin many small businesses.

As for labor and antitrust, that relationship is also complex and has changed over time. During the early years of Sherman Act enforcement organized labor was widely believed to be a source of monopoly. Many of the earliest antitrust criminal prosecutions were directed at labor unions.13 For example, Eugene Debs went to prison in 1895 as a result of a conviction under the Sherman Act.14 Congress came to labor’s rescue during the New Deal, 15 and the result was the development of a complex labor immunity that today reaches even agreements among employers, provided that they are part of the collective bargaining process.16

But years of anti-union activity largely deprived the unions of the economic power and turned the tables. Most of the antitrust concerns about labor today are with anticompetitive practices that suppress wages, not with worker power to extract higher wages.17 Agreements among employers not to hire away one another employees (“anti-poaching” agreements) are unlawful per se.18 Today a fair amount of litigation is directed at overly broad use of labor noncompetition agreements, which are formally vertical but subject to antitrust attack when they are used by many firms in a market to impede worker mobility.19

#### Violation---the plan does not increase the scope of antitrust because it does not increase prohibitions on activity outside of those prohibited under the consumer welfare standard.

#### Voting issue for limits and ground---DA links like business confidence and innovation require broad expansions to have link uniqueness---gives us no ground against affirmatives that target specific companies or make tiny tweaks.

### 1NC---States CP

#### The fifty states and relevant territories ought to

#### recognize protection of competition as the purpose of antitrust law and favor structural remedies, including blocking mergers and instituting breakups, over conduct remedies

#### follow uniform enforcement guidelines and coordinate state antitrust cases in parallel fashion through the National Association of Attorneys General

#### increase funding for enforcement of state antitrust laws, including funding for state attorneys general and state courts, through legalizing deficit spending and borrowing to pay for antitrust enforcement

* **adjudicate antitrust cases arising from aforementioned laws in a consistent manner**

#### The Supreme Court of the United States ought to not preempt state antitrust laws.

#### State antitrust enforcement is constitutional and solves.

First 01 (Harry First, Professor of Law, New York University School of Law, “Delivering Remedies: The Role of the States in Antitrust Enforcement,” *George Washington Law Review*, Vol. 69, Issues 5 & 6 (October/December 2001), pp. 1004-1041)

Of course, neither Illinois Brick, nor the parens patriae provision of the 1976 Act for that matter, spoke to the states' jurisdiction to enforce state antitrust law.5 1 State law antitrust enforcement had coexisted with federal enforcement from the time that the Sherman Act was passed and the constitutionality of such state law enforcement had long been accepted.52 Thus, it should not have been surprising that after Illinois Brick a number of states revisited their own state laws and enacted statutes permitting indirect purchaser suits under state antitrust law.53

The constitutionality of state indirect purchaser legislation was presented to the Supreme Court in California v. ARC America Corp., de- cided in 1989.54 Four states filed federal antitrust actions for damages they had suffered from an alleged nationwide conspiracy to fix the price of ce- ment. Because at least some of their damages were indirect, they appended to their federal cause of action state law claims under their indirect purchaser statutes.5 Following a settlement of all federal and state claims, the states sought to participate in the settlement fund.56 On objection from the direct purchasers, the district court denied the states' indirect purchaser claims to the settlement fund, holding that state indirect purchaser laws were pre- empted by virtue of Illinois Brick.5 7 The Supreme Court reversed. 58

Pointing to "the long history of state common-law and statutory reme- dies against monopolies and unfair business practices," the Court stated that it is "plain that this is an area traditionally regulated by the States. '59 Indeed, "Congress intended the federal antitrust laws to supplement, not displace, state antitrust remedies."0 That state law might impose liability beyond what federal law provides does not conflict with any federal policy that the Court identified in prior cases. Writing for a unanimous Court, Justice White stated:

When viewed properly, Illinois Brick was a decision construing the federal antitrust laws, not a decision defining the interrelationship between the federal and state antitrust laws. The congressional pur- poses on which Illinois Brick was based provide no support for a finding that state indirect purchaser statutes are pre-empted by federal law.

The Supreme Court's decision in ARC America capped fifty years of judicial and legislative development of the jurisdiction of state antitrust en- forcers. Under federal law the states can now seek money damages for federal antitrust violations that injure them or their citizens as direct purchasers. Under state law they can claim damages suffered from antitrust violations that harm them or their citizens as indirect purchasers (if state law provides for such recoveries). The states may also be able to use consumer protection or unfair competition statutes to require defendants who engage in anticompetitive conduct that harms consumers either to disgorge their profits or to provide restitution to their victims.62 Like anti-trust indirect purchaser claims, these state claims can either be brought individually in state court or included as supplemental claims to federal antitrust violations.

Beyond seeking damages, state enforcers are likewise able to use either federal or state courts to seek injunctive relief to prevent future violations. This includes the right to seek divestitures in merger cases and the right to seek structural relief in monopolization cases. So well accepted is the exercise of this right that its assertion now goes unchallenged by defendants. 63 And, finally, individual states' antitrust laws may contain criminal provisions or civil penalties, which the states can enforce in state court.64

Indeed, at least as a statutory matter, the jurisdictional tools available to the states exceed those available to the federal antitrust enforcement agencies. The Justice Department can sue for its proprietary injuries, but it al- most never does so,65 and it has not sought to assert a parens patriae right to sue for injury to U.S. citizens (nor could it likely do so in light of the 1976 Hart-Scott-Rodino Act).66 Federal law would also presumably prevent suit for damages to the U.S. government as an indirect purchaser. There are no civil penalties available for violations of the antitrust laws,67 and the disgorgement or restitution remedy has only rarely been invoked (by the Federal Trade Commission) and is of uncertain legality.68

Similarly, when compared to private enforcement, state antitrust enforcers have stronger jurisdictional tools. The main advantage is that although the federal parens patriae claim for damages under the Hart-Scott-Rodino Act has procedural protections similar to those provided under Rule 23 for class members, such actions need not meet Rule 23's requirements, such as commonality of claims or adequacy of representation. 69 These issues are, of course, major problems in antitrust class actions.70 On the injunction side, standing presents no problems for the states when they are seeking to protect either their economy in general, or the interests of their consumers; private litigants, however, may still face hurdles.71 And on the investigative side, the states generally have broad power to use compulsory process to investigate for possible antitrust violations prior to filing a suit (similar to federal investigative power72). Private plaintiffs, of course, lack this ability.

#### Multistate cases are effective, coordinated, and can take place in state court.

* History thumps federalism DA
* Coordination allows standard application and guidelines

Lynch 1 (Jason Lynch, B.A. in Political Science and J.D. 2001 from Columbia Law, “Federalism, Separation of Powers, and the Role of State Attorneys General in Multistate Litigation,” *Columbia Law Review*, Dec., 2001, Vol. 101, No. 8 (Dec., 2001), pp. 1998-2032, <https://www.jstor.org/stable/11237121NC>)

Over the past two decades, state attorneys general have developed and refined the practice of multistate litigation as a powerful law enforcement tool. In groups ranging from two states to all fifty, the attorneys general now routinely prosecute cases jointly, closely coordinating with each other and sharing legal theories, discovery materials, court filings, litigation expenses, and even staff. The approach has been strikingly effective, and prominent corporations that might otherwise have evaded liability in individual state lawsuits-companies like America Online, Bausch & Lomb, Sears, General Motors, and the major tobacco manufacturers-have been forced to change their business practices and pay significant settlements when faced with the combined power and institutional resources that a multistate lawsuit brings to bear upon them. Critics, in response, have raised alarms and attacked the legitimacy of multistate litigation. This Note analyzes an important aspect of those criticisms that in pressing multistate cases, state attorneys general violate fundamental principles of federalism and separation of powers.

Opponents of multistate litigation have been unrestrained in their attacks. One critic of multistate cases, himself an attorney general, has called the phenomenon "the greatest threat to the rule of law today,"2 and opponents of multistate litigation have begun calling on state legislatures and Congress to restrict the powers of state attorneys general to pursue these cases.3 Critics of multistate litigation believe the practice is objectionable on a number of grounds, among which is that multistate cases impermissibly increase the power of state attorneys general in violation of principles of federalism and separation of powers.4 In the words of one critic, through multistate litigation the states "get together and by agreement create a new government or regime among themselves, re- placing the prerogatives and powers of the constitutionally created federal government."5

Another says: Recent abuses in government litigation have undermined both federalism and the separation of powers. The purpose of the tobacco litigation ... was to establish through the action of several states a national policy that is properly reserved first to each state legislature and then to Congress in the exercise of its enumerated powers.6

Their federalism argument is noteworthy in that it is based on the assertion that through multistate cases the states are encroaching on federal power. Federalism concerns have arisen more commonly, at least recently, in the context of protecting state sovereignty from encroachment by the federal government.7

The critics thus far have made their claims primarily in speeches, policy papers, remarks during panel discussions at think tank conferences, and in newspaper opinion pieces.8 Their analyses are often framed in overheated terms such as, "[o]ur forefathers understood the dangers of unchecked power ... [and the] free market and the cause of human liberty cannot survive much more of this litigation madness."9 Despite this inflammatory mode of argument, these claims should be taken seriously because constitutional arguments against features of multistate litigation are beginning to be made in federal courts.10 Moreover, among those making the arguments publicly are prominent current and former public officials who are likely to wield influence in convincing state legislatures and Congress to consider imposing restraints on the ability of attorneys general to pursue these cases.11 The time is ripe, therefore, for a systematic review of these federalism and separation of powers critiques. Using the decisions of the United States Supreme Court as the benchmark articulation of federalism and separation of powers principles, this Note evaluates critiques of multistate litigation and argues that the prosecution of multistate cases comports with the strictures of federalism and separation of powers. In evaluating the claims made by critics of multistate litigation, this Note also develops and considers a constitutional argument that could be, but has not been, made by them.

Part I reviews the powers and duties of state attorneys general and describes the rise of the multistate litigation phenomenon. This Part emphasizes that what is novel about multistate cases is the degree and quality of interstate cooperation being used to enforce the law. Part II evaluates the claim that multistate litigation violates principles of federalism by examining two types of federalism based limits on state action: permanent limits and contingent limits. Permanent limits on state action, as the la- bel implies, are unchanging and include those expressly stated in the text of the Constitution and those that have been inferred by the Supreme Court from the structure of the constitutional plan. Contingent limits on state action-the boundaries of which may shift as a result of action by Congress-include constitutional prohibitions on state action that may be waived by Congress and limits, such as preemption and the Dormant Commerce Clause doctrine, in areas where there is concurrent federal and state authority.

Part III considers the claim that multistate litigation violates principles of separation of powers. This Part finds that critics of multistate litigation have misconstrued separation of powers doctrine in an attempt to apply it to multistate cases. In fact, separation of powers doctrine has little to say about most multistate litigation. Part III then identifies a facet of multistate litigation that may be relevant to a separation of powers analysis but which critics have yet to consider: namely the enforcement of federal law by state attorneys general. While this facet of multistate litigation is the one most vulnerable to criticism on constitutional grounds, Part III argues that several considerations minimize the concerns raised by a separation of powers challenge to enforcement of federal law by state attorneys general.

I. STATE ATTORNEYS GENERAL AND MULTISTATE LITIGATION

1. Role and Powers of State Attorneys General

The office of attorney general originated in English legal history where the attorney general was the appointed representative of the sovereign before the courts.12 Today, state attorneys general are independent executive officers popularly elected in forty-three states.13 In five of the remaining states, attorneys general are appointed by the governor (Alaska, Hawaii, New Hampshire, New Jersey, and Wyoming); in Maine the selection is made by secret ballot of the legislature; and in Tennessee it is made by the state supreme court.14 The powers and responsibilities of state attorneys general are defined, often in broad terms, by state constitutions and statutesl5-commonly directing attorneys general no more specifically than to "perform duties 'prescribed by law"'-and in most states attorneys general are recognized as possessing all powers exercised by the office at common law.16 The modern attorney general is the chief legal officer of the state, controlling litigation involving the state and per- forming a range of other functions, including provision of legal counsel to the governor and state agencies, oversight of criminal law enforcement, engagement in public advocacy through the initiation of civil enforcement litigation, and the exercise of investigative authority in the prosecution of government misconduct.17

The specific contents of an attorney general's portfolio of powers and duties vary from state to state because state legislatures may play a role in defining the office by statute and through control over the attorney general's budget.18 State court decisions also have shaped the office differently in different jurisdictions. The power to control state litigation, for example, is often at the center of controversy. It is not uncommon for attorneys general and governors (or other state officers) to disagree over litigation posture, and while in most states the attorney general possesses ultimate authority over litigation, a few disputes have produced state case law giving final authority to the governor.19 Generally, however, the attorney general may "exercise all such authority as the public interest re- quires" and "has wide discretion in making the determination as to the public interest.”20

1. The Rise of Multistate Litigation

Traditionally, in exercising their broad prosecutorial powers, state attorneys general brought legal actions against private parties on an individual and intrastate basis. That is, an attorney general would act as a single plaintiff and sue private parties in the courts of that attorney general's state to enforce, for example, state consumer protection and anti- trust laws.21 In some instances, such as those involving federal antitrust law, attorneys general may pursue enforcement actions as federal claims in federal court.22

Beginning early in the 1980s 23 and without much public attention, state attorneys general began cooperating with each other in ways they never had before. Faced with the daunting prospect of prosecuting large, wealthy, and well lawyered corporations-defendants that often have many times the financial and legal personnel resources of even a large attorney general's office-for violations of state law, state attorneys general began to reach across state lines for help. The attorneys general began looking to other states that might be investigating similar complaints against a defendant and, in groups ranging from two states to all fifty, started to prosecute their cases jointly, sharing with each other legal theories, discovery materials, court filings, litigation expenses, and even staff. This type of cooperative law enforcement activity among state attorneys general became known as multistate litigation. In this litigation, each state is the plaintiff in its own case but the coordination among the attorneys general is close.24 Usually, the offices are so closely coordinated that those participating in the case will choose one or two lead states and cede to them primary responsibility for negotiating with the defendant on be- half of all the states involved. Over the past two decades, multistate litigation has grown to become a powerful and commonly used law enforcement tool.

The trend toward increased cooperation among state attorneys general accelerated later in the 1980s with the promulgation by the National Association of Attorneys General (NAAG) of a series of antitrust and consumer protection enforcement guidelines.25 The guidelines informally coordinated state enforcement actions by encouraging attorneys general to follow uniform standards in the exercise of their prosecutorial discretion.26 Around the same time as the appearance of enforcement guide- lines, cooperation among attorneys general became more formal and effective as they began to coordinate their enforcement litigation on an interstate basis, simultaneously pursuing the same causes of action in different states against the same private parties.27

Contributing to the rise of multistate litigation were the policies of the Reagan Administration. When President Reagan took office, the Jus- tice Department quickly terminated antitrust litigation against IBM, an action that foreshadowed the laissez faire antitrust and consumer protection enforcement guidelines that were soon promulgated by the Justice Department and the Federal Trade Commission.28 During the Reagan years, the size of the staff of the FTC was cut in half, and the agency brought just forty-one new consumer fraud cases in 1982, fewer than half the number under President Jimmy Carter two years earlier.29 State attorneys general stepped in to fill what they perceived to be a void in anti- trust and consumer protection enforcement created by the reduced federal presence in these areas.30

While the policies of the Reagan administration created a climate that encouraged state attorneys general to pursue cases on a multistate basis, the eventual rise of multistate litigation as a frequently used enforcement tool by state attorneys general seems in retrospect to have been inevitable. In enforcement actions against national or multinational corporations, individual attorneys general often had been outgun- ned.31 For instance, New York, which has one of the largest attorney general offices in the nation, has fewer than thirty lawyers assigned to consumer fraud and antitrust cases.32 A state attorney general pursuing a case against a major corporation would have to commit all or significant portions of her resources to the case, thereby preventing work on other cases.33 In addition, after the early multistate cases, the state attorneys general saw how interstate cooperation magnified their power and in- creased the effectiveness of their enforcement actions. As Tom Miller, the Attorney General of Iowa, has said, "What we've found is that by coming together, the dynamics of the cases change .... When a corporation discovered it had to face 30 states, instead of one, it suddenly became much more serious about dealing with the issue."34

Another factor that contributed to the rise of multistate litigation during the past two decades was the dramatic expansion of telecommunications technology since 1980. Fax machines only became widely used in the 1980s, and the development of e-mail allowed for more efficient sharing of information and written work product, such as pleadings and legal briefs, than had been possible before. The wide availability of fax and e- mail technology helped relatively small and overworked offices achieve the level of close cooperation required to pursue multistate cases.35

The multistate case against the major cigarette manufacturers that was launched in 1995 was a watershed for this practice. The forty-six state, $206 billion settlement reached with the major tobacco companies in 199836-a settlement with an industry that had never lost a lawsuit against it and that wields significant clout in Congress-underscored how powerful state attorneys general had become when they worked together and drew national attention to their activities. As one observer noted, "Before the tobacco settlement, most people were only vaguely aware of the role of their state A.G..... But now the A.G.'s have a national aware- ness, and a positive one at that. That's a powerful tool. And you can't underestimate that."37 In the years preceding and following the tobacco settlement, the attorneys general have won scores of significant multistate cases.

As an example of their effectiveness, between 1995 and 1997 the attorneys general reached settlements in multistate cases with America On- line, American Cyanamid, Bausch & Lomb, General Motors, Louisiana Pacific, Mazda, Packard Bell, and Sears, Roebuck.38 In addition to producing agreements under which defendants promise to stop the activity targeted by the litigation, such as price fixing or deceptive advertising, multistate cases have produced significant monetary settlements. In 1987, forty-one attorneys general reached an agreement with Chrysler under which the car company paid more than $16 million to customers whose odometers had been tampered with before they bought their cars.39 Sears, facing multistate litigation pressed by fifty states in 1997, agreed to pay $165 million in penalties, refunds, and legal fees in a case concerning the collection of credit card bills from customers who had filed for bankruptcy protection.40 In a multistate case alleging an unlawful tying arrangement under section 1 of the Sherman Act, the attorneys general of thirty-three states attained a settlement under which Sandoz Pharmaceuticals Corporation agreed to pay $20 million, including $10 million in credits to eligible customers and $4 million in attorneys' fees to the states.41 All fifty states and the District of Columbia reached a $7.2 million settlement with Keds Corporation in a case involving allegations that Keds conspired to fix the resale prices of women's athletic shoes.42 And in 2000, generic drug manufacturer Mylan Laboratories reached a settlement with thirty-three states for $147 million in a case that alleged Mylan had unlawfully attempted to corner the market in two drugs.43

1. The Forms of Multistate Litigation and Methods of Cooperation

Multistate cases can proceed in either state or federal court, depending upon whether the claim being pursued by the attorneys general arises under state or federal law. Multistate litigation arising under state law actually consists of multiple cases: virtual mirror images of the same com- plaint, adjusted if necessary to account for minor differences in state law, filed in the courts of each state participating in the litigation. In 1999 and 2000, for example, a lawsuit filed by a single state was followed by lawsuits by attorneys general in twenty-seven states accusing Publisher's Clearing House of deceptive trade practices in the advertising and pro- motion of its sweepstakes.44 When Publisher's Clearing House settled most of the litigation in August 2001 for $34 million and a commitment to change its business practices, it was actually settling separate legal actions that had been pressed collectively by the states.45

By way of contrast, when states file an action in federal court pursuant to authorization under federal law, the states are joint plaintiffs signing the same complaint.46 There is, in these cases, a single action proceeding before a single court. The recent antitrust suit by nineteen states and the District of Columbia against Microsoft followed this model.47

Whether filed pursuant to state or federal law, multistate litigation is the product of close cooperation among the attorneys general who are parties to the lawsuit. In the typical multistate case, the offices of the attorneys general participating in the litigation form a working group that includes staff from each office but is led by a designated lead state.48 This group meets regularly by conference call to discuss strategy, share information developed through each state's investigation, and agree on how they will proceed with the case. The attorneys general also share staff and the costs incurred during the litigation, creating, in effect, a temporary law firm dedicated to a single case that has more resources available to it than any individual office could commit to the matter alone.49

An important form of cooperation among state attorneys general in multistate cases is the sharing of discovery, pleadings, and legal memoranda. Collaboration on these matters and materials prevents redundant effort among participating states and facilitates the recruitment of other states to join litigation.50 Moreover, even though each attorney general individually files an action in her state's court, because each action is based on the same or similar legal theories and discovery, the defendant is faced with what amounts to a single large lawsuit by multiple states and is forced to engage and negotiate with the participating states as a group.51 Importantly, each attorney general retains the authority to end her participation in a suit or reject the terms of a settlement offer.

Cooperation among the attorneys general is facilitated by the nature and activities of NAAG, which provides attorneys general with a ready- made infrastructure for pursuing multistate litigation. Historically, NAAG has been a nonpartisan organization coordinating the activities of its member attorneys general through several meetings each year.52 In addition, NAAG facilitates the coordination of multistate cases through the efforts of its working groups, such as the active and successful NAAG Multistate Antitrust Task Force.53 NAAG even administers a fund from which attorneys general can draw to pay for expert witnesses and other litigation related expenses.54

1. What Is New About Multistate Litigation

At its core, multistate litigation is about interstate cooperation. Most multistate cases can rely on conventional legal theories and need not pre- sent any radical challenge to the legal status quo.55 "What is new about these cases is the unprecedented level of cooperation and coordination between the states bringing them."56 When states bring actions in their courts that are mirror images of actions being brought by other states, their collective enforcement powers are dramatically enhanced.57 Multistate actions possess a critical mass, both in terms of resources poured into the case by the prosecuting states and the magnitude of potential sanctions a defendant faces, that forces defendant corporations to respond, usually in terms of a settlement correcting the behavior about which the attorneys general are complaining and a monetary payment.

Cooperating states also extend the geographical reach of their enforcement powers. The attorney general of a small or mid-sized state, if she can afford to bring an action at all against a major corporation, can, at best, affect the behavior of the defendant in her state alone. Once several states band together, a litigation victory effectively imposes the settlement terms on the defendant on a national basis. If a corporation is forced to change its activities in several states, it is likely to do so in every state in which it operates.58

Through interstate cooperation, the enforcement powers of the state attorneys general have become more potent. Where before the influence of attorneys general stopped at the borders of their states, today groups of attorneys general can affect the behavior of corporations nationally. It is this rather sudden magnification of the power of the states through the vehicle of multistate litigation that has led some to criticize multistate litigation as violating principles of federalism and separation of powers.59

### 1NC---Economy DA

#### Big Tech rising now---contained antitrust key---assumes thumpers.

Rob Lever 8-15. Writer at TechXPlore. Big Tech rolls on as investors shrug off regulatory pressure. No Publication. 8-15-2021. https://techxplore.com/news/2021-08-big-tech-investors-regulatory-pressure.html

Pressure is rising on Big Tech firms, signaling tougher regulation in Washington and elsewhere that could lead to the breakup of the largest platforms. But you'd hardly know by looking at their share prices.

Shares in Apple, Facebook, Amazon and Google parent Alphabet have hovered near record highs in recent weeks, lifted by pandemic-fueled surges in sales and profits that have helped the big firms extend their dominance of key economic sectors.

The Biden administration has given signs of more aggressive regulation with appointments of Big Tech critics at the Federal Trade Commission.

But that has failed to dent the momentum of the largest tech firms, despite tough talk and antitrust litigation in the United States and Europe, with US lawmakers eyeing moves to make antitrust enforcement easier.

Big Tech critics in the United States and the EU want Apple and Google to loosen the grip of their online app marketplaces; more competition in a digital advertising market dominated by Google and Facebook; and better access to Amazon's e-commerce platform by third-party sellers.

One lawsuit tossed out by a judge but in the process of being refiled could force Facebook to spin off its Instagram and WhatsApp platforms, and some activists and lawmakers are pressing for breakups of the four tech giants.

All four have hit market valuations above $1 trillion, with Apple over $2 trillion. Alphabet shares are up some 80 percent from a year ago, with Facebook up nearly 40 percent and Apple almost 30 percent. Amazon shares are roughly on par with last year's level after breaking records in July.

Microsoft, with a $2 trillion valuation, has largely escaped antitrust scrutiny, even as it has benefitted from the cloud computing trend.

The surging growth has stoked complaints that the strongest firms are extending their dominance and squeezing out rivals.

Yet analysts say any aggressive actions, in the legal or legislative arena, could take years to play out and face challenges.

Fast-moving environment

"Breakup is going to be nearly impossible," said analyst Daniel Newman at Futurum Research, citing the need for controversial legislative changes to antitrust laws.

Newman said a more likely outcome would be multibillion-dollar fines that the companies could easily absorb as they adjust their business models to adapt to problematic issues in a fast-moving environment.

"These companies have more resources and know-how than the regulators," he said.

Dan Ives at Wedbush Securities said any antitrust action would likely require legislative change—unlikely with a divided Congress.

"Until investors start to see some consensus **on where the regulatory and law changes go** from an antitrust perspective, it's a contained risk, and they see a green light to buy tech," he said.

#### Independently, causes uncertainty and decks stable market activity---results in staffing inefficiencies and regulatory capture---takes out the case.

Sacher and Yun 18 (Seth B. Sacher, Ph.D. in Economics from the University of Maryland and Senior Economist at the Federal Trade Commission, and John M Yun, PhD in Economics from Emory, Associate Professor of Law at George Mason University, and the Director of Economic Education at the Global Antitrust Institute. Prior to joining the GAI, he was the Acting Deputy Assistant Director in the Bureau of Economics, Antitrust Division, at the U.S. Federal Trade Commission, “Twelve Fallacies of the 'Neo-Antitrust' Movement,” [*George Mason Law Review*, Vol. 26, no. 5, 2019](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3369013) [George Mason Law & Economics Research Paper No. 19-12](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3369013), <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3369013>)

VI. FALLACY SIX: NOT RECOGNIZING THAT ABANDONING AN ECONOMIC WELFARE FRAMEWORK AND RELYING MORE ON POPULIST GOALS TO GUIDE ANTITRUST WILL LEAD ANTITRUST TO DEPEND MORE ON RHETORIC AND RULES OF THUMB

Amidst all the criticism of the consumer welfare standard, it may pay to step back and consider some of the advantages of the standard. One is that it is a standard grounded in economic reasoning and microeconomic foundations. Given its basis in economic reasoning, the consumer welfare standard forces antitrust to rely on rigorous models of consumer and firm behavior. Economic models allow practitioners to focus on the most important explanations for particular phenomena. Models enable one to input relevant and available evidence to see the likely consequences. Moreover, models are transparent and result in testable implications. This does not mean that they are always simple to understand or apply. Transparency, however, forces practitioners to be explicit about their assumptions, which allows others to evaluate those assumptions and how they affect the implications of the model.

Additionally, the consumer welfare standard, as an economic standard, relies on scientific reasoning. This merely means that it provides a means for falsifiability and self-correction. By forcing practitioners to be explicit regarding theories and assumptions, the standard facilitates testing those theories and assumptions against real-world experience and data. If the facts do not support the theories, new theories will emerge and then be tested. It is undeniable that, in this light, antitrust has seen and continues to see enormous changes and improvements in its methodologies.1 28

A real danger of unmooring antitrust from an economic approach based on foundational welfare concepts and replacing it with a vague reliance on populist goals is that antitrust will become reliant on rhetoric and various rules of thumb rather than scientific reasoning. Examples of rhetoric and rules of thumb in the neo-antitrust movement are not difficult to locate; this is also true of antitrust decisions before the explicit formalization of the consumer welfare standard. For example, in discussing Amazon's highly effective distribution system, which it allows third-party merchants to use, Professor Khan states:

The conflicts of interest that arise from Amazon both competing with merchants and delivering their wares pose a hazard to competition, particularly in light of Amazon's entrenched position as an online platform. Amazon's conflicts of interest tarnish the neutrality of the competitive process. The thousands of retailers and independent businesses that must ride Amazon's rails to reach market are increasingly dependent on their biggest competitor. 129

There certainly can be a viable anticompetitive theory regarding Amazon's behavior. An example may be that, under certain conditions, Amazon could leverage its power as a selling platform into related markets. Indeed, such a theory is already part of the current antitrust toolkit. To result in a violation, the theory would also require evidence of likely or actual competitive harm. The concern is not that there is no viable theory of harm; rather it is that Khan seems to be convicting Amazon with no such evidence. Her contention involves no discussion of harm to consumers or competition, merely a rhetorical display arguing that the neutrality of the competitive process has somehow been "tarnished." As Professor Timothy Muris and former FTC General Counsel Jonathan Nuechterlein pointed out, such rhetorical flourishes against A&P underlays much of the jurisprudence behind the Robinson-Patman Act, which the vast majority of observers agree has been a particularly misguided area of antitrust. 130

Dangerously, rhetoric and rules of thumb can support almost any position. As with many of the concerns expressed above, this will lead to increased unpredictability in antitrust. Indeed, with sufficiently powerful-sounding rhetoric, antitrust can be led to take positions that contradict its prime mission: to ensure competition is based on the merits. Finally, many of the benefits of relying on economic reasoning in antitrust will be lost, such as forcing practitioners to be explicit regarding their assumptions. Given that rhetoric is more art than science, it is also likely that antitrust will lose much of its transparency and ability to self-correct.

VII. FALLACY SEVEN: NOT RECOGNIZING THAT THEIR PROPOSALS WILL STRAIN COMPETITION AGENCY RESOURCES, INCREASE UNCERTAINTY, AND MAKE THESE AGENCIES MORE POLITICAL AND SUBJECT TO CAPTURE

Most of those that have worked within, or before, the antitrust agencies, despite their inevitable disagreement with certain actions or policies, are generally very impressed with the high degree of skill, professionalism, and dedication exhibited by the career staff.'3 ' As will be discussed more fully in the context of Fallacy XI below, many proponents of neo-antitrust do not accept the proposition that the antitrust agencies and their staffs function relatively well, in spite of the views of many (on all sides of the political spectrum) who have had experience working within or before the antitrust agencies. Regardless of how neo-antitrust proponents view the agencies, many of their proposals run a serious risk of adversely affecting competition agency performance.

There are a number of objective reasons to expect antitrust agencies to function relatively well. First, antitrust agencies tend to be small relative to many other regulatory agencies and bureaucracies in general. 132 Second, their staffs tend to be highly trained professionals, consisting primarily of lawyers and Ph.D. economists.13 3 Third, they have a well-defined objective (i.e., the consumer welfare standard or some similar standard based on economic reasoning, such as the total welfare standard). Finally, although antitrust is considered a form of regulation, it is distinct from other forms of regulation in that it does not involve a continuing relationship between the regulated firms and the regulator. As a goal, antitrust seeks to enable markets to more nearly achieve certain social objectives on their own.' 3 5

First, advocates of neo-antitrust would like to see the responsibilities of the antitrust agencies expanded in a number of ways. This includes more aggressively enforcing existing antitrust laws, as well as the consideration of issues beyond those currently within that purview. 3 6 Further, many of their proposals, such as requiring data sharing, monitoring markets to prevent tipping, or approving platforms' algorithm changes, 3 7 will require significantly more active market supervision than is currently the case. While many proponents of modern antitrust would agree that the antitrust agencies are underfunded,' 8 there is certainly a point at which expanding the antitrust agencies will have "bureaucratic" diseconomies of scale. Fully following the recommendations of neo-antitrust advocates could very well require many antitrust agencies to expand beyond some critical point, which will inevitably lead to significantly larger bureaucracies and associated inefficiencies.

Second, many of the above proposals would require not only more staff, but also staff with differing expertise from that held by most agency lawyers and economists. For example, monitoring data sharing is far from straightforward, as it is frequently unclear where data begins and technology ends. Similarly, considerations of income inequality or environmental questions may involve tradeoffs beyond the expertise of mere law or economics, such as technology, ethics, or even psychology. While staff of the antitrust agencies will frequently contact market participants and other experts with specialized knowledge on an as-needed basis, it is unknown how well such expertise would function within the long-term framing of antitrust, which has been a legal and economic domain since its inception.

Students of bureaucracies consider a visible and measurable output key for quality control in such organizations. 3 9 Currently, the consumer welfare standard provides such a metric.1 40 Abandoning this metric, as advocated by many proponents of the neo-antitrust movement, and replacing it with vague and numerous populist objectives threatens to make the competition agencies more difficult to manage and assess.

For example, some have advocated that the competition agencies adopt a "public interest standard" similar to what is used by the Federal Communications Commission ("FCC") and other agencies.141 However, after ninety years of use, many think the "public interest standard" remains ill-defined. 142 For instance, the FCC's order related to the Comcast-NBCU merger included a number of conditions unrelated to the acquisition, including requirements to increase local news coverage, expand children's programming, broadcast public service announcements, enhance the diversity of programming available to Spanish-speaking viewers, offer discount broadband services to low-income Americans, and provide high-speed broadband to schools, libraries, and underserved communities.1 43 The danger here is that antitrust enforcement becomes less predictable and, consequently, creates uncertainty, which adversely impacts market activity and investments. Further, it also makes the competition agencies more "political" as the stakes of a practice or transaction become higher for both of the parties involved, as well as third parties. Observers have noted that agencies like media regulators tend to be more "political" than antitrust regulators for a number of such reasons. 144

Finally, as noted above, the goal of antitrust enforcement is not to supervise firm or market behavior, but rather to make infrequent interventions so that markets can more nearly achieve certain socially desirable objectives on their own. Other forms of regulation involve a continuing relationship between the firms being regulated and the regulator. The continuing relationship between regulators and the regulated often leads to what is called "regulatory capture." 45 Proposals put forward by the neo-antitrust advocates to expand the objectives and responsibilities of the antitrust agencies would force these agencies into continuing relationships with certain firms and industries and thereby make them more susceptible to many of the phenomena they claim to eschew.

Further, asking competition agencies to consider issues beyond the competitive process and economic welfare can create discontinuities across firms and in the law.14 Thus, expanding antitrust to encompass greater limitations on firm behavior based on considerations such as income inequality, small-business welfare, full employment, or viewpoint diversity can have a different emphasis depending on the political regime in force at a given moment. As a result, firms that have had a merger or other antitrust review may be subject to different restrictions relative to other similarly situated firms that either have not faced agency review or were subject to antitrust restrictions during an administration with differing priorities.

In sum, while the proponents of neo-antitrust do not regard the antitrust agencies as particularly well-functioning now, many of their proposals have the potential to significantly and adversely affect their performance. They would strain resources by requiring involvement in areas that would expand the scale and scope of the agencies, increase uncertainty, and necessarily make agencies more political and subject to capture.

#### Antitrust expansion causes a wave of additional expansions---tanks the economy

Wayne Brough 6-15. Policy Director at R-Street, Technology & Innovation. Washington wants to weaponize antitrust law to attack “Big Tech” and it is going to backfire horribly. R Street. 6-15-2021. https://www.rstreet.org/2021/06/15/washington-wants-to-weaponize-antitrust-law-to-attack-big-tech-and-it-is-going-to-backfire-horribly/

Solutions in Search of a Problem

As with many other regulatory incursions into the digital world, the renewed push for tougher antitrust laws is a solution in search of a problem. Both Republican and Democratic criticisms of Big Tech raise a litany of issues—from an anti-conservative bias to fake news and hate speech—none of which fall within the purview of antitrust law and anticompetitive behavior. Instead, the new regulatory regime under consideration is a punitive and political attack on politically disfavored corporations. Ultimately, that is the larger battle—abandoning the consumer welfare standard and its focus on demonstrable consumer harm in favor of a politicized regime that allows those in Congress greater control over private companies.

And while tech companies may be the exclusive focus of the current reforms, the scope of the proposed legislation could easily be expanded by a future Congress. Even today, many lawmakers are openly hostile toward a growing list of American businesses. Republicans have been vocal in calling for retaliatory measures against “woke” corporations deemed too progressive in their public stances. If policymakers continue to abandon economic principles, it would not be surprising to see calls for additional antitrust enforcement for any company that makes political waves.

Prior to the adoption of the consumer welfare standard almost 50 years ago, antitrust law was often confusing, economically suspect and even contradictory. In one notorious case, the Supreme Court blocked a merger where the merged company would have had a market share of merely 7.5 percent—hardly an example of market dominance. And economists examining antitrust enforcement prior to the consumer welfare standard found no correlation between antitrust enforcement and a reduction in the welfare losses from monopoly. Further research found congressional influence to be a better predictor of enforcement activity.

The consumer welfare standard helped rationalize antitrust enforcement and the case law that has emerged since its adoption has helped curb the political abuse of antitrust policies. Abandoning the need to identify demonstrable consumer harm would return antitrust law to an era characterized by arbitrary enforcement actions that many in today’s Congress seem to have forgotten. But the increased political oversight that comes with adopting more aggressive tools for antitrust enforcement poses a real threat to consumers, to innovation and to economic growth.

Abandoning the American Way in Favor of a European One

The bills introduced in the House can be interpreted as a turn toward a European approach to competition policy. Last year, the EU passed the Digital Markets Act, and the House proposals sound eerily similar. The EU started by defining “gatekeepers,” something similar to the “covered platforms” in the House bills. Restrictions on self-preferencing, interoperability requirements and other elements introduced in the House all have direct counterparts in the EU’s law.

The EU adopted its laws with a clear target in mind—American tech companies that were dominating markets in Europe and outperforming their European rivals. Politically, it made sense to rewrite the rules of the game in favor of homegrown talent. Among other things, this meant the EU could collect billion-dollar fines from American companies, all in the name of “fair competition.”

But the performance of European companies is probably the best reason not to follow the EU’s lead in redefining how we regulate competition. By virtually every measure, U.S. companies have been more innovative, more dynamic and more profitable than their European counterparts. There are more start-ups in the United States and they have greater access to capital. While the United States and the EU have economies of similar magnitudes, in 2019, U.S. startups had a valuation of $1.37 trillion compared to EU startups with an evaluation of $240 billion.

The rise of Silicon Valley is an American success story. Today the top five companies in the United States based on market capitalization are tech companies. They have led the digital revolution, providing consumers a virtually endless stream of new products at low or even zero cost in many cases. These are signs of a robust market that serves consumers well. It is important to remember that big does not equate to bad—sometimes a firm is large because it is efficient at serving its customers what they want. The tech sector supports 12 million jobs and more than $2 trillion in economic output. Current antitrust laws grounded in the consumer welfare standard are part of the institutional framework that make this possible. Congress should ensure antitrust laws fit best into the modern U.S. economy, but the House proposals are a radical departure that shifts the focus to protecting competitors rather than consumers. They would weaponize antitrust law, provide politicians a greater say in America’s boardrooms and replace economic efficiency with political expediency and preference.

#### Wrecks all sectors of the economy.

Daren Bakst and Gabriella Beaumont-Smith 20. Senior Research Fellow in Agricultural Policy in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, The Heritage Foundation. Policy Analyst for Macroeconomics in the Center for Data Analysis, of the Institute for Economic Freedom. A Conservative Guide to the Antitrust and Big Tech Debate. Heritage Foundation. 12-1-2020. https://www.heritage.org/technology/report/conservative-guide-the-antitrust-and-big-tech-debate

The United States should reward success, not punish it. Yet, the “big is bad” mindset is all about punishment. It would move the country to a misguided federal government intervention of “too big to succeed.” This should be rejected. Some of the criticism of Big Tech is reasonable, but it fails to make the case for changing antitrust law. Conservative critics are right to be worried about censorship, but they should not let this worry lead them to use the wrong tool to address their concerns and thereby make bad policy choices.

Increasing the federal government’s control over the economy by using antitrust law to go after the technology sector would be a bad policy choice. Even worse, many of the changes would not merely affect the technology sector, but all sectors of the economy. Policymakers should recognize that antitrust law is perfectly capable of addressing genuine anticompetitive behavior. Conservatives should be the stalwarts of economic freedom and liberty, fighting back against these measures that could undermine Americans’ freedom and prosperity.

#### Growth prevents extinction and the collapse of the rules-based order

Zoë **Baird 20**, A.B. Phi Beta Kappa and J.D. from the University of California, Berkeley, Member of the Aspen Strategy Group, CEO and President of the Markle Foundation, Former Trustee at the Council on Foreign Relations and Partner in the law firm of O’Melveny & Myers, “Equitable Economic Recovery Is a National Security Imperative”, in Domestic and International (Dis)Order: A Strategic Response, Ed. Bitounis and King, October 2020, p. 89-90

Broadly shared economic prosperity is a bedrock of America’s economic and political strength—both domestically and in the international arena. A strong and equitable recovery from the economic crisis created by COVID-19 would be a powerful testament to the resilience of the American system and its ability to create prosperity at a time of seismic change and persistent global crisis. Such a recovery could attack the profound economic inequities that have developed over the past several decades. Without bold action to help all workers access good jobs as the economy returns, the United States risks undermining the legitimacy of its institutions and its international standing. The outcome will be a key determinant of America’s national security for years to come.

An equitable recovery requires a national commitment to help all workers obtain good jobs—particularly the two-thirds of adults without a bachelor’s degree and people of color who have been most affected by the crisis and were denied opportunity before it. As the nation engages in a historic debate about how to accelerate economic recovery, ambitious public investment is necessary to put Americans back to work with dignity and opportunity. We need an intentional effort to make sure that the jobs that come back are good jobs with decent wages, benefits, and mobility and to empower workers to access these opportunities in a profoundly changed labor market.

To achieve these goals, American policy makers need to establish job growth strategies that address urgent public needs through major programs in green energy, infrastructure, and health. Alongside these job growth strategies, we need to recognize and develop the talents of workers by creating an adult learning system that meets workers’ needs and develops skills for the digital economy. The national security community must lend its support to this cause. And as it does so, it can bring home the lessons from the advances made in these areas in other countries, particularly our European allies, and consider this a realm of international cooperation and international engagement.

Shared Economic Prosperity Is a National Security Asset

A strong economy is essential to America’s security and diplomatic strategy. Economic strength increases our influence on the global stage, expands markets, and funds a strong and agile military and national defense. Yet it is not enough for America’s economy to be strong for some—prosperity must be broadly shared. Widespread belief in the ability of the American economic system to create economic security and mobility for all—the American Dream— creates credibility and legitimacy for America’s values, governance, and alliances around the world.

After World War II, the United States grew the middle class to historic size and strength. This achievement made America the model of the free world—setting the stage for decades of American political and economic leadership. Domestically, broad participation in the economy is core to the legitimacy of our democracy and the strength of our political institutions. A belief that the economic system works for millions is an important part of creating trust in a democratic government’s ability to meet the needs of the people.

The COVID-19 Crisis Puts Millions of American Workers at Risk

For the last several decades, the American Dream has been on the wane. Opportunity has been increasingly concentrated in the hands of a small share of workers able to access the knowledge economy. Too many Americans, particularly those without four-year degrees, experienced stagnant wages, less stability, and fewer opportunities for advancement.

Since COVID-19 hit, millions have lost their jobs or income and are struggling to meet their basic needs—including food, housing, and medical care.1 The crisis has impacted sectors like hospitality, leisure, and retail, which employ a large share of America’s most economically vulnerable workers, resulting in alarming disparities in unemployment rates along education and racial lines. In August, the unemployment rate for those with a high school degree or less was more than double the rate for those with a bachelor’s degree.2 Black and Hispanic Americans are experiencing disproportionately high unemployment, with the gulf widening as the crisis continues.3

The experience of the Great Recession shows that without intentional effort to drive an inclusive recovery, inequality may get worse: while workers with a high school education or less experienced the majority of job losses, nearly all new jobs went to workers with postsecondary education. Inequalities across racial lines also increased as workers of color worked in the hardest-hit sectors and were slower to recover earnings and income than White workers.4

The Case for an Inclusive Recovery

A recovery that promotes broad economic participation, renewed opportunity, and equity will strengthen American moral and political authority around the world. It will send a strong message about the strength and resilience of democratic government and the American people’s ability to adapt to a changing global economic landscape. An inclusive recovery will reaffirm American leadership as core to the success of our most critical international alliances, which are rooted in the notion of shared destiny and interdependence. For example, NATO, which has been a cornerstone of U.S. foreign policy and a force of global stability for decades, has suffered from American disengagement in recent years. A strong American recovery—coupled with a renewed openness to international collaboration—is core to NATO’s ability to solve shared geopolitical and security challenges. A renewed partnership with our European allies from a position of economic strength will enable us to address global crises such as climate change, global pandemics, and refugees. Together, the United States and Europe can pursue a commitment to investing in workers for shared economic competitiveness, innovation, and long-term prosperity.

The U.S. has unique advantages that give it the tools to emerge from the crisis with tremendous economic strength— including an entrepreneurial spirit and the technological and scientific infrastructure to lead global efforts in developing industries like green energy and biosciences that will shape the international economy for decades to come.

## Advantage 1

### Internal Link

#### Their internal link evidence isn’t reverse causal---

#### Court circumvention---they ignore intent and plain meaning---reject lit bias towards optimism

Crane 21 [Daniel A Crane. Frederick Paul Furth, Sr. Professor of Law, University of Michigan. I am very grateful for many helpful comments from Tom Arthur, Jonathan Baker, Steve Calkins, Dale Collins, Eleanor Fox, Rebecca Haw, Hiba Hafiz, Jack Kirkwood, Bob Lande, Christopher Leslie, Alan Meese, Steve Ross, Danny Sokol, and other participants at the University of Florida Summer Antitrust Workshop. "ANTITRUST ANTITEXTUALISM." https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr]

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

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

#### Presumption---Congressional backlash and lobbying ensure nonenforcement.

Bush 16 (Darren Bush, Leonard B. Rosenberg College Professor of Law, University of Houston Law Center, 2016, “Out of the DOJ Ashes Rises the FTC Phoenix: How to Enhance Antitrust Enforcement by Eliminating an Antitrust Enforcement Agency,” *Willamette Law Review*, Vol. 53, 2016, <https://ssrn.com/abstract=3151568>)

1. Congress

The largest threats to the FTC come from outside its walls. While courts have not significantly limited the authority of the FTC, particularly with respect to investigations, they do serve as a limitation on the ultimate ability of the FTC to successfully adjudicate matters that result from an investigation. To successfully swing the pendulum back in favor of court deference to FTC outcomes, the agency must be fully unchained. The following subsections describe both appropriate and inappropriate chaining of the FTC.

Constitutionally, Congress is an appropriate constraint upon agency power. It was an act of Congress that gave the agency life, and certainly that power could be used to terminate an agency acting beyond the will of Congress. Within that delegation of authority from Congress is the ability of the agency to use the twin weapons of rulemaking and adjudication, backed with its expertise. However, such appropriate Congressional oversight can be misused to constrain an agency, particularly when a large and power corporation or industry perceives itself as being unfairly under FTC scrutiny.

First, aggrieved industries or corporations could seek express immunity for the antitrust laws. Numerous industries already enjoy immunity from section 5 of the FTC Act, including "banks, savings and loan institutions .. . federal credit unions ... common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Federal Aviation Act of 1958, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act. . . ."70 More broadly, statutory immunity from the antitrust laws is all too common. Congress has enacted at least twenty-nine statutory immunities that completely immunize industries or conduct from the antitrust laws, or at least limit the scope of antitrust within those realms. 71

The FTC itself has been the impetus of several of these statutory immunities. For example, Congress passed the Soft Drink Interbrand Competition Act in reaction to the FTC's strong position against nonprice vertical restraints.72 The FTC had challenged the industry's distribution system following a controversial Supreme Court decision in United States v. Arnold, Schwin & Co. 7 3 Soft drink bottlers lobbied for and won immunity designed to protect local bottlers from the vertical integration of syrup manufacturers. 74

Alternatively, Congress may create a modified standard with respect to a particular type of conduct, as it did with the Standards Development Organization Advancement Act.75 The SDOAA requires that the rule of reason analysis to standard setting bodies and limits the ability of private plaintiffs to obtain attorneys' fees. Registered standard development organizations are also protected from treble damages. This legislation too is a response to FTC antitrust enforcement. The FTC had investigated Dell's, 76 Rambus's, 77 and Unocal's 78 participation and conduct within particular standard-setting organizations. While members of the standard-setting body still face liability, there is somewhat of a shield effect arising from the standard development organization's immunity. This threat is particularly poignant when a single party controls both Houses of Congress, or when there is a veto-proof majority. On the bright side, this type of immunity applies equally to both the FTC and the DOJ, so in theory it is immaterial whether or not there is a single antitrust enforcement agency or two. The result would be the same: the antitrust laws would be limited in those instances.

Beyond outright barring investigation and enforcement of the antitrust laws in a particular industry, Congress can severely hamstring the agency. For example, rather than passage of an unpopular statutory immunity, it might be easier for Congress to curtail directly the FTC's authority to enforce or even investigate anticompetitive conduct within an industry by directly barring FTC authority within its organic statute. Congress has done so numerous times. For example, Congress limited the FTC's power to engage in rulemaking for the purpose of consumer protection when it passed the Federal Trade Commission Improvements Act of 1980.79 This limitation arose from industry backlash after the FTC engaged in rulemaking concerning children's advertising.8 0 The amendments also make the FTC an adversary in its own rulemaking proceedings by importing adjudicatory norms. For example, the provisions call for a presiding officer with independence from staff influence, protected by ex parte communications. 8 The 1980 amendments thus severely impede the agency to engage in any effective rulemaking.

#### No AI internal link

### 1nc – no impact

#### No AI impact

Meek 15- reporter at The Guardian (Andy Meek, 7/24/15, “Connecting artificial intelligence with the internet of things,” <http://www.theguardian.com/technology/2015/jul/24/artificial-intelligence-internet-of-things>)

It’s no secret tech luminaries like Elon Musk and Bill Gates worry about humanity flirting with disaster though a digital version of the Icarus myth – in our case, the power of artificial intelligence being the sun that eventually burns our wings. Even so, not every futurist or technology pioneer is quite so alarmed that our experiments with AI might confine us all to dystopian doom. John Underkoffler – the chief executive of Oblong Industries, better known as the guy who created the futuristic gesture-based interface in the movie Minority Report – is one such thinker. He founded Oblong Industries in 2006 as a first step to bringing ideas like the Minority Report interface into the real world, which means he knows as well as anyone where the bounds of sci-fi end and a high-tech new reality begins. His company today sells what it describes as commercial versions of the Minority Report computers. Relying on them in the conference room, using a connected “wand” to manipulate on-screen data, can make the user look almost like they’re conducting an unseen symphony. That’s one manifestation of how technology giant Cisco has projected that the so-called internet of things (IoT) – the networked connection of people, process, data and things – will see connections surge up to as many as 50bn by the end of the decade. Reasons for optimism Those connections represent a whole new universe of devices coming online, sending out data, pinging other devices and servers – and, depending on who you ask, eroding more of our privacy in the process, or worse. Yet, as Underkoffler sees it, there’s no need to fear the machine-filled future that awaits us, at least not yet. Instead, he thinks there are some basic questions that need answering first, before it makes sense to even begin to think about putting limits around potential AI capabilities. “The optimist in me says, okay, millions of new objects all connected to the internet – wow, to make sense of that is going to require an incredible new interface,” he says. “I’d love to start thinking about that. How do we talk to all these objects in a coherent way? That’s a really great design problem.” He and some of his colleagues from around the globe believe an over-abundance of concern at this point about a super-intelligent AI running amok, co-opting the IoT and turning our gadgets against us means we’re worried about the wrong things – and not asking the right questions. Professor Sanjay Sarma – the director of digital learning at MIT and a pioneer who helped develop the technical concepts and standards behind radio frequency identification technology (RFID) – said he believes that, on balance, AI will deliver value as we gradually connect our thermostats, refrigerators and the like to the web, and to each other. He also points to a potential bogeyman on the horizon, one that he thinks trumps potential AI-related mischief. It’s his fear that the introduction of an entirely new device class, one for which a prevailing digital architecture does not yet exist, introduces all kinds of potential new security vulnerabilities that flourish in the ecosystem’s gaps. “All technologies converge,” Sarma said. “It’s inevitable. The benefits, in my view, are potentially incredible regarding the IoT. The BP disaster – imagine if AI were watching over those systems and could have detected the disaster earlier. Potential pitfalls Sarma continues: “Do I have worries? I do. I’m more worried about artificial stupidity. I’m less worried about systems so intelligent they out-do human beings. I worry we will build artificial intelligence systems that are too smart by half, where they do something really dumb – for example, a cascading series of events that results in a power shutdown. Or a poorly designed system that gets hacked and causes havoc. I’m more concerned we will create flawed systems which compromise our privacy and our security, even unintentionally.” Indeed, Sarma thinks it’s only a matter of time before some poorly designed IoT system is hacked by a major player, creating havoc on the scale of something like a large area power shutdown. One reason? The existence of so many “walled gardens” in the sector. “I have several Nest thermostats in my house,” Sarma said. “They do one thing and do them well. But what if I want to buy a Nest system and an internet-enabled home lock, and I want to bridge the two? Where, say, I unlock the door and Nest increases the temperature. And I want to connect them to my Tesla. Well, because they’re walled gardens, what’ll happen is someone somewhere is going to do something stupid - some vendor will bridge it together - and doing that will open up security and privacy holes. “There’s a huge opportunity here that’s inevitable, and we’re all barreling towards it. But all great systems are based on clear, simple to understand architecture. The world wide web is based on hyperlinks. We don’t have a clear architectural understanding of what the IoT is. Everything is walled gardens with bandaids on top. We need to have one single garden of eden we all play in.” Meanwhile, count the technologist who envisioned Tom Cruise’s character in Minority Report swiping through data among those who think our present fears about AI-IoT are overblown. “I’m perplexed by that one,” Underkoffler says about warnings like those from Musk, who earlier this year donated $10m to the Future of Life Institute to finance research into keeping AI under control. “They should honestly know better. They’re either badly informed or irresponsible to be fear-mongering in that way, because the truth is we don’t have AI. “We should distinguish between AI and machine learning. There’s a lot of debate about the difference, but I think we can distill it down to consciousness. The decision to manipulate the surrounding world–- machine learning systems don’t have the slightest bit of that. The systems we build today are not built with a mechanism of modifying themselves. The mail sorting machine is never going to decide to turn into a genocide machine. The span of functionality never changes.”

### 1nc – no impact

#### No impact to international law leadership -- it doesn’t collapse hegemony writ-large

Burke-White 15- international law professor at Penn with a PhD and MPhil from Cambridge in IR and a JD from Harvard (William W. Burke-White, Winter 2015, “Power Shifts in International Law: Structural Realignment and Substantive Pluralism,” published in the Harvard International Law Journal, vol. 56 p. 1, accessed in lexis)

Writing in 1940, Morgenthau predicted that a "fundamental change in the social forces underlying a system of international law"--such as the power redistribution of the past decade--would result in "a competitive contest for power." He anticipated that "change [in] the existing legal order will be decided, not through a legal procedure provided for by this same legal order, but through a conflagration of conflicting social forces which challenge the legal order as a whole." n488 His prediction has not come to pass. Instead, over the past decade, the international legal system has accommodated an extraordinary redistribution of power. It has changed in the process, but has remained robust and durable. The preferences of states, as well as the distribution of power amongst them, matter to the processes and substance of international law. New powers have embraced the system as a whole because it furthers their interests. They are using their newfound power to adapt it from within. Three implications of this redistribution of power have already become clear. First, international law has transitioned from a unipolar structure to a multi-hub structure. In this new order, leadership has diversified such that far more states are capable of acting as hubs and driving international legal processes. This multi-hub structure is comprised of numerous, flexible subsystems that operate in a kind of variable, issue-specific geometry. It is a structure in which non-hubs often have multiple choices as to which hubs to follow on any given issue. And it is a structure in which legal processes are migrating into these subsystems, often at the expense of global-level alternatives. Second, this multi-hub structure is promoting pluralism within international law. Whereas, during the transatlantic moment, the United States and Europe were largely able to limit international legal discourse and rule development in accordance with their preferences, the multi-hub structure fosters the articulation of alternative preferences. Pluralism has already become evident at three tension points: sovereignty, legitimacy, and economic [\*77] development. Additional points of pluralism are likely to emerge in the years ahead. Even if these preferences themselves are not new, the new power of the states that articulate them is altering the substantive development of international legal rules. The distinct preferences advanced by hubs will challenge the preferences the United States and Europe have successfully embedded in many international legal regimes over the past half century. Overtime, these regimes will adapt to accommodate new preferences, both within separate subsystems and globally. Third, while this new pluralism will have distinct implications in specific areas of the law, a common element emerges from the alternative preferences for sovereignty, legitimacy, and economic development now being articulated. At each of these tension points rising powers are advancing a far more state-centric vision of international law. It is a vision of international law that reaffirms state sovereignty, bases the legitimacy of international legal processes and institutions on long-standing principles of sovereign equality, and puts the state back into the center of economic development. This reassertion of the centrality of the state conflicts with the individualization of international law, a hallmark of the period of U.S. leadership. For legal rules and regimes that seek to advance this individualization or draw their effectiveness from it--human rights law, the law of investment protection, and the law of humanitarian intervention, for example--the return of the state will likely have pronounced negative consequences. Over time these regimes may be ratcheted back as international law returns closer to its Westphalian origins as a system of sovereigns, among sovereigns. It is, however, premature to draw final conclusions. The multi-hub model, as developed here, depends on two assumptions that, while presently valid, could shift. First, the model has assumed that the preferences of rising powers are not consistently aligned n489 in a way that would create a stable coalition to replace U.S. hegemony. n490 Second, the model has assumed that hub leadership and subsystems remain flexible, changing on different issues, and providing non-hubs with choices as followers of different hubs and subsystems. If either of these assumptions proves wrong, the resulting international legal system would look quite different and far less appealing from the U.S. perspective.

#### Democracy promotion fails

Fein 14- American lawyer and contributor to countless think tanks specializing in constitutional and international law with a JD from Harvard Law (Bruce Fein, 12/24/14, “Stop U.S. democracy promotion abroad,” <http://www.washingtontimes.com/news/2014/dec/24/bruce-fein-stop-united-states-democracy-promotion-/?page=all>, accessed: 3/28/15)

The U.S. government should cease its arrogant and ill-informed attempts to promote democracy around the globe — whether in Cuba, Iraq, Afghanistan, Communist China, Ukraine, Burma or otherwise. The attempts are extraneous to the purposes of the United States Constitution. Democratically elected leaders can be every bit as tyrannical and aggressive towards the United States as unelected dictators. Hamas, listed as an international terrorist organization, decisively triumphed in Palestinian parliamentary elections in 2006. It has ruled in Gaza since 2007, routinely denies human rights, chronically attacks Israel, and execrates the United States. Egypt’s first democratically elected president, Mohamed Morsi, proved as much or more contemptuous of the rule of law, human rights and amity towards Israel and the United States than his dictatorial predecessor, Hosni Mubarak. Thus, the United States shed only crocodile tears when he was overthrown in a military coup. Adolf Hitler climbed to power through popular elections. His Nationalist Socialists captured more than 37 percent of the vote in 1932 to become the largest party in the Reichstag. Free and fair elections in Saudi Arabia would yield victory for radical Islamic parties with affinity and sympathy for the murderous perpetrators of 9/11. In sum, promoting democracy in foreign lands may aggravate rather than diminish threats to perceived interests of the United States. Thus, we have supported dictators over democrats in Iran, Guatemala, Chile, Indonesia, Argentina, Bahrain, Kuwait, Cambodia, Brazil, the Democratic Republic of Congo, Spain, the Philippines, ad infinitum. In any event, democracy promotion is overwhelmingly a fool’s errand. The process is vastly too complex for us to master or to jump start. Sending nations copies of the Declaration of Independence and Constitution will not do. Words without a reinforcing political culture are worthless. Iraq’s Constitution prohibits laws that contradict the “principles of democracy.” But Salmon Rushdie would be killed if he attempted to sell The Satanic Verses in Baghdad. We also forget that democracy in the United States evolved over more than seven centuries. We cannot expect more from other people. Anglo-American democracy was born with the Magna Carta to check the absolutism of King John in 1215 on the fields of Runnymede. Through succeeding centuries and periodic civil wars, the powers of Parliament strengthened and the powers of the King diminished. Landmarks included the Grand Remonstrance, the beheading of Charles I by Oliver Cromwell, and the English Bill of Rights of 1688. American colonists claimed the rights of British freemen. They soon took on the trappings of democracy with the Virginia House of Burgesses, the Mayflower Compact, the Connecticut Charter Oak, the Maryland Toleration Act, etc. The United States Constitution was not drafted until 1787, more than five centuries after Magna Carta. Democratic principles did not completely triumph until the Civil War Amendments ending slavery and enfranchising blacks, and the Women’s Suffrage Amendment ending their disenfranchisement in 1919. Blacks did not de facto enjoy the right to vote until the Voting Rights Act of 1965, more seven and one-half centuries since the road to democracy began at Runnymede. It was facilitated in the United States by a literate society, a homogeneity of ethnicity, culture and language, natural boundaries, and an unprecedented array of profound and selfless leaders, for example, George Washington and James Madison. Despite these vast advantages, the United States still needed a bloody Civil War and an obscenely prolonged period of Jim Crow before finally achieving substantial national unity and racial justice. In light of our own seven-century journey to democracy, the idea that we can install democratic dispensations in nations that are at the pre-Magna Carta stage of political maturity and lacking our peculiar cultural advantages is delusional. Our miserable track record speaks for itself, including South Vietnam, Iran, Iraq, Afghanistan, Pakistan, Egypt, Burma, South Sudan, Somalia, Syria, and Bahrain. Taiwan moved into a democratic orbit in 1988 after the deaths of dictators Chiang Kai-shek and his son Chiang Ching-kuo, and South Korea did the same after military strongman Chun Doo Hwan left office. But these democratic movements were indigenous. The United States was complacent with reliable, friendly, and anti-democratic leadership. At best, democracy promotion is harmless — like shouting at the weather. At worst, it is counterproductive. Many societies are insufficiently mature, literate, and homogeneous to for its practice. Democracy in these places degenerates into majoritarian, sectarian, or tribal tyrannies notwithstanding formal elections. Russia, Iraq, Syria, Libya, and South Sudan are emblematic. Democracy is given a bad name, which may handicap its return at a more propitious time.

#### No democratic peace – their ev’s biased and ignores history

Manan 2015 [Munafrizal- Professor of IR @ University of Al Azhar Indonesia, Hubungan International Journal, cites a bunch of profs and scholars of DPT, “The Democratic Peace Theory and Its Problems,” <http://journal.unpar.ac.id/index.php/JurnalIlmiahHubunganInternasiona/article/view/1315>, mm]

In the literature of democracy, there has been a debate among social scientist, especially political scientists, about what democracy really is as well as which countries should be called democratic and which types of democracies are more peaceful. Speaking generally, the experts agree that the democratic theories can be grouped into two broad paradigms. The first is elitist, structural, formal, and procedural. It tends to understand democracy in a relatively minimalist way. A regime is a democracy when it passes some structural threshold of free and open elections, autonomous branches of government, division of power, and checks and balances. This state of affairs precludes a tyrannical concentration of power in the hands of the elites. Once this structure is in place, a regime is a democracy. The second paradigm, which is called 'normative', 'cultural', 'deliberative democracy', and 'participatory democracy', tends to focus on other issues and to demand much more of democracy. First, the emphasis is on the society and the individual citizens, not the political system and the regime. Second, there is also a demand for the existence of democratic norms and democratic culture. This implies, among other things, political rights, tolerance, openness, participation, and a sense of civic responsibility. Nevertheless, there is no consensus among the democratic peace theoreticians about the nature of democracy in relation to the democratic peace theory. If the democratic peace theory is based on the first paradigm, then there are many countries should be called democratic. Democracy in such a paradigm ‘is relatively easy to build, but also relatively easy to dismantle it’.167 It seems that the democratic peace theory is not strongly supported by the structural paradigm of democratic theory because interstate wars or at least armed conflicts remain taking place in countries that committed to this structural paradigm. The armed conflicts between Russia and Georgia as well as Thailand and Cambodia in 2008, for example, which were triggered by border disputes, strengthen such a view. Within this context, Chan argues that ‘although a large number of countries have recently adopted democratic structures of governance (for instance, universal suffrage, multiparty competition, contested elections, legislative oversight), it is not evident that their leaders and people have internalized such democratic norms as those regarding tolerance, compromise, and sharing power’.168 Conversely, if it is based on the second paradigm, then there are only a few countries should be classified democratic. It is likely to focus merely on mature democratic countries especially in the regions of North America and West Europe. As a consequence, numerous cases of warring democracies will be excluded. 169 It means that the democratic peace theory is only relevant to countries in this region and hence it cannot be applied to other countries. In other words, the proponents of the democratic peace theory do not have a justifiable reason to spread democracy around the world in order to enforce international peace. Like democracy, the definition of war is also contested by scholars. The proponents of the democratic peace theory who argue that democratic countries have not involved in wars against each other ‘have tended to rely on the definition most widely used in academic research on the causes of war in the last two or three decades’. 170 War is defined as, according to that definition, ‘no hostility…qualified as an interstate war unless it led to a minimum of 1,000 battle fatalities among all the system members involved’. 171 Such a definition excludes the wars that do not fulfil the 1,000 battle-death threshold and hence minimizes the number of cases that can be categorized war. As Ray observes, ‘in any case, there are not numerous incidents having just below 1,000 battle deaths that would otherwise qualify as wars between democratic states’.172 Moreover, it ‘allows democratic peace proponents to exclude some troublesome cases’.173 The case of Finland is one of examples for this. The case suggests that ‘although democratic peace proponents code Finland as a democracy, Finland’s alliance with Germany in World War II is summarily dismissed because fewer than 1,000 Finns were killed in armed combat’. 174 Another example is the 1967 Six Day War between Israel and Lebanon in which Lebanon ‘only sent a few aircraft into Israel air space and sustained no casualties’. 175Obviously, such an old definition is not adequate to explain the changing character of war in the contemporary era. 176 In addition, by using historical analysis Ravlo, Gleditsch and Dorussen show that the claim of the democratic peace theory that democratic states never get involved in a war against each other is undermined by historical evidence. Their finding demonstrates that ‘most of extrasystematic wars have been fought by democracies’ 177 and ‘only in the postcolonial period are democracies less involved in extrasystemic war’.178 But in the colonial and imperial periods, wars occurred among democracies. Similar to democracy and war, the definition of peace is also debated by scholars. Put it simply, according to the realists, peace can be defined as the absence of war. As Waltz argues, ‘the chances of peace rise if states can achieve their most important ends without actively using force’.179However, ‘the absence of war is something temporary’ and therefore ‘peace is no more than a transient lack of war’.180 For realists, the absence of war does not simply mean that there will be no war in the future and they ridicule people who are happy with such a peace. Realists believe that ‘war is the common and unavoidable feature of international relations’ and it means that peace as dangerous as war. 181 In the view of Waltz, ‘in an anarchic realm, peace is fragile’. 182 Thus, for realists, peace is a period to prepare war. Other definitions of peace highlight different aspects. Brown defines international war as ‘violence between organized political entities claiming to be sovereign nation’.183 Boulding who rebuts the realist definition of peace defines peace as ‘a situation in which the probability of war is so small that it does not really enter into the calculations of any of the people involved’.184According to Boulding, peace should be a real peace which means a ‘stable peace’. Boulding rejects the realist definition of peace since it is an ‘unstable peace’.185

#### Democracy causes climate change extinction, authoritarianism solves

Stehr 12 (SOCIAL SCIENCE AND PUBLIC POLICY An Inconvenient Democracy: Knowledge and Climate Change, <http://www.researchgate.net/publication/245535897_An_Inconvenient_Democracy_Knowledge_and_Climate_Change>, Doctor of philosophy and science at Zeppelin University)//A.V.

Leading climate scientists insist that humanity is definite-ly at a crossroads. A continuation of present economic and political trends leads to disaster if not a collapse of human civilization. To create a globally sustainable way of life, we immediately need, in the words of German climate scientist Hans Joachim Schellnhuber, a “great transformation.”What that statement exactly means is vague. Part, if not at the core of the required great transformation is in the eyes of some climate scientists as well as other scientists who are part of the great debate about climate change, a new political re-gime and forms of governance: For example, as expressed by the Australian scholars David Shearman and Joseph Wayne Smith (2007) in their book The Climate Change Challenge and the Failure of Democracy: “We need an authoritarian form of government in order to implement the scientific consensus on greenhouse gas emissions.” Clearly therefore as the two authors (Shearman and Smith, 2007:4) conclude, “humanity will have to trade its liberty to live as it wishes in favor of a system where survival is paramount.”Mark Beeson (2010:289) agrees with Shearman and Smith’s political conclusion and adds, forms of ‘good’ authoritarianism, in which environmentally unsustainable forms of behavior are simply forbidden, may become not only justifiable, but essential for the survival of humanity in any-thing approaching a civilised form.”The conclusion can only be, present political conditions in China, especially the strong state attain global significance. The well-known climate researcher James Hansen adds resignedly, frustrately as well as vaguely, “the democratic process does not work”. In The Vanishing Face of Gaia, James Lovelock (2009) emphasizes that we need to abandon democracy in order to meet the challenges of climate change head on. We are in a state of war.7 In order to pull the world out of its state of lethargy, the equivalent of a global warm-ing “nothing but blood, toil, tears and sweat” speech is urgently needed. Why is a radical political change at any price is deemed essential, and how is it feasible? On the one hand, various national and global climate policies seem unable to reach their own modest goals, such as those of the expiring Kyoto agreement. On the other hand, adding more and more robust findings about the causes and consequences of human-induced climate change, it would seem to be evident that the accomplishments of political action witnessed to date are incompatible with goals set forth by climate policy advocates, especially with respect to the regional or global mitigation of greenhouse gases. It is important to also stress that the described diag-nosis of the flaws of the failing but dominant political approach concentrates almost to the exclusion of other forms and conditions of action, on the effect that governance ought to achieve, namely a reduction of greenhouse gas emissions. By focusing on the effects or goals of political action rather than its conditions, the contentious issue of climate change is reduced to technical from a sociopolitical to a technical issue (cf. Radder, 1986). The result of these considerations is the depoliticization of climate change (and the politicization of climate science). By concentrating on the effects that require mitigation efforts, the impression is left that the remedies are primarily subject to technological regulation and adjustments. These factors—including the reduction of a sociopolitical to a technical issue—have led among some prominent voi-ces in the community of climate scientists and the science of climate policy to a now clearly discernable skeptical attitude towards democracy. Democracy, an emerging argument holds, is both an inappropriate and ineffective political system to meet the challenges of the consequences of cli-mate change in politics and society, particularly in the area of necessary emission reductions. Democratically organized societies are too cumbersome to avoid climate change; they act neither in a timely fashion nor are they responsive in the necessary comprehensive manner. The “big decisions” in the case of climate change that have to be taken require a strong state. The endless debate should end. We have to act—that is the most important message. And that is why democracy in the eyes of these observers becomes an in-convenient democracy. In another historical context, deca-des ago, Friedrich Hayek (1960:25) pointed to the paradoxical development that follows scientific advances; it tends to strengthen that view that we should “aim at more deliberate and comprehensive control of all human activi-ties”. Hayek (1960:25) pessimistically adds, “It is for this reason that those intoxicated by the advance of knowledge so often become the enemies of freedom”. The growing doubts about the functionality of democracy and the suspicion that human motives and world-views are unyielding8 go hand in hand with a further escalation of warnings about the apocalyptic consequences of global warming for humanity. The so-called Global Humanitarian Forum warns in a 2009 report about 300,000 heat death losses a year and damages of 125 billion U.S. dollars. That these figures when they are used to justify comprehensive global policy action are nothing more than political arithmetic is often easily overlooked. However, it is not only an inconvenient democracy that leads civilization down an escalating path toward a “stone age existence” (Lovelock, 2006:4) of the planet but it will be the iron grip of the climate forces that should—within a few years or decades—according to some observers eliminate human freedom and agency and therefore extinguish the social foundations of democracy. Combining both observations leads to the paradoxical conclu-sion that it is only through the elimination of democracy that democracy can be saved. Without wanting to follow in the footsteps of the radical skeptics and alarmist: the emerging trend of emphatic crit-icism of democratic governance can not simply be ignored or considered as marginal voices to be neglected. In order to understand the dissatisfaction with democracy among some scholars and experts we must understand the underlying dynamics. First, we are informed that the robustness and the con-sensus in the science community about human-caused cli-mate change has in recent years not only increased in strength but that a number of recent studies point to far more dramatic and long lasting consequences of global warming than previously thought. In such a circumstance, how is it possible, many scientists ask, that such evidence does not motivate political action in societies around the world? Secondly, the still dominant approach to climate policy shows little evidence of success. One result of the current global recession may well be an unintended reduction of the increase of CO2 emissions. The worldwide reaction to the economic crisis, however, shows very clearly that govern-ments do not conceive of a reduction in the growth of their wealth of their populations as a useful mechanism toward a reduction of emissions. On the contrary, everything is set in motion worldwide aimed at a resumption of economic growth. Jump-starting the economy means the emissions will rise. Thirdly, the discussion of options for future climate policies supports the impression that the same failed climate policies must remain in place and are the only correct approach; it is simply that these policies have to become more effective and “rational”. It follows that international negotiations must lead to an agreement for concrete, but much broader emission reduction targets. Only a super-Kyoto can still help us. But how the noble goals of a comprehensive emission reduction can be practically and politically enforced remains in the fog of general declarations of intent and only sharpens the political skepticism of scientists. Fourth, in the architecture of the reasoning of the impatient critics of democracy, one notes an inappropriate fusion of nature and society. The uncertainties that the science of the natural processes (climate) claims to have eliminated, simply transferred to the domain of societal processes. Consensus on facts, it is argued, should motivate a consensus on politics. The constitutive social, political and economic uncertainties are treated as minor obstacles that need to be delimited as soon as possible - of course by a top-down approach. Fifth, the discourse of the impatient scientists privileges hegemonic players such as world powers, states, transna-tional organizations, and multinational corporations. Partic-ipatory strategies are only rarely in evidence. Likewise, global mitigation has precedence over local adaptation. “Global” knowledge triumphs over “local” knowledge. Finally, the sum of these considerations is the conclusion that democracy itself is inappropriate, that the slow proce-dures for implementation and management of specific, policy-relevant scientific knowledge leads to massive, un-known dangers. The democratic system designed to balance divergent interests has failed in the face of these threats. According to New York Times columnist Paul Krugman all of this is about nothing less than a betrayal of the planet, and for his colleague Thomas Friedman, evidence that the au-thoritarian state of China presents a model to be admired and perhaps copied.9 The growing impatience of prominent climate researchers and the perhaps still implicit argument for large scale social planning constitutes an implicit em-brace of now popular social theories.10 We think in this context especially of Jared Diamond’s theories on the fate of human societies. Diamond argues that only those socie-ties have a chance of survival which practice sustainable lifestyles. Climate researchers have evidently been impressed by Diamond’s deterministic social theory. How-ever, they have drawn the wrong conclusion, namely that only authoritarian political states guided by scientists make effective and correct decisions on the climate issue. History teaches us that the opposite is the case. Therefore, today’s China cannot serve as a model. Climate policy must be compatible with democracy; otherwise the threat to civili-zation will be much more than just changes to our physical environment (cf. Baber and Barlett, 2005;Dryzekand Stevenson, 2011). In short, the alternative to the abolition of democratic governance as the effective response to the societal threats that likely come with climate change is more democracy and the worldwide empowerment and enhance-ment of knowledgeability of individuals, groups and move-ments that work on environmental issues.

#### China can overtake the U.S. in the hierarchy of international prestige without conflict – economic and normative factors make hegemonic war unlikely

Yuen Foong Khong 19, Vice Dean (Research) and Li Ka Shing Professor in Political Science, Lee Kuan Yew School of Public Policy, National University of Singapore, January 2019, “Power as prestige in world politics,” International Affairs, Vol. 95, No. 1, p. 119-142

This article will focus on this ongoing power contest in Asia and beyond. I will anchor my account in the concept of prestige—what Robert Gilpin calls the ‘reputation for power’4—and, where appropriate, contrast it with its manifestations in the past. I argue that the current geopolitical competition between the United States and China is best viewed as a competition over the hierarchy of prestige, with China seeking to replace the US as the most prestigious state in the international system within the next 30 years. Although the competition is a global one, with China having made significant economic and political inroads into Africa, Latin America and even Europe, Asia is where China must establish its ‘reputation for power’ in the first instance. China seeks the top seat in the hierarchy of prestige, and the United States will do everything in its power to avoid yielding that seat, because the state with the greatest reputation for power is the one that will govern the region: it will attract more followers, regional powers will defer to and accommodate it, and it will play a decisive role in shaping the rules and institutions of international relations. In a word, the state at the top of the prestige hierarchy is able to translate its power into the political outcomes it desires with minimal resistance and maximum flexibility.

I shall also make two subsidiary points. First, that states' obsession with prestige is nothing new: it was as evident 100 years ago as it is today. In the years preceding the two world wars, the rising power's (Germany's) struggle to ascend the prestige ladder and the established power's (Britain's) unwillingness to give way were major contributors to both conflicts.5 The second subsidiary point I will make is that while the kind of power transition we are witnessing today has historically been ‘settled’ through a major hegemonic war—to decide who sits atop the hierarchy of prestige—I wager that this outcome is unlikely in the case of the current China–US competition. In contrast to the conditions prevailing before the two world wars, technological, economic and normative developments since 1945 have made the costs of hegemonic war so prohibitive that the next power transition is more likely to be peaceful than violent.

## Advantage 2

### Internal Link

#### No internal link to global inequality.

#### Gridlock doesn’t make sense---it’s either inevitable OR political incentives prevent it.

### Impact Defense

#### Cant solve US inequality -

#### Collapse doesn’t cause war

Clary 15 – PhD in political science from MIT, MA in national security affairs, postdoctoral fellow, Watson Institute for International Studies, Brown University (Christopher, “Economic Stress and International Cooperation: Evidence from International Rivalries”, 4/25/15, <http://poseidon01.ssrn.com/delivery.php?ID=719105092024097121124100018083011118038069081083039091121092126090087109098065027066123029119022059121027020065094083094082064017078060077029075100073095001126072113085042032004073009085104092002020027086072104017023079122098123108013079003000082124078&EXT=pdf>, MIT political science department)

Do economic downturns generate pressure for diversionary conflict? Or might downturns encourage austerity and economizing behavior in foreign policy? This paper provides new evidence that economic stress is associated with conciliatory policies between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on data from 109 distinct rival dyads since 1950, 67 of which terminated, the evidence suggests rivalries were approximately twice as likely to terminate during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may result from economic troubles. I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically. This definition draws on a growing quantitative literature most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant politicalmilitary threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further: The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3 Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from 1494 to 2010 that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and Dreyer record the existence of a rivalry. Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice. Economic Crisis Leads to Austerity Economic crises generate pressure for austerity. Government revenues are a function of national economic production, so that when production diminishes through recession, revenues available for expenditure also diminish. Planning almost invariably assumes growth rather than contraction, so the deviation in available revenues compared to the planned expenditure can be sizable. When growth slowdowns are prolonged, the cumulative departure from planning targets can grow even further, even if no single quarter meets the technical definition of recession. Pressures for austerity are felt most acutely in governments that face difficulty borrowing to finance deficit expenditures. This is especially the case when this borrowing relies on international sources of credit. Even for states that can borrow, however, intellectual attachment to balanced budgets as a means to restore confidence—a belief in what is sometimes called “expansionary austerity”—generates incentives to curtail expenditure. These incentives to cut occur precisely when populations are experiencing economic hardship, making reductions especially painful that target poverty alleviation, welfare programs, or economic subsidies. As a result, mass and elite constituents strongly resist such cuts. Welfare programs and other forms of public spending may be especially susceptible to a policy “ratchet effect,” where people are very reluctant to forego benefits once they have become accustomed to their availability.6 As Paul Pierson has argued, “The politics [of welfare state] retrenchment is typically treacherous, because it imposes tangible losses on concentrated groups of voters in return for diffuse and uncertain gains.”7 Austerity Leads to Cutbacks in Defense Spending At a minimum, the political costs of pursuing austerity through cutbacks in social and economic expenditures alone make such a path unappealing. In practice, this can spur policymakers to curtail national security spending as a way to balance budgets during periods of economic turmoil. There is often more discretion over defense spending than over other areas in the budget, and it is frequently distantly connected to the welfare of the mass public. Many militaries need foreign arms and foreign ammunition for their militaries, so defense expenditures are doubly costly since they both take up valuable defense budget space while also sending hard currency overseas, rather than constituencies at home. Pursuing defense cuts may also conform to the preferences of the financial sector, which shows a strong aversion to military conflict even if that means policies of appeasement and conciliation.8 During periods of economic expansion, the opportunity costs associated with defense expenditure—the requirement for higher taxes or foregone spending in other areas—are real but acceptable. Economic contraction heightens the opportunity costs by forcing a choice between different types of spending. There is a constituency for defense spending in the armed services, intelligence agencies, and arms industries, but even in militarized economies this constituency tends to be numerically much smaller than those that favor social and economic expenditures over military ones. Defense Cutbacks Encourage Rapprochement An interest in defense cutbacks can lead to conciliatory behavior through two paths. First, the cutbacks themselves serve as a concrete signal to adversaries that the military threat posed by the economically distressed state is declining. This permits the other state to halt that portion of defense spending dedicated to keeping up, breaking the back of ongoing arms races through reciprocated, but non-negotiated moves. Unilateral conventional force reductions were a major element of Gorbachev’s foreign policy in the late 1980s, alongside negotiated strategic arms control, and diplomatic efforts to achieve political understandings with the United States.9 Gorbachev similarly used force reductions in Afghanistan, Mongolia, and the Soviet Far East to signal to China in 1987 that he was serious about political negotiations.10 Elsewhere, non-negotiated, tit-for-tat military redeployments facilitated Argentina-Brazil rapprochement.11 Second, leaders may believe cutbacks are necessary, but would be dangerous in the absence of negotiated improvements with traditional foes. Economic downturns can serve as motivation to pursue arms control or political settlement. During periods of normalcy, such outcomes would be positives, but are viewed as “too hard” by political leaders that move from one urgent problem to the next. During periods of economic crisis, however, arms control or political improvements might allow for much needed cuts in defense spending, and are pursued with greater vigor. The Johnson administration attempted both unilateral and negotiated arms limitations because of budgetary concerns as President Johnson and Secretary McNamara struggled to pay for the “Great Society” domestic programs and the increasingly costly Vietnam War. They first attempted unilateral “caps” on costly nuclear forces and anti-ballistic missile defenses and when this failed to lead to a reciprocal Soviet response they engaged in formal arms control talks. Détente continued in the Nixon administration, accelerating in 1971 and 1972, simultaneous with rising budget deficits and inflation so serious that Nixon instituted price controls. Nixon’s decision to sharply limit anti-ballistic missile defenses to enable arms control talks was contrary to his strategic views, but necessitated by a difficult budgetary environment that made paying for more missile defense emplacements unrealistic.12 As Nixon told his national security advisor Kissinger in an April 1972 discussion of ballistic missile and anti-ballistic missile developments: “You know we've got a hell of a budget problem. We've got to cut it down, we've got to cut 5 billion dollars off next year's defense budget. So, I don't want to [inaudible: do it?] unless we've got some settlement with the Russians.”13 In practice, unilateral defense cuts and force reductions are frequently combined with negotiated political agreements in a sequential, iterative fashion, where a unilateral reduction will signal seriousness that opens the way for political agreement, which in turn permits even deeper reductions. Defense cuts and force reductions are not only a means to achieve rivalry termination, but also a goal in and of themselves that rivalry termination helps secure. Leaders are seeking resources from defense they can use elsewhere. Thus when Argentine leader Raul Alfonsín campaigned for the need for drastic budgetary austerity, his specific “platform was the reduction of military spending to use it for the other ministries, connected with the concept of eliminating the hypothesis of conflict” with Argentinian rivals, according to Adalberto Rodríguez Giavarini, who served in Alfonsín’s ministry of defense (and later was Argentina’s foreign minister).14 Similarly, Gorbachev was motivated to reduce arms in the late 1980s because he determined it was necessary to cut Soviet defense spending and defense production, and repurpose part of the defense industry to make consumer and civilian capital goods, according to contemporary U.S. Central Intelligence Agency classified assessments.15 Thus the “main reason” why strategic arms control breakthroughs occurred from 1986 to 1988 and the Soviet Afghan intervention concluded in 1989 was a realization within the Politburo of “excessively high expenditures on defense,” according to Nikolai Ryzhkov, Gorbachev’s prime minister.16 Economic Downturns Provoke Strategic Reassessment: Threat Deflation and Prioritization Economic downturns encourage leaders to seek new ideas to use to frame their policy problems. During periods of economic difficulty, elites can come to realize that their problems are not amenable to old solutions, and search for new ideas.17 During an economic crisis, politics and policy are “more fluid,” as old answers seem stale and insufficient.18 An ideational entrepreneur that can link economic lemons to foreign policy lemonade can find a patron when leaders are casting about for ways to reframe the world in acceptable ways to their peers and publics. The behavior of an old foe is often ambiguous, and can be viewed as either injurious to one’s interests or neutral toward them. During periods of normalcy, the motivation of defense establishments is tilted toward threat and danger. During periods of economic crisis, national leaders have a counteracting motivation to downplay such dangers, so that the threats faced by a nation are manageable through available resources. Economic difficulties provide a motivation for leaders to view equivocal signals from the international system in a way that is benign. To the extent that rivalries are perpetuated because of threat inflation, economic downturns provide incentives to deflate the threat, potentially disrupting cycles of competition and enmity. South Korean president Kim Dae-jong came to power in the aftermath of the 1998 Asian economic crisis, pursued a “sunshine policy” toward the North, cut South Korean defense spending in nominal and real terms, and pursued a policy toward North Korea that political scientist Dong Sun Lee called “threat deflation” despite the growing North Korean nuclear weapons threat.19 Economic crises can also spur strategic reassessment through another channel. If leaders view economic problems as structural, rather than a temporary gale, they may come to question whether available national resources are sufficient to confront all of the national threats identified in the past. This creates incentives to economize threats, seeking political settlements where possible in order to focus remaining resources on competitions that can be won. A concrete example: in 1904, the chancellor to the Exchequer wrote his cabinet colleagues: “[W]e must frankly admit that the financial resources of the United Kingdom are inadequate to do all that we should desire in the matter of Imperial defense.”20 The result was a British decision to minimize political disagreement with the United States and focus on other defense challenges. While such a decision is in line with realist advice, it occurred not when the power trajectories were evident to British decisionmakers but when the budget situation had reached a crisis that could no longer be ignored. Economic Downturns Increase Incentives for International Economic Cooperation Economic downturns not only create incentives to cut spending, they encourage vigorous pursuit of opportunities for economic cooperation. This, too, can engender conciliatory behavior. Economic downturns can increase motives to pursue trade and investment. Rivalries with old foes often directly impinge on trade and investment with the adversary and may indirectly impinge on trade and investment with third parties, especially if the rivalry is viewed as being likely to generate disruptive military conflict. Additionally, economic aid is sometimes used as an inducement for adversaries to set aside a political dispute. This aid can either serve as a side payment from one rival to another, or it can be offered by a third party to one or both rivals as an incentive to set aside lingering disputes. Such aid is more attractive during periods of economic turmoil than during periods of comparative normalcy. In South Asia, India and Pakistan struggled from 1947 to 1960 with how to manage water resources in the Indus Rivers basin, inheriting a canal system meant to service pre-partitioned India. Pakistan, suffering an economic downturn, and India, reliant on foreign aid to avert economic crisis, agreed to an Indus Waters Treaty in 1960 to resolve the lingering dispute, made possible in substantial part because of World Bank financing that was especially attractive to the struggling economies. In the Middle East, Egypt and Israel made the hard choices necessary for the Camp David accord in 1979 precisely because the Sadat and Begin governments faced difficult economic situations at home that made the U.S. aid guarantee in exchange for a peace agreement especially attractive.21 In 1982, the Yemen’s People’s Republic agreed to stop its attempts to destabilize Oman, because otherwise Yemen would not receive economic assistance from Arab oil producing states that it desperately needed.22 In the late 1990s, El Niño-induced flooding devastated Ecuador and Peru, spurring reconciliation as leaders sought to increase trade, secure investment, and slash military expenditures so they could be used at home.23 As one Western diplomat assessed at the time, Ecuador and Peru “have decided it's better to see reason…. They see foreign companies eager to invest in South America, and if Peru and Ecuador are in conflict, it makes them less attractive than, say, Argentina or Brazil or Chile for investment purposes. That's the last thing either country wants.”24 Economic Downturns Can Cause Meaningful Leadership Change The above mechanisms have identified how economic difficulties can alter the preferences of an incumbent leader. Additionally, economic crises can lead to leadership turnover and, during periods of difficulty, the selection process that determines new leadership can loosen ideological strictures that relate to extant rivalries. Leaders may be selected based on judgments about their ability to cope with economic problems, with greater elite acceptance of ideological heterogeneity in foreign policy beliefs than in periods of normalcy.25 In Stephen Brooks and William Wohlforth’s words, “If everything is going well or is stable, then why select leaders who might subvert the triedand-true identity? But if that identity is leading to increased material difficulties, pressure for change will likely mount. In these circumstances, those who are willing to alter or adjust the hallowed precepts of the existing identity and its associated practices are more likely to assume power.”26 Economic crisis, then, can spur incumbent leaders to either abandon the “baggage” of rivalry or facilitate the selection of new leaders that do not carry such baggage. The most well-known example of an incumbent selectorate looking for a reformer, even one without much foreign policy experience, involves Mikhail Gorbachev’s ascension to the Soviet premiership. In political scientist Jerry Hough’s words, “If the rate of economic growth continued to decline, if administrative and labor efficiency continued to fall, if corruption was not punished, these conditions would have dangerous consequences for the [Soviet Union in the] 1980s and 1990s…. Gorbachev’s promotion was an answer to these concerns.”27

# 2NC

## States

#### Causes federal follow-on

Also answers compliance

Lemos 11 (Margaret H. Lemos, Associate Professor, Benjamin N. Cardozo School of Law, 2011, State Enforcement of Federal Law, 86 *New York University Law Review* 698-765 (2011), https://scholarship.law.duke.edu/faculty\_scholarship/2516)

As some of these examples suggest, enforcement authority creates opportunities for states to influence policy not only within their own borders, but also on a national scale. State enforcement may change the federal "law in the books" by generating judicial decisions that clarify the scope of the law. In the 1980s, for example, nineteen states banded together to sue a group of domestic and foreign insurers and reinsurers. The states alleged collusive activity in violation of federal antitrust law. They had urged the Department of Justice to pursue similar claims, but federal enforcers took the view that "collusion is highly unlikely in unconcentrated industries like the property and casualty insurance industry."'191 Nevertheless, the states' lawsuit was successful and resulted in a Supreme Court decision defining the extent of the insurance exemption 92 establishing "an expansive scope for U.S. antitrust enforcement against foreign conduct by foreign parties."'193 The decision has been described as one of the "ten milestones in 20th century antitrust law,"'1 94 and federal enforcers rely on its precedent in many international cartel cases today. 95

State enforcement also may have wide-ranging effects when state practices prompt a shift in enforcement by federal agencies. For example, one commentator has suggested that the FTC's decision to reconsider its use of restitution as a remedy for antitrust violations was spurred by states' pursuit of monetary remedies. 196 Similarly, states' enforcement efforts may have nationwide consequences because of their impact on the regulated community, even if the law on the books remains the same. One state's aggressive enforcement can prompt potential defendants to change their practices across the board. 97 The impact is amplified when multiple states work together. 198

#### Cartel model---the federal government lets states enforce nationwide antitrust

Greve 5 (Michael S. Greve, John G. Searle Scholar, American Enterprise Institute; Ph.D. 1987, Cornell University, 2005, “Cartel Federalism? Antitrust Enforcement by State Attorneys General,” *University of Chicago Law Review*: Vol. 72 : Iss. 1, Article 6, https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=5317&context=uclrev)

Largely in connection with the Microsoft litigation, the antitrust enforcement authority of state attorneys general, in their parens patriae capacity, has generated acrimonious debate.' Perhaps the only point of genuine agreement is the complaint over the lack of reliable empirical evidence on state antitrust enforcement. This Essay attempts to make a modest contribution to the data front and a more ambitious and provocative contribution to the theoretical debate. I present and examine two sets of data:

\* A list of state parens patriae antitrust actions, compiled and kindly made available to me by Judge Richard Posner.4 I combined and cross-checked these cases with parens patriae cases extracted from a similar list of state antitrust cases for the 1993-2002 period, compiled by different means by Michael DeBow.5 So amended, the list (hereinafter, "the PosnerDeBow list") comprises 103 parens patriae actions.

\* Sixty-eight antitrust cases, dating back to 1977, in which states submitted eighty-four briefs amici curiae. (In four cases, different states submitted briefs on either side; in the remaining cases, states submitted briefs at different stages of the litigation.) Robert Hubbard kindly supplied this list;' I have added some briefs from a website and a few obviously "missed" Supreme Court cases.

While these sets of data are still incomplete and, perhaps, unrepresentative, they are at least somewhat more comprehensive than the preceding efforts on which they build. They confirm earlier findings about state antitrust enforcement in two respects: the extraordinary extent of state consensus and cooperation on antitrust matters (coordinated, since 1983, through the National Association of Attorneys General (NAAG) Antitrust Task Force);9 and a pattern of limited, somewhat parochial, state enforcement," interspersed by dramatic and increasingly frequent multistate interventions in high-stakes national antitrust proceedings."

To my mind the most intriguing aspect of the data, however, and the principal subject of this Essay, is not what state attorneys general have done but what they have failed to do. In antitrust federalism's "horizontal," state-to-state dimension,2 attorneys general have almost never invoked antitrust laws to challenge sister states' anticompetitive conduct. In federalism's "vertical," state-to-federal dimension, state attorneys general have consistently advocated a partial surrender of state regulatory autonomy.

Horizontal Antitrust Federalism. Some critics -prominently, Judge Posner-have argued that state enforcers may deploy antitrust law for strategic and parochial purposes, as a means to protect domestic producers and to exploit consumers and producers in other jurisdictions.'3 They may do so either by deploying antitrust law as a sword against out-of-state producers or as a shield for domestic producers (for example, by granting exemptions for export cartels). Either way, one would expect the victimized states to resist the imposition.

But they don't. Consider Parker v Brown," origin of the eponymous Parker or "state action" immunity doctrine, which shields certain anticompetitive state laws and their private beneficiaries against liability under federal antitrust laws. California had established an export cartel par excellence, which supplied some 95 percent of the entire U.S. raisin market and earned virtually its entire surplus profit outside California. And yet, no state protested the imposition in an amicus capacity. (It was the federal government that advocated limits on state cartels with pronounced extraterritorial effects.)5 The Parker example illustrates a general pattern: the evidence shows no clear instance of state resistance to exploitation by other states.

Vertical Antitrust Federalism. As a practical matter, both state and federal antitrust enforcers are constitutionally unconstrained with respect to the scope of their jurisdiction. Each may regulate the full range of private conduct that arguably has price effects within their jurisdictions. Consequently, one would expect rivalry, conflict, and turf protection. But while such federal-state disagreements occurred under the Reagan administration," the general pattern is mutual accommodation. The states have supported both broad federal antitrust authority over purely local transactions and a very narrow view of state action immunity. Conversely, federal agencies have consistently tolerated and sometimes supported state antitrust enforcement, even at considerable cost to national priorities.

These findings are orthogonal to ordinary intuitions about (antitrust) federalism. This Essay explains them as the products of an antitrust enforcement cartel built on extraterritorial exploitation: state governments agree to exploit each other's citizens because that leaves all governments better off (and consumers worse off). The model explains both the extraordinary antitrust consensus among the states and some of their otherwise perplexing legal positions on antitrust federalism. An extension of the model interprets the federal government's accommodation of the states as part of a two-way bargain: states support the federal government's quest for a highly restrictive scope of state action immunity in exchange for federal accommodation of aggressive, extraterritorial state antitrust enforcement. Conversely, the federal government supports state enforcement (even at some cost to coherent national policy) in order to gain state acquiescence to federal enforcement against state-sanctioned cartels. The Conclusion notes the limitations and some implications of this analysis.

#### The Court will side with states, even when there’s direct conflict with federal law

Daniel J. Gifford 95, Robins, Kaplan, Miller & Ciresi Professor of Law at the University of Minnesota Law School, “Antitrust in the Twenty-First Century: Article: The Jurisprudence of Antitrust”, SMU Law Review, 48 SMU L. Rev. 1677, July-August 1995, Lexis

C. The Role of State Attorneys General and State AntitrustLaw

In addition to their role as official enforcers of state antitrust law, the attorneys general of the several states have, as a group, become increasingly active in filing federal antitrust lawsuits. In so doing, the state attorneys general sometimes act cooperatively, joining together as plaintiffs in the same lawsuit. A professional association of the state attorneys general, the National Association of Attorneys General (NAAG), issues sets of antitrust guidelines which over the years have interpreted federal antitrust law somewhat differently from the Justice Department. The antitrust agenda of the federal courts thus reflects both the haphazard influence of privately-instituted actions and the more studied separate agendas of the state attorneys general in addition to the input of the Justice Department. According to one source, the NAAG guidelines played a significant role in the decisions of state attorneys general to bring suit in the Clozapine, Mitsubishi, Panasonic, and American Stores cases.

The state attorneys general often take policy positions different from those of the federal enforcement authorities. State attorneys general have commenced antitrust lawsuits which the federal enforcement authorities have considered and declined to institute. Although the Justice Department and the state attorneys general have developed working and cooperative relationships, it remains true that state attorneys general con- [\*1695] tinue to assert policy positions which differ from those asserted by the federal authorities.

California v. American Stores Co. illustrates the inconsistent policies permeating official enforcement efforts. Enforcement decisions within the federal government are allocated to both the Department of Justice and the FTC. These two agencies, however, have generally worked out an allocation of effort between them, the Justice Department accepting responsibility for certain industries and the FTC accepting that responsibility for others. The state attorneys general, however, constitute another and sometimes inconsistent source of decisionmaking. In the cited case, the FTC reached a settlement with American Stores on a proposed merger. The day following the FTC's final approval of the merger on the basis of that settlement, the state of California brought suit, seeking to enjoin the merger as a violation of federal antitrust law. California was initially successful, obtaining a preliminary injunction against the merger. Although the Ninth Circuit first took the view that injunctive relief was not available in a private action, the Supreme Court ruled otherwise. This ruling vastly expands the potential of private antitrust actions to restructure the marketplace and diminishes pro tanto the role of the federal antitrust authorities in antitrust policymaking. This ruling also provides a major new tool to the state attorneys general as they seek to implement competing policy agendas. In 1992 the State of Minnesota brought suit to block a healthcare merger which had previously been cleared by the Justice Department, forcing the merger participants to accept a consent order. State attorneys general are also more apt to bring suit on vertical price-fixing charges than is the Justice Department.

In addition to the different policy positions on federal antitrust law manifested in the litigating activities of the federal enforcement agencies on one hand and of the state attorneys general on the other, the coherence and integrity of federal antitrust policy is also vulnerable to the antitrust legislation of the states. Most states have enacted an antitrust law, generally on the federal model. During the period when federal antitrust [\*1696] law was used largely to reinforce competitive-market behavior as a normative construct, state antitrust law tended to add additional reinforcement. In recent years, however, the potential for conflict between federal and state antitrust laws has increased.

The transformations of federal antitrust law have had repercussions upon state law. Minnesota, for example, enacted an antitrust law in 1971 which was designed largely to codify the contemporary federal antitrust caselaw. As a result, the provisions of the Minnesota law conflict to a significant degree with the current federal antitrust caselaw which has since undergone a radical transformation. The extent to which state antitrust legislation is vulnerable to federal preemption is unclear, but the Supreme Court has signaled a wide tolerance for inconsistent state legislation in cases involving procedural differences. The Court has expressed broad acceptance of state antitrust laws permitting recoveries which would not be available under federal law. States, for example, are free to enact legislation granting standing under their own antitrust laws to "indirect purchasers" to recover damages for overcharges by their ultimate supplier resulting from monopolistic or cartel-like behavior, even though indirect purchasers have been denied standing under federal antitrust law for reasons of federal antitrust policy. Moreover, defendants can be subjected to liability to indirect purchasers in antitrust counts under state law that are joined with antitrust counts under federal law and are pursued in federal court actions to which both direct and indirect purchasers are parties.

Federal and state antitrust laws potentially diverge on noncompensatory damages. Federal antitrust law specifies that actual damages will be trebled. When the issue arose, however, as to whether punitive damages in unlimited amounts can be assessed under state law for antitrust offenses, the Supreme Court answered in the affirmative. Punitive damages can be assessed in antitrust actions brought in federal court in which counts under both federal and state law are joined. Certainly the Court's recent remedial decisions enhance the status and power of state antitrust laws. They suggest (but as yet inconclusively) that state law may redefine restrictively the areas of substantive behavior which are permitted to business entities under the federal law. [\*1697]

#### Uniform state fiat is good—

#### The CP is core topic education and is empirically included in antitrust debates.

Robert L. Hubbard 5, Director of Litigation at the Antitrust Bureau of the New York Attorney General's Office, and James Yoon, Assistant Attorney General in the Antitrust Bureau of the New York Attorney General's Office, “How The Antitrust Modernization Commission Should View State Antitrust Enforcement”, Loyola Consumer Law Review, 17 Loy. Consumer L. Rev. 497, Lexis

I. Introduction

State antitrust enforcement, long the subject of spirited debate between its critics and supporters, is now a topic for study by the [\*498] Antitrust Modernization Commission (the "Commission" or "AMC"). The Commission's work, the most recent formal federal review of the antitrust law, may culminate in recommendations concerning state antitrust enforcement.

This article unabashedly argues that the Commission should conclude that state antitrust enforcement has benefited consumers; furthered competition throughout the economy including among antitrust enforcers; contributed significantly to antitrust jurisprudence; and helped make our economic system the envy of the world. Part II discusses how state enforcement has emerged as a topic for consideration by the Commission. Part III defines the role and sets the context of state antitrust enforcement, emphasizing what state antitrust enforcers do. Part IV responds to two major themes of the critics of state antitrust enforcement: first, the political context of the actions taken by state attorneys general merits praise, not criticism; second, states have significantly added to antitrust jurisprudence, both theoretically and practically, as is illustrated by how states have investigated, litigated, and resolved antitrust matters, large and small. Finally, this article discusses how state enforcement has enhanced consumer choice and fostered competition among antitrust enforcers.

II. The Commission and State Antitrust Enforcement

The legislation establishing the Commission does not specify what topics should be covered and does not mention state enforcement. Yet, the legislation's sponsor, Representative F. James Sensenbrenner, prominently mentioned state enforcement in his initial press release about the legislation as one of only three topics within the antitrust laws that merited study. Representative [\*499] Sensenbrenner's comments about states at the Commission's first public meeting were more elaborate. He lengthened his list of topics and characterized state enforcers as "vital," while worrying about "divergent and sometimes inconsistent antitrust standards." State attorneys general recognized that the Commission would likely study state enforcement, by expressing concern that no one nominated to be a Commissioner has state enforcement experience.

As expected, state antitrust enforcement was raised in response to the Commission's broad-based request for suggested topics. An antitrust advocacy group, the American Antitrust Institute, suggested that the Commission probe how state enforcement can be made more effective. The Cato Institute, a non-profit public policy research foundation based in Washington, D.C., suggested that state enforcers be stripped of their parens patriae authority. In a letter to the Commission, Senators Mike DeWine, Chairman, and Herbert Kohl, Ranking Member, of the Senate Subcommittee on Antitrust, [\*500] Competition Policy and Consumer Rights stated that "an examination of the proper role of states in enforcing antitrust law would be an important topic for study."

#### Expansive state antitrust legislation is being pursued---proves it’s a relevant debate that antitrust experts are considering.

Gidley et al. 6-11-21 ([J. Mark Gidley](https://www.whitecase.com/people/j-mark-gidley), former ~~Emory~~ [**Kansas** debater and NDT winner](https://nationaldebatetournament.org/history/winners/) (apologies to Dr. Scott Harris and the Gidleys for our temerity) with J.D. from Columbia, [George L. Paul](https://www.whitecase.com/people/george-l-paul), J.D. from Harvard, [Rebecca Farrington](https://www.whitecase.com/people/rebecca-farrington), J.D. from Berkeley, [Martin M. Toto](https://www.whitecase.com/people/martin-m-toto), J.D. from NYU, [Kathryn Jordan Mims](https://www.whitecase.com/people/kathryn-jordan-mims), J.D. from the University of Virginia, [Michael Hamburger](https://www.whitecase.com/people/michael-hamburger), J.D. from Fordham, all of whom are partners at the international law firm White & Case. [Daniel J. Rosenthal](https://www.whitecase.com/people/daniel-rosenthal), J.D. from the University of Virginia, [Adam M. Acosta](https://www.whitecase.com/people/adam-acosta), J.D. from Howard, [Jaclyn Phillips](https://www.whitecase.com/people/jaclyn-phillips), J.D. from Georgetown, all of whom are associates at White & Case, 6-11-21, “"New York’s Sweeping New Antitrust Bill—Requiring NY State Premerger Notification ($9.2M Filing Threshold) and Prohibiting “Abuse of Dominance”—Inches Closer to Becoming Law,"” White and Case, https://www.whitecase.com/publications/alert/new-yorks-sweeping-new-antitrust-bill-requiring-ny-state-premerger-notification)

While Congress has been the epicenter of an ongoing antitrust debate—with US legislators on both sides of the aisle urging vast reforms—the New York State legislature is pursuing a state bill that would arguably ensnare more conduct and transactions in antitrust law’s web than anything proposed, or existing, at the federal level to date.

The New York Senate Bill, known as the “Twenty-First Century Anti-Trust Act,” would expand New York’s antitrust laws by establishing first-of-its-kind US state premerger notification requirements for mergers with as low as a $9.2 million threshold in New York, prohibiting “abuse of dominance” by companies with market shares as low as 30%, authorizing private class actions, and raising criminal penalties.

On June 7, 2021, the New York State Senate passed the legislation, indicating momentum is growing towards passage. If the Bill becomes law, companies doing business or buying business in New York1will navigate a more demanding state-law regime in addition to abiding by federal law.

Background: “Big Tech” concerns are catalyst for broad state law antitrust reform

A mere week after a US House of Representatives committee held a hearing with executives of several tech companies in July 2020, New York State Senator Mike Gianaris introduced the first version of what is now New York Senate Bill S933A. The original New York Bill sat in the New York State Senate, but on January 6, 2021, Senator Gianaris reintroduced the Bill with revisions. Echoing the separate legislations proposed by US Senators Klobuchar and Hawley, the Bill proposes to modify New York’s State antitrust act, the “Donnelly Act,” to broaden and enhance New York state antitrust prohibitions. This time, the Bill has found momentum: On Monday, June 7, 2021, the Bill cleared its first major legislative hurdle when the New York State Senate passed the Bill by a 43-20 vote along party lines.2

The Bill applies to all industries. But similar to the several antitrust reform bills proposed at the federal level, concerns about purported anticompetitive behavior in the “Big Tech” sector were the spark. According to the Sponsor Memorandum accompanying the Bill, the purpose of the Bill is to address the concern that “[p]owerful corporations, particularly in Big Tech, have engaged in practices such as temporary price reduction with the purpose of forcing competitors to sell their business to them,” and that “[u]nilateral actions that seek to create a monopoly” should be unlawful in New York.3 State Senator Gianaris explained: “[o]ur laws on antitrust in New York are a century old and they were built for a completely different economy,” and “[m]uch of the problem today in the 21st century is unilateral action by some of these behemoth tech companies and this bill would allow, for the first time, New York to engage in antitrust enforcement for unilateral action.”4

The Bill proposes several fundamental changes to New York antitrust law

The current version of the Twenty-First Century Anti-Trust Act would drastically change the antitrust landscape in New York. The Bill would most notably change New York’s antitrust-law in four main ways:

New York would have first-of-its-kind State premerger notification requirements in the US – with a $9.2M filing threshold

If passed into law, the Bill would create a premerger notification requirement for transactions meeting certain criteria provided that the parties have a qualifying presence in New York.5 At the federal level, the Hart-Scott-Rodino Act (“HSR Act”) requires parties to notify the Federal Trade Commission and the Antitrust Division of the US Department of Justice of certain mergers or acquisitions and to observe a waiting period before consummating the transaction.

Only 2 US states have any form of premerger notification, and they are limited. Although Connecticut and Washington have pre-merger notification statutes, these specifically target only healthcare mergers.

But if passed, the Bill would be the first to have a generalized state premerger reporting statute. The proposed New York Bill is not industry specific.6 If passed, the Bill would create separate, generally applicable state premerger notification requirement.

Nexus to New York, filing thresholds – only $9.2M. This new requirement appears modelled on the HSR Act, but has much lower thresholds that would obligate an acquirer to file a notification with the N.Y. Attorney General for many transaction valued at more than $9.2 million if either the acquiring or acquired person has assets or annual net sales in New York in excess of $9.2 million.7 The thresholds are listed as a percentage of certain federal HSR thresholds, which are adjusted annually based on gross national product.

This means that if the Bill is enacted into law, any business in the world that holds more than $9.2 million of assets or has more than $9.2 million of “net annual sales” in New York State—regardless of where headquartered or incorporated—would have to check virtually every transaction for a potential New York State premerger filing.

While the Bill excludes certain transactions from its requirements8 and authorizes the NY Attorney General to issue rules to implement the Bill’s premerger requirement and to exempt transactions not likely to violate the statute, the $9.2 million threshold in the Bill is substantially lower than the current $92 million size-of-the-transaction test for reportability under the federal HSR Act.9 As such, transactions that fall well below the reporting threshold under the federal HSR Act and with seemingly little nexus to New York may still be reportable to the NY Attorney General under the Bill.

60-day notice period for closing (longer than the 30-day HSR period). Moreover, if passed, the Bill presents new timing considerations for parties negotiating reportable transactions. Under the HSR Act, once filings are submitted, there is an initial 30-day waiting period during which the parties can neither close nor take steps to implement control over the other company’s business. The waiting period is 15 calendar days for cash tender offers and acquisitions of assets out of Chapter 11 proceedings.

The Bill, on the other hand, would require notification to be made 60 days prior to closing the acquisition, including for transactions that are also HSR reportable, (although unlike under the HSR Act, the Bill provides no additional waiting period to bar the parties from closing during the pendency of an investigation, should the New York Attorney General open one).10 So for certain acquisitions subject to the HSR Act notification requirements as well as the Bill’s proposed notification, a transaction may be able to close after 30 days under the HSR Act but would need to wait 60 days under the Bill.

This could have severe timing consequences for transactions. For example, parties to a $10 million deal with absolutely no competitive overlap could still be forced to wait 60 days to close.

Penalty for non-reporting. The penalty for noncompliance with the premerger notification obligations of the Bill is $10,000 per day.11

Whether there may be any arguments that the premerger notification requirement in the Bill is in conflict with—and therefore preempted by—the HSR Act is yet to be seen, and will likely turn on the various rules and regulations New York State will have to promulgate to implement this section. But the Connecticut and Washington notification requirements, though notably more limited, are alive and well.

Finally, when considering whether to approve a merger, the Bill would require the NY Attorney General to specifically take into account a merger’s potential effects on labor markets.12

New York would prohibit “abuse of dominance”—a standard that would apply to firms with low market shares—as well as prohibiting monopolization (as under current federal law

New York’s antitrust law, (the Donnelly Act), currently prohibits only antitrust conspiracies, making unlawful only a “contract, agreement, arrangement or combination” in restraint of trade.13 Thus, New York’s antitrust law currently aligns with Section 1 of the Sherman Act (which prohibits anticompetitive agreements), but has no parallel provision for Sherman Act Section 2 (which prohibits monopolization). The proposed Bill, however, seeks to amend the Donnelly Act law to add a new Subdivision 2 that declares unlawful any monopolization, attempted monopolization, or assertion of dominance that restrains trade or commerce.14

Specifically, Subdivision 2, if enacted, would provide that:

It shall be unlawful: (a) for any person or persons to monopolize or monopsonize, or attempt to monopolize or monopsonize, or combine or conspire with any other person or persons to monopolize or monopsonize any business, trade or commerce or the furnishing of any service in this state; (b) for any person or persons with a dominant position in the conduct of any business, trade or commerce, in any labor market, or in the furnishing of any service in this state to abuse that dominant position.

Thus, on monopolization, the Bill seems to be aimed at bringing New York’s antitrust law in line with the Sherman Act, as Section 2 of the Sherman Act prohibits monopolization, but the Bill goes much further.15

If passed, New York would be the first US jurisdiction with an “abuse of dominance” standard. The Bill’s proposed prohibition of “abuse of dominance,” however, adds a concept that does not appear in the Sherman Act and generally appears to be more far reaching. Using language similar to that in Article 102 of the Treaty of Functioning of the European Union, which has been interpreted to prohibit broader conduct that Section 2 of the Sherman Act, the Bill apparently seeks to expand antitrust enforcement in New York along the lines of the European counterpart.

Definition of a “dominant” firm: 40% share for sellers, 30% for buyers. The Bill provides that a “dominant position” can be established by direct evidence (like increased prices or reduced output) or indirect evidence (market share), or a combination of the two.16 As an initial matter, under the Sherman Act, it is uncommon for plaintiffs to attempt to prove monopoly power through direct evidence at all, let alone do so successfully. Under the Bill, if the direct evidence is sufficient to show a dominant position, conduct that “abuses” that dominant position is unlawful without regard to a defined relevant market (or the conduct’s effects in that market). This means that an antitrust plaintiff need not define a “relevant antitrust market,” as is the normal first step of an antitrust rule-of-reason analysis under the Sherman Act.17

As to indirect evidence of a “dominant position,” the Bill provides that a market share of 40% or greater for a seller and 30% or greater for a buyer will be “presumed” to have a dominant position.18 In contrast, it is unlikely that a market share of less than 70% is sufficient as a matter of law to prove the existence of monopoly power under Section 2 of the Sherman Act.19

Conduct prohibited as “abuse” of dominance. The Bill does not fully itemize what kinds of conduct constitute an “abuse” of a “dominant” firm’s position, but broadly provides that conduct that “tends to foreclose or limit” the ability of competitors (or potential competitors) to compete is unlawful. The Bill provides several examples, including “leveraging a dominant position in one market to limit competition in a separate market,” and “refusing to deal with the effect of unnecessarily excluding or handicapping actual or potential competitors.”20 The Bill adds that “abuse” of a “dominant position” in a labor market includes, “but is not limited to,” imposing restrictive covenants, or covenants not to compete on employees, or restricting the ability of workers to disclose their wages and benefits.21 The Bill also empowers the NY Attorney General to adopt rules on what constitutes abuse of dominance and issue guidance as to how the AG will interpret market shares and relevant market conditions for a finding of abuse of dominance.22

Importantly, many of these practices are not illegal under federal law and the Bill could capture conduct that is nothing more than hard-nosed competition generally agreed by economists to lead to lower prices and benefits to consumers. Thus, the Bill appears inconsistent with decades of federal law establishing that antitrust is designed to protect competition, not competitors.23

Pro-competitive effects not a defense. In addition, the Bill provides that “[e]vidence of pro-competitive effects shall not be a defense to abuse of dominance and shall not offset or cure competitive harm.”24 This is in sharp contrast to federal law, under which challenged conduct is generally evaluated under the rule of reason and thus procompetitive effects must be considered in assessing whether that conduct is unlawful. By attempting to remove procompetitive effects from the analysis, the Bill may be interpreted to have the effect of creating per se liability for any “abuse” of a “dominant position,” even though under federal law and state law today per se liability applies only to a small subset of conspiratorial conduct.25

In sum, if the Bill is passed, there is a risk that it could prohibit broad swaths of conduct that is not unlawful under the Sherman Act, which contains no language prohibiting the “abuse” of a “dominant position.” Further, any such “abuse” may be interpreted to subject the offender to per se liability, no matter how much the procompetitive effects of a course of conduct outweighed its allegedly anticompetitive effects, thereby depriving all market participants of significant benefits merely because some deleterious effects came along with them. Finally, the Bill appears to dramatically increases the power of the State’s chief antitrust regulator, the AG, apparently granting her the authority to declare any conduct (by large enough companies) to be an unlawful “abuse” of a “dominant position,” simply by adopting a rule banning such conduct.  As we said, this Bill would enact drastic changes.

 Enhances criminal penalties for antitrust violations

The Bill would amend Section 341 of the Donnelly Act, which provides for criminal penalties for violations of Subdivision 1 (prohibiting an agreement in restraint of trade) and Subdivision 2(a) (prohibiting monopolization) of the proposed Bill. If passed, a violation of the Donnelly Act would now constitute a class D felony.26

For individuals, the Bill increases the maximum fine from $100,000 to $1 million, and the maximum imprisonment term from 4 years to 15 years.27 For corporations, the Bill increases the maximum fine from $1 million to $100 million.28 And for any type of defendant, the Bill would expand the statute of limitations for criminal violations from 3 to 5 years (not retroactive).29

Permits NY State antitrust class actions and recovery of treble damages

Finally, the Bill amends the Donnelly Act to explicitly permit class actions and the recovery of treble damages.30 Currently, antitrust class plaintiffs cannot seek treble damages for Donnelly Act violations (and it is an open question whether plaintiffs can bring a class action for Donnelly Act violations at all).31 But if the Bill passes, class-action plaintiffs will likely be eligible to seek treble damages for antitrust violations in New York.  The availability of class actions and treble damages in antitrust cases is particularly notable in an “Illinois Brick repealer” state, like New York, which permits indirect purchasers to bring antitrust claims (not permitted in federal antitrust cases, pursuant to the Supreme Court’s Illinois Brick decision). The Bill does, however, instruct courts to take steps to avoid duplicative recovery for direct and indirect purchasers, and permits a defendant to prove that damages were “passed on” as a partial or full defense to damages by either direct or indirect purchasers.32

Although the Bill adds a right of class action, it does not change the 4-year statute of limitations, effectively cutting any class-action damages at 4 years prior to filing, just like any individual action.33

What’s Next for NY Bill S933A?

Having passed the New York State Senate, the Bill was pending in the New York State Assembly when the legislative session ended on June 10. When the session resumes, the Bill will need to pass both the Senate (again) and the Assembly without amendment to reach the Governor and be signed into law. Although we will likely have to wait until next year to see if the Bill ultimately passes, and in what form, Senator Gianaris plans to continue to push the Bill towards law next session.34 The Bill appears to have support from New York enforcers—New York Attorney General Letitia James expressed support for the Bill when it was first introduced last year, noting that it is “aggressive” and modeled after Europe’s approach to “abuse of dominance.”35

And there could be legal challenges, even if passed. Even if the Bill becomes law in New York, legal challenges could be brought to strike down or neutralize provisions, including for areas that may be in conflict with federal law, or provisions that are vague and ambiguous.

But if this “aggressive” Bill passes and survives challenges, it has the potential to greatly expand the scope of antitrust enforcement under New York law. It may also signal a trend as other states continue to zero in on the tech industry other large companies.

In particular, if every state had its own unique premerger notification requirement, it would create an almost impossible thicket, even for the most complementary and commonplace transactions, and as such companies in all industries should continue to monitor these developments. And similarly, if “abuse of dominance” becomes the law in many states, private plaintiffs and state enforcers may become emboldened to bring more cases involving single-firm conduct.

The Bill also serves as a reminder that companies need to be mindful not just of potential changes in the federal antitrust laws, but to state laws as well, which may change faster than at the federal level and be even more sweeping in reach.36

#### Uniform state antitrust law answers a question based in the literature---here’s an advocate.

Hanson and Kalinowski 63 (John J. Hanson, B.A.., Mississippi College, LL.B., University of Virginia, member of the ABA Subcommittee on Private Antitrust Litigation, and Julian O. von Kalinowski, A.B. University of Denver and LL.B. Harvard University, Chairman of the ABA Committee on State Antitrust Laws, 1963, “The Status of State Antitrust Laws with Federal Analysis,” 15 *W. Rsrv. L. Rev*. 9 (1963), <https://scholarlycommons.law.case.edu/caselrev/vol15/iss1/4>)

Is A UNIFORM STATE ANTITRUST LAW DESIRABLE?

The renewed vigor which has been demonstrated by the various state enforcement agencies, coupled with the multitude of state antitrust statutes, brings into sharp focus the question of whether there should be a uniform state antitrust law.

Any analysis of the problem must first start with a consideration of the basic objectives of antitrust laws. It has been said that "antitrust is a distinctive American means of assuring the competitive economy on which our political and social freedom under representative government in part depends.""' 5 The economy of the United States is one essentially based upon the free enterprise system. Access to the market place and the fostering of market rivalry are basic tenets of economic organization. Antitrust is thus concerned with the promotion and protection of competition as a matter of public policy.

Fundamentally, our basic antitrust policy, as interpreted by the Supreme Court in Northern Pac. Ry. v. United States,"' rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality, and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions.

It is erroneous to say, however, that antitrust policy is oriented toward a single goal. On the contrary, as Kaysen and Turner said:

Antitrust policy may serve a variety of ultimate aims. We can divide the aims against which any policy proposal may be tested into four broad classes: the attainment of desirable economic performance by individual firms and ultimately by the economy as a whole; the achievement and maintenance of competitive processes in the marketregulated sector of the economy as an end in itself; the prescription of a standard of business conduct, a code of fair competition; and the prevention of an undue growth of big business, viewed broadly in terms of the distributions of power in the society at large."117

How best are these aims to be achieved? The answer to this might be found in posing a threshold question. Is there a need for state antitrust laws at all? As our study has indicated, most state statutes were enacted years ago before expansion of the commerce power took place. Until recent years, state antitrust laws have received little attention while, on the other hand, federal law has been developing at an outstanding rate. Its influence has been felt strongly in all walks of our economic life." 8 The scope of the federal law cannot be underestimated. It could be said that the present pervasive application of federal law leaves little reason for state antitrust laws; and that the instances in which state antitrust regulation will conflict with federal provisions will increase. Several additional arguments also have been advanced for removing antitrust from the states. These arguments run somewhat as follows: (1) The experience and capabilities of the federal judiciary and enforcement agencies, developed during the period of state inactivity, suggests that federal laws are better equipped to achieve the results that are being sought; (2) the private treble damage does not suffer since a treble damage action usually is available under the federal law no matter how local the restraints; (3) the state can recover for damages to the public under federal law; (4) exclusion of state control would eliminate the problem of double penalties in dual prosecution." 9

We believe that reliance upon the pervasive scope of federal law as a reason for abrogating state antitrust law is unfounded and ill-advised.

Although it is said that Congress used all of its power to reach restraints affecting interstate commerce, 2' there are areas of restraints it did not reach. Thus, in recent years, the Sherman Act has been held inapplicable to situations involving a conspiracy to exclude competition in the operation of local taxicabs;. 2' a combination of plastering contractors and employees to allocate and monopolize plastering contracts in Chicago;. 2 a price fixing combination of drive-in theatres; 3 and a combination to drive a newspaper engaged in legal advertising out of business.124

As one court recently observed:

However, despite the increased thrust of federal commerce power as business operations become more interrelated and complex, the courts have consistently required that in order for federal antitrust jurisdiction to be sustained the effect on interstate commerce of an alleged antitrust violation in a local area must be direct and substantial, and not merely inconsequential, remote or fortuitous. 125

There are numerous local activities which still are beyond the reach of federal law; such as those involving the local rendition of services, i.e., real estate brokers, dry cleaning establishments, building trades, local printing, and the like. Moreover, even as to those cases which theoretically are within the reach of federal law, federal agencies have admitted that they cannot deal comprehensively with the problem. 2

The argument that federal courts and enforcement agencies are better equipped to achieve the objectives of antitrust laws is not persuasive. Whether the federal enforcement agencies have the expertise which has been attributed to them is open to question. More important, however, there is a diversity of local economic conditions and business problems existing in many of the states, and the states are better equipped to deal with local questions than are their federal counterparts.

The real deficiency in state antitrust law does not lie in inadequacy or lack of expertise of the enforcement authorities, but in whether the state really wants an antitrust law at all. As Professor Rahl recently pointed out:

The most important suggestion may be made at the outset very quickly. It is that for most of the states which now have a law, however antique it may be, a resolution of the legislature directing the Attorney General to enforce it and appropriating some money for that purpose would mean more than a carload of new substantive provisions. For the basic deficiency now is not lack of an ideal statute, but lack of a decision as to whether the state really wants any antitrust law at all.12 7

This is the real key to the problem. The authors believe that state antitrust laws are desirable to carry out basic antitrust policy, that state antitrust can form an integral part of overall antitrust policy, and that federal law alone is not equal to the task.

This brings us back to the question initially propounded. Should there be a uniform state antitrust act?

Analysis of the various statutes demonstrates that many of them use antiquated language such as "pools" and "trusts," are verbose, and are riddled with archaic passages. Nevertheless, to some degree there are discernible common threads. Most of them outlaw price fixing, allocation of markets, limitation of production, group boycotts, and other commonly recognized anti-competitive restraints. The case law that has developed on these subjects has been surprisingly good overall and fairly uniform in approach. These factors provide a sound basis or starting point for a uniform law.

The authors believe that not only is there a need for a uniform law, but that one would be desirable. At the moment, there are 153 state statutes which can be characterized as antitrust in nature. Many of these statutes deal with such complex economic issues as mergers, exclusive arrangements, and price discriminations. The mistakes of federal laws have been parroted in their state counterparts. Repeated again is the strangulation of basic antitrust objectives by the soft competition concepts espoused in the Robinson-Patman Act. The recent Hawaiian statute is a striking example of this businessman's nightmare.

The renewed vitality of state antitrust enforcement already has begun to develop inefficient duplication of effort by federal and state authorities, with dual investigation and prosecution of the same persons for the same acts.'12 The burden on the businessman will increase and he will be required to operate at his peril, dependent upon the peculiarities of various state statutes and the whims of enforcement officials.

Even more important, the basic objectives of antitrust law are in serious danger of being frustrated, and our national economy may be gravely affected if the states should turn their enforcement guns on complex economic areas.

The adoption of a uniform state antitrust act will abate these dangers. Obviously, we cannot expect Utopia. The authors recognize that there are inherent difficulties in a proposed uniform act of this nature. There is the question of accommodation between federal and state authorities. This is particularly difficult because of dual enforcement within the federal scheme by the Department of Justice and the Federal Trade Commission. This problem at least can be partially solved by close cooperation between federal and state authorities in developing areas of prime responsibility. Basic guidelines could be laid down. Cooperation between federal and state authorities already has been initiated within the existing structure of the laws.'29 There is no reason why this could not be expanded.

Another inherent difficulty is that of uniformity of enforcement and approach. This question could be asked. How can a single law handle widely varying conditions in some fifty states? The authors' analysis of state antitrust decisions has demonstrated that this problem is more theory than reality. It has been noted that there is no substantial inconsistency between state and federal antitrust decisions, except those decisions emanating from the state of Texas relating to exclusive dealing and exclusive territorial arrangements. There exists no reason why a simple uniform law would change this pattern. Indeed, if the uniform law were to exclude exclusive dealing and exclusive territorial arrangements - and the authors urge that it do so - then the inconsistency which now exists would be removed.

This raises the question as to what the uniform law should include. In general, it is felt that the law should have as its main thesis the outlawing of the traditional per se type of offenses, i.e., price fixing, group boycotts, allocation of markets, and production control. As to other restraints, it should retain the flexibility of the rule of reason. It should not include the types of offenses found in Clayton Act or Robinson-Patman Act. The act should provide adequate investigatory and remedial powers.

As to investigatory powers, it is felt that, at maximum, the uniform act should provide a provision comparable to the federal civil investigative demand and limited to compelling the production of documents of persons under investigation.

With respect to remedial powers, the authors recommended that: (1) any provision dealing with forfeiture of the charter of a corporation found to have violated the law be discretionary; (2) that it provide for civil sanctions in lieu of criminal sanctions; and (3) that treble damages to injured private persons be discretionary instead of mandatory.

Within the above framework an effective state antitrust act can be drafted, one that would remove the businessman's burden of compliance with ambiguous, verbose statutes and inform him of the line of conduct that is forbidden.

State antitrust law stands at a crossroad. It can assume a responsible role in our federal system of government and become an integral part of our overall antitrust policy, or it can proceed along the road of confusion and darkness. It has the opportunity to benefit from the experience of the past and to help shape the road of antitrust law for the future. As Mr. Justice Holmes once said:

The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, institutions of public policy, avowed or unconscious . . . have had a good deal more to do than the syllogism in determining the rules by which men should be governed. 130

To paraphrase the words of Holmes, antitrust law has had the experience of important segments of our economic life. It is time to take advantage of that experience.

### 

## Innovation

#### Decks the incentive for innovation and overwhelms the regulator---takes out the case.

Joe Kennedy 20. Senior Fellow at ITIF and Former Chief Economist with the US Department of Commerce. Monopoly Myths: Is Big Tech Creating “Kill Zones”?. ITIF. 11-9-2020. https://itif.org/publications/2020/11/09/monopoly-myths-big-tech-creating-kill-zones

Competition authorities must always be on the lookout for acquisitions that, by giving the acquirer market power to either raise prices or lower quality and innovation, threaten future competition. The challenge can be especially difficult in digital markets because of the fast pace of technological change, network effects, and the fact that innovative companies can have large market valuations even though they are not making a profit. However, concerns that large Internet companies are impeding competition by engaging in killer acquisitions are exaggerated.

While greater vigilance might be warranted, significant reforms such as banning future acquisitions or breaking up existing companies would be unwise for several reasons. First, although the companies in question have engaged in hundreds of mergers over the last several years, very few have attracted any criticism. The heavy focus on the few deals that have proven highly successful ignores those that have been complete failures, such as Amazon’s purchase of Quidsi.

Second, acquisitions serve useful purposes such as motivating investments in new companies, obtaining workers with key skills, and putting technology in the hands of those that can develop and scale it the fastest.

Marked

Finally, and perhaps most importantly, many of these acquisitions are procompetitive. The vast majority of the cases mentioned in an Economist story on the subject involved either the acquirer copying a technology that was introduced by another firm and thereby giving consumers another product to choose from, or using technology to enter a related market, thereby increasing the number of competitors. Both are procompetitive.58

A dramatic expansion in the scope of review would be problematic. Without additional resources, a significant increase in noticed deals could overwhelm the regulator. Significantly raising the bar for acquisitions could also prove ineffective in protecting entrants. Companies are allowed to obtain a monopoly through legitimate competition. If an incumbent firm were prevented from purchasing a promising innovation, it could try to copy it instead. This is relatively easier to do in digital markets than it is in other industries. This could result in roughly the same increase in profits and market share as an acquisition would—but it would provide less of an incentive for venture capitalists.

The antitrust agencies already have the powers they need to stop problematic acquisitions. But that does not mean they will always get it right. Their odds increase when their decisions are based on a detailed understanding of the markets in question, including current and future sources of innovation, and are guided by the goal of increasing social welfare.

## Inequality

#### Not about the affirmative

Kupchan, 21 – Georgetown University international affairs professor

[Charles A. Kupchan, CFR senior fellow, served on the National Security Council during the Obama administration, and Peter L. Trubowitz, London School of Economics and Political Science IR professor, Associate Fellow at Chatham House, “The Home Front: Why an Internationalist Foreign Policy Needs a Stronger Domestic Foundation,” Foreign Affairs, May/June 2021, accessed 6-23-21]

The Home Front: Why an Internationalist Foreign Policy Needs a Stronger Domestic Foundation

U.S. President Joe Biden has declared that under his leadership, “America is back” and once again “ready to lead the world.” Biden wants to return the country to its traditional role of catalyzing international cooperation and staunchly defending liberal values abroad. His challenge, however, is primarily one of politics, not policy. Despite Biden’s victory in last year’s presidential election, his internationalist vision faces a deeply skeptical American public. The political foundations of U.S. internationalism have collapsed. The domestic consensus that long supported U.S. engagement abroad has come apart in the face of mounting partisan discord and a deepening rift between urban and rural Americans.

An inward turn has accompanied these growing divides. President Donald Trump’s unilateralism, neo-isolationism, protectionism, and nativism were anathema to most of the U.S. foreign policy establishment. But Trump’s approach to statecraft tapped into public misgivings about American overreach, contributing to his victory in 2016 and helping him win the backing of 74 million voters in 2020. An “America first” approach to the world sells well when many Americans experience economic insecurity and feel that they have been on the losing end of globalization. A recent survey by the Pew Research Center revealed that roughly half the U.S. public believes that the country should pay less attention to problems overseas and concentrate more on fixing problems at home.

Redressing the hardships facing many working Americans is essential to inoculating the country against “America first” and Trump’s illiberal politics of grievance. That task begins with economic renewal. Restoring popular support for the country’s internationalist calling will entail sustained investment in pandemic recovery, health care, infrastructure, green technology and jobs, and other domestic programs. Those steps will require structural political reforms to ease gridlock and ensure that U.S. foreign policy serves the interests of working Americans.

What Biden needs is an “inside out” approach that will link imperatives at home to objectives abroad. Much will depend on his willingness and ability to take bold action to rebuild broad popular support for internationalism from the ground up. Success would significantly reduce the chances that the president who follows Biden, even if he or she is a Republican, would return to Trump’s self-defeating foreign policy. Such future-proofing is critical to restoring international confidence in the United States. In light of the dysfunction and polarization plaguing U.S. politics, leaders and people around the world are justifiably questioning whether Biden represents a new normal or just a fleeting reprieve from “America first.”

#### No alt causes says a lot of alt causes

1ac Reich, 15 -- UC Berkeley public policy professor

[Robert, "The Political Roots of Widening Inequality," The American Prospect, 4-8-15, https://prospect.org/power/political-roots-widening-inequality/, accessed 6-26-21]

The Political Roots of Widening Inequality

The key to understanding the rise in inequality isn’t technology or globalization. It’s the power of the moneyed interests to shape the underlying rules of the market.

For the past quarter-century-at least since Bob Kuttner, Paul Starr, and I founded The American Prospect-I've offered in articles, books, and lectures an explanation for why average working people in advanced nations like the United States have failed to gain ground and are under increasing economic stress: Put simply, globalization and technological change have made most of us less competitive. The tasks we used to do can now be done more cheaply by lower-paid workers abroad or by computer-driven machines.

My solution-and I'm hardly alone in suggesting this-has been an activist government that raises taxes on the wealthy, invests the proceeds in excellent schools and other means people need to become more productive, and redistributes to the needy. These recommendations have been vigorously opposed by those who believe the economy will function better for everyone if government is smaller and if taxes and redistributions are curtailed.

While the explanation I offered a quarter-century ago for what has happened is still relevant-indeed, it has become the standard, widely accepted explanation-I've come to believe it overlooks a critically important phenomenon: the increasing concentration of political power in a corporate and financial elite that has been able to influence the rules by which the economy runs. And the governmental solutions I have propounded, while I believe them still useful, are in some ways beside the point because they take insufficient account of the government's more basic role in setting the rules of the economic game.

Worse yet, the ensuing debate over the merits of the "free market" versus an activist government has diverted attention from how the market has come to be organized differently from the way it was a half-century ago, why its current organization is failing to deliver the widely shared prosperity it delivered then, and what the basic rules of the market should be. It has allowed America to cling to the meritocratic tautology that individuals are paid what they're "worth" in the market, without examining the legal and political institutions that define the market. The tautology is easily confused for a moral claim that people deserve what they are paid. Yet this claim has meaning only if the legal and political institutions defining the market are morally justifiable.

Most fundamentally, the standard explanation for what has happened ignores power.

As such, it lures the unsuspecting into thinking nothing can or should be done to alter what people are paid because the market has decreed it.

The standard explanation has allowed some to argue, for example, that the median wage of the bottom 90 percent-which for the first 30 years after World War II rose in tandem with productivity-has stagnated for the last 30 years, even as productivity has continued to rise, because middle-income workers are worth less than they were before new software technologies and globalization made many of their old jobs redundant. They therefore have to settle for lower wages and less security. If they want better jobs, they need more education and better skills. So hath the market decreed.

Yet this market view cannot be the whole story because it fails to account for much of what we have experienced. For one thing, it doesn't clarify why the transformation occurred so suddenly. The divergence between productivity gains and the median wage began in the late 1970s and early 1980s, and then took off. Yet globalization and technological change did not suddenly arrive at America's doorstep in those years. What else began happening then?

Nor can the standard explanation account for why other advanced economies facing similar forces of globalization and technological change did not succumb to them as readily as the United States. By 2011, the median income in Germany, for example, was rising faster than it was in the United States, and Germany's richest 1 percent took home about 11 percent of total income, before taxes, while America's richest 1 percent took home more than 17 percent. Why have globalization and technological change widened inequality in the United States to a much greater degree?

Nor can the standard explanation account for why the compensation packages of the top executives of big companies soared from an average of 20 times that of the typical worker 40 years ago to almost 300 times. Or why the denizens of Wall Street, who in the 1950s and 1960s earned comparatively modest sums, are now paid tens or hundreds of millions annually. Are they really "worth" that much more now than they were worth then?

Finally and perhaps most significantly, the market explanation cannot account for the decline in wages of recent college graduates. If the market explanation were accurate, college graduates would command higher wages in line with their greater productivity. After all, a college education was supposed to boost personal incomes and maintain American prosperity.

To be sure, young people with college degrees have continued to do better than people without them. In 2013, Americans with four-year college degrees earned 98 percent more per hour on average than people without a college degree. That was a bigger advantage than the 89 percent premium that college graduates earned relative to non-graduates five years before, and the 64 percent advantage they held in the early 1980s.

But since 2000, the real average hourly wages of young college graduates have dropped. (See chart below.) The entry-level wages of female college graduates have dropped by more than 8 percent, and male graduates by more than 6.5 percent. To state it another way, while a college education has become a prerequisite for joining the middle class, it is no longer a sure means for gaining ground once admitted to it. That's largely because the middle class's share of the total economic pie continues to shrink, while the share going to the top continues to grow.

A deeper understanding of what has happened to American incomes over the last 25 years requires an examination of changes in the organization of the market. These changes stem from a dramatic increase in the political power of large corporations and Wall Street to change the rules of the market in ways that have enhanced their profitability, while reducing the share of economic gains going to the majority of Americans.

This transformation has amounted to a redistribution upward, but not as "redistribution" is normally defined. The government did not tax the middle class and poor and transfer a portion of their incomes to the rich. The government undertook the upward redistribution by altering the rules of the game.

Intellectual property rights-patents, trademarks, and copyrights-have been enlarged and extended, for example. This has created windfalls for pharmaceuticals, high tech, biotechnology, and many entertainment companies, which now preserve their monopolies longer than ever. It has also meant high prices for average consumers, including the highest pharmaceutical costs of any advanced nation.

At the same time, antitrust laws have been relaxed for corporations with significant market power. This has meant large profits for Monsanto, which sets the prices for most of the nation's seed corn; for a handful of companies with significant market power over network portals and platforms (Amazon, Facebook, and Google); for cable companies facing little or no broadband competition (Comcast, Time Warner, AT&T, Verizon); and for the largest Wall Street banks, among others. And as with intellectual property rights, this market power has simultaneously raised prices and reduced services available to average Americans. (Americans have the most expensive and slowest broadband of any industrialized nation, for example.)

Financial laws and regulations instituted in the wake of the Great Crash of 1929 and the consequential Great Depression have been abandoned-restrictions on interstate banking, on the intermingling of investment and commercial banking, and on banks becoming publicly held corporations, for example-thereby allowing the largest Wall Street banks to acquire unprecedented influence over the economy. The growth of the financial sector, in turn, spawned junk-bond financing, unfriendly takeovers, private equity and "activist" investing, and the notion that corporations exist solely to maximize shareholder value.

Bankruptcy laws have been loosened for large corporations-notably airlines and automobile manufacturers-allowing them to abrogate labor contracts, threaten closures unless they receive wage concessions, and leave workers and communities stranded. Notably, bankruptcy has not been extended to homeowners who are burdened by mortgage debt and owe more on their homes than the homes are worth, or to graduates laden with student debt. Meanwhile, the largest banks and auto manufacturers were bailed out in the downturn of 2008–2009. The result has been to shift the risks of economic failure onto the backs of average working people and taxpayers.

Contract laws have been altered to require mandatory arbitration before private judges selected by big corporations. Securities laws have been relaxed to allow insider trading of confidential information. CEOs have used stock buybacks to boost share prices when they cash in their own stock options. Tax laws have created loopholes for the partners of hedge funds and private-equity funds, special favors for the oil and gas industry, lower marginal income-tax rates on the highest incomes, and reduced estate taxes on great wealth.

All these instances represent distributions upward-toward big corporations and financial firms, and their executives and shareholders-and away from average working people.

Meanwhile, corporate executives and Wall Street managers and traders have done everything possible to prevent the wages of most workers from rising in tandem with productivity gains, in order that more of the gains go instead toward corporate profits. Higher corporate profits have meant higher returns for shareholders and, directly and indirectly, for the executives and bankers themselves.

Workers worried about keeping their jobs have been compelled to accept this transformation without fully understanding its political roots. For example, some of their economic insecurity has been the direct consequence of trade agreements that have encouraged American companies to outsource jobs abroad. Since all nations' markets reflect political decisions about how they are organized, so-called "free trade" agreements entail complex negotiations about how different market systems are to be integrated. The most important aspects of such negotiations concern intellectual property, financial assets, and labor. The first two of these interests have gained stronger protection in such agreements, at the insistence of big U.S. corporations and Wall Street. The latter-the interests of average working Americans in protecting the value of their labor-have gained less protection, because the voices of working people have been muted.

Rising job insecurity can also be traced to high levels of unemployment. Here, too, government policies have played a significant role. The Great Recession, whose proximate causes were the bursting of housing and debt bubbles brought on by the deregulation of Wall Street, hurled millions of Americans out of work. Then, starting in 2010, Congress opted for austerity because it was more interested in reducing budget deficits than in stimulating the economy and reducing unemployment. The resulting joblessness undermined the bargaining power of average workers and translated into stagnant or declining wages.

Some insecurity has been the result of shredded safety nets and disappearing labor protections. Public policies that emerged during the New Deal and World War II had placed most economic risks squarely on large corporations through strong employment contracts, along with Social Security, workers' compensation, 40-hour workweeks with time-and-a-half for overtime, and employer-provided health benefits (wartime price controls encouraged such tax-free benefits as substitutes for wage increases). But in the wake of the junk-bond and takeover mania of the 1980s, economic risks were shifted to workers. Corporate executives did whatever they could to reduce payrolls-outsource abroad, install labor-replacing technologies, and utilize part-time and contract workers. A new set of laws and regulations facilitated this transformation.

As a result, economic insecurity became baked into employment.

Full-time workers who had put in decades with a company often found themselves without a job overnight-with no severance pay, no help finding another job, and no health insurance. Even before the crash of 2008, the Panel Study of Income Dynamics at the University of Michigan found that over any given two-year stretch in the two preceding decades, about half of all families experienced some decline in income.

Today, nearly one out of every five working Americans is in a part-time job. Many are consultants, freelancers, and independent contractors. Two-thirds are living paycheck to paycheck. And employment benefits have shriveled. The portion of workers with any pension connected to their job has fallen from just over half in 1979 to under 35 percent today. In MetLife's 2014 survey of employees, 40 percent anticipated that their employers would reduce benefits even further.

The prevailing insecurity is also a consequence of the demise of labor unions. Fifty years ago, when General Motors was the largest employer in America, the typical GM worker earned $35 an hour in today's dollars. By 2014, America's largest employer was Walmart, and the typical entry-level Walmart worker earned about $9 an hour.

This does not mean the typical GM employee a half-century ago was "worth" four times what the typical Walmart employee in 2014 was worth. The GM worker was not better educated or motivated than the Walmart worker. The real difference was that GM workers a half-century ago had a strong union behind them that summoned the collective bargaining power of all autoworkers to get a substantial share of company revenues for its members. And because more than a third of workers across America belonged to a labor union, the bargains those unions struck with employers raised the wages and benefits of non-unionized workers as well. Non-union firms knew they would be unionized if they did not come close to matching the union contracts.

Today's Walmart workers do not have a union to negotiate a better deal. They are on their own. And because less than 7 percent of today's private-sector workers are unionized, most employers across America do not have to match union contracts. This puts unionized firms at a competitive disadvantage. Public policies have enabled and encouraged this fundamental change. More states have adopted so-called "right-to-work" laws. The National Labor Relations Board, understaffed and overburdened, has barely enforced collective bargaining. When workers have been harassed or fired for seeking to start a union, the board rewards them back pay-a mere slap on the wrist of corporations that have violated the law. The result has been a race to the bottom.

Given these changes in the organization of the market, it is not surprising that corporate profits have increased as a portion of the total economy, while wages have declined. (See charts above.) Those whose income derives directly or indirectly from profits-corporate executives, Wall Street traders, and shareholders-have done exceedingly well. Those dependent primarily on wages have not.

The underlying problem, then, is not that most Americans are "worth" less in the market than they had been, or that they have been living beyond their means. Nor is it that they lack enough education to be sufficiently productive. The more basic problem is that the market itself has become tilted ever more in the direction of moneyed interests that have exerted disproportionate influence over it, while average workers have steadily lost bargaining power-both economic and political-to receive as large a portion of the economy's gains as they commanded in the first three decades after World War II. As a result, their means have not kept up with what the economy could otherwise provide them. To attribute this to the impersonal workings of the "free market" is to disregard the power of large corporations and the financial sector, which have received a steadily larger share of economic gains as a result of that power. As their gains have continued to accumulate, so has their power to accumulate even more.

Under these circumstances, education is no panacea. Reversing the scourge of widening inequality requires reversing the upward distributions within the rules of the market, and giving workers the bargaining leverage they need to get a larger share of the gains from growth. Yet neither will be possible as long as large corporations and Wall Street have the power to prevent such a restructuring. And as they, and the executives and managers who run them, continue to collect the lion's share of the income and wealth generated by the economy, their influence over the politicians, administrators, and judges who determine the rules of the game may be expected to grow.

The answer to this conundrum is not found in economics. It is found in politics. The changes in the organization of the economy have been reinforcing and cumulative: As more of the nation's income flows to large corporations and Wall Street and to those whose earnings and wealth derive directly from them, the greater is their political influence over the rules of the market, which in turn enlarges their share of total income. The more dependent politicians become on their financial favors, the greater is the willingness of such politicians and their appointees to reorganize the market to the benefit of these moneyed interests. The weaker unions and other traditional sources of countervailing power become economically, the less able they are to exert political influence over the rules of the market, which causes the playing field to tilt even further against average workers and the poor.

# 1NR

### DA

#### 1 – Snapshot vs. predictive – Biden will broker passage – pressure drives compromise

Jacobson 9/10 [Louis; citing Marc Goldwein, senior vice president at the Committee for a Responsible Federal Budget. 9/10/21; senior correspondent with PolitiFact; "The Democrats’ reconciliation bill: What you need to know," <https://www.politifact.com/article/2021/sep/10/democrats-reconciliation-bill-what-you-need-know/>]

The Democrats’ narrow margins in the House mean that factions within the caucus potentially have a lot of leverage to shape the final bill. The two most important factions so far have been progressives and centrists.

Progressives, including Rep. Alexandria Ocasio-Cortez, D-N.Y., see even the maximum $3.5 trillion amount as a downward concession from what they were initially seeking. Meanwhile, centrist Democrats, including those who could face tough reelection bids in 2022, are wary of spending that much and are seeking to shrink the reconciliation bill’s bottom line.

This intra-party conflict forced House Speaker Nancy Pelosi, D-Calif., to draw on her legislative experience just to secure passage of the budget resolution that needed to precede any reconciliation bill. Progressives want to vote on the reconciliation bill first, before the bipartisan infrastructure bill; centrists want to do the opposite.

Ultimately, a "rule" governing a floor vote on the budget had to be debated and renegotiated three separate times in about 24 hours before progressives and centrists would agree to proceed to the vote. Centrists settled for an agreement from Democratic leaders to hold a vote on the infrastructure bill no later than Sept. 27.

Democrats "need virtually unanimous support" to pass the reconciliation bill, said Marc Goldwein, senior vice president at the Committee for a Responsible Federal Budget. "They need enough policies to make people satisfied. It’s a delicate tightrope."

And that’s just for House consideration. Over in the Senate, the challenges are equally steep.

Democratic Sen. Joe Manchin of West Virginia, whose state strongly backed Donald Trump for president in 2016 and 2020, has said he won’t support a reconciliation bill as big as $3.5 trillion. Other Democrats may join him.

Since every Democratic vote in the Senate will be needed to pass the reconciliation bill, Manchin’s opposition, and the possible opposition of others, means that a reconciliation measure with a chance of making it to Biden’s desk may have to end up well below $3.5 trillion in spending.

"There is zero chance of a reconciliation bill getting a party-line vote in the Senate and the House without major concessions to moderate Democrats on the price tag and how it’s paid for," said Donald R. Wolfensberger, director of the Congress Project at the Woodrow Wilson International Center for Scholars.

What could be done to trim the reconciliation bill?

Democrats could cut specific spending programs entirely, or they could cut a whole lot of initiatives by the same percentage, perhaps by authorizing programs for a shorter period of time. They could also propose more tax increases on high-income taxpayers or corporations than they were initially considering. These options are likely part of the closed-door negotiations now under way.

Of course, cutting the reach of the bill risks losing the support of progressive Democrats, and that would torpedo the entire effort unless Democrats can pick up enough moderate Republicans to balance out the progressive losses.

How serious are the centrists and progressives about derailing the process if they don’t get their way?

Experts said it’s certainly possible that either centrists or progressives would tank the bill if they can’t get everything they want, though such a course would be risky since the Democrats are at risk of losing their slim majorities in the 2022 midterm elections.

"It may be too early to be talking about a snowball’s chance in Hades, but the intraparty heat in the Democratic caucuses has already set off the pre-melt warning sirens," Wolfensberger said.

Goldwein said that while the factions’ positioning is deeply felt, he added that there’s a good chance that Democrats want to get to yes. "I think the leadership and the administration will lead them to a deal," he said.

#### They’ll ultimately agree

Joan E. Greve 9-7, citing congresswoman Suzan DelBene, who chairs the centrist New Democrat Coalition, 9/7/2021, “Joe Biden to referee Democrats in brewing battle over $3.5tn budget bill,” https://www.theguardian.com/us-news/2021/sep/07/biden-democrats-brewing-battle-budget-bill, Stras

Despite the war of words between moderates and progressives, the White House has continued to express confidence that Congress will ultimately reach an agreement on the legislation.

“The president and his whole team are proud of and fighting for the substance of his Build Back Better agenda,” a White House official said in a statement. “These are complex processes, but as recent weeks have demonstrated, leaders in Congress and the President know how to move them forward.”

And DelBene similarly said that her group, which represents 95 Democrats in the House, remains committee to advancing both the bipartisan infrastructure bill and the spending package.

“The strength of the legislation, both on the infrastructure side and the reconciliation bill, is what people are going to look at moving forward,” DelBene said. “I think we want to see the infrastructure deal and the reconciliation bill get done.”

#### 2 – Link controls UQ – ups and downs are inevitable, but PC will persuade all quarters

Brown, USA Today White House Reporter, 9-7, 2021, (Matthew, "Biden's ambitious agenda faces decisive September as crises divide White House's attention," USA Today, PAS) <https://www.usatoday.com/story/news/politics/2021/09/07/bidens-agenda-hits-crucial-moment-amid-priorities-emergencies/5751441001/>

WASHINGTON — President Joe Biden's promise to unite the country and advance a bold agenda for the 21st century faces a fateful season this fall, as the window to advance his plans narrows amid crises. September especially will be a pivotal moment as the administration's attention is divided among multiple emergencies just as Congress tackles Biden's legislative priorities. The coronavirus pandemic continues to ravage the country. Communities from New Orleans to New York have only begun to recover from the damages of Hurricane Ida. A dozen new wildfires erupted in California over Labor Day weekend as crews start to get control of the Caldor fire near Lake Tahoe. Back in Washington, Biden's legislative vision for shoring up the nation's physical and social infrastructure faces a make-or-break moment in which the president is one of the few leaders who can persuade all quarters of his party to come together to fulfill his grand ambitions. The emergencies come as the administration manages the diplomatic and logistical challenges that arose after the fall of Afghanistan to the Taliban. Taken together, the events paint an urgent moment that will likely significantly shape this president's legacy. Here's what we know: Congress faces a packed September This month, two bills that embody much of Biden's philosophy face their moments of truth in Congress. House Speaker Nancy Pelosi, D-Calif., has set a Sept. 27 deadline to vote on the bipartisan infrastructure deal brokered in the Senate. That cutoff comes only days before Sept. 30, the deadline to raise the national debt limit and avoid a government shutdown. In August, Senate Democrats advanced a resolution on a $3.5 trillion reconciliation deal, a sweeping proposal that includes a number of the party's longstanding priorities like housing affordability, universal pre-K, an expanded child tax credit, Social Security and climate readiness policies. A range of congressional committees are deliberating over what the package's final form will look like, with some policies, especially relating to taxes and funding, still dividing Democrats. The White House has mostly let congressional leadership navigate the negotiations, which have no room for error in a closely divided Congress. Biden, who views both bills as central to his political worldview, has been in frequent conversation with members across the ideological spectrum to reconcile differences. Central to that role is satisfying the concerns of both progressives and moderates. Progressives like Sens. Bernie Sanders, I-Vt., and Ron Wyden, D-Ore., chair the powerful Senate Budget and Finance committees, respectively, and are in frequent communication with the White House over their priorities in both bills. On Thursday, Sen. Joe Manchin, D-W.Va., a pivotal moderate vote, said he would not support spending another $3.5 trillion in an op-ed for the Wall Street Journal, citing fears about inflation and debt. The White House did not appear fazed by Manchin's comments. "It's not abnormal for this to happen in the legislative process," said Cedric Richmond, a senior adviser to Biden, during an interview on ABC News' "This Week" on Sunday. Richmond said the administration is "still full steam ahead on trying to get our legislation passed" and that Manchin remains a "valued partner" but that "we're going to continue to push our agenda." "We're all, from senior levels of the White House, in close touch with a range of members, including Sen. Manchin and his team," White House press secretary Jen Psaki said Tuesday. "There are going to be a range of negotiations and ups and downs, and it's going to be called dead several more times over the next couple of weeks. We fully expect that." Psaki noted Tuesday that Biden "agrees that these plans need to be paid for" and that "we should take inflation seriously."

#### Storm politics is key to ratchet up pressure

Rubin 9-3-21 (Gabriel T. Rubin, politics reporter and author of the Washington Wire column for the WSJ, 9-3-2021, "Hurricane Ida, Wildfires Prod Congress on Infrastructure Resiliency ," WSJ, <https://www.wsj.com/articles/hurricane-ida-wildfires-prod-congress-on-infrastructure-resiliency-11630661403>)

HURRICANE IDA AND WESTERN WILDFIRES are putting pressure on lawmakers to approve funds for infrastructure resiliency projects. While business groups and Republican senators who supported [the bipartisan infrastructure deal](https://www.wsj.com/articles/senate-set-to-pass-bipartisan-infrastructure-bill-tuesday-11628597274?mod=article_inline), which includes $50 billion for resiliency projects and another $65 billion to harden the electrical grid, push for its swift passage, dozens of House Democrats are pressing leadership to include more resiliency programs in the separate Democrats-only budget reconciliation package.

Louisiana GOP Sen. Bill Cassidy, whose state was pummeled this week by Hurricane Ida and where [hundreds of thousands remain without electricity](https://www.wsj.com/articles/after-ida-power-and-services-slowly-return-to-louisiana-11630598413?mod=article_inline), used a string of media appearances in the wake of the storm to plug the bipartisan deal and stress its urgency. “We’ve got to start now for next year’s hurricane, next year’s wildfire, next year’s tornado,” he said. “The infrastructure package is part of that.” The infrastructure deal includes billions for the Federal Emergency Management Agency’s flood mitigation efforts, a new $8.7 billion fund for upgrading local transportation infrastructure to withstand natural disasters, and research money to develop new methods of protecting infrastructure from extreme weather.

Cassidy and other Republicans oppose the emerging Democratic budget platform, which is expected to include billions in additional climate spending, including on resiliency projects. Sixty-eight House Democrats wrote to their leadership late last month arguing for more funds for the Interior Department, warning that the current Senate Democratic budget resolution text “fails to invest in essential DOI climate mitigation and resiliency programs.”

Climate groups and congressional allies want more money for FEMA’s Building Resilient Infrastructure and Communities program, housing development block grants, and assistance for people displaced by climate impact, along with other mitigation and energy provisions. “We are losing lives due to the lack of climate infrastructure,” said New York Democratic Rep. Alexandria Ocasio-Cortez, who, along with a group of progressives, has threatened to vote against the infrastructure bill unless the reconciliation package goes with it.

#### 3 – Time pressure pushes it but there’s no room for error.

Sahil Kapur, 9-7-2021, [Sahil Kapur is a national political reporter for NBC News., "'A train wreck': Congress faces a daunting September as deadlines pile up", NBC News https://www.nbcnews.com/politics/congress/train-wreck-congress-faces-daunting-september-deadlines-pile-n1278565 //DMcD]

"The margin for error is razor-thin, the stakes are high, and Republicans have made clear they'll be of no help," said Democratic consultant Matt House, a former aide to Senate Majority Leader Chuck Schumer, D-N.Y. "That's been true throughout the Biden administration, but September requires tackling the toughest issues yet, more of them, and with real deadlines attached." Congressional committees have advanced some measures in recent weeks to fund the government. In the House, a group of Democrats joined Republicans to boost military spending by $23.9 billion. Raising spending on the Defense Department is a high priority for Senate Minority Leader Mitch McConnell, R-Ky., who will be key to defeating a filibuster and securing 60 votes to pass any bill. But McConnell has said the GOP won't support a debt limit increase, setting up a showdown. And Democrats, who are seeking to pass a transformative economic agenda with wafer-thin majorities, are squabbling among themselves about the way forward on the infrastructure and safety net packages, which are the linchpin of Biden's domestic agenda. Centrist Sen. Joe Manchin, D-W.Va., last week called for a "strategic pause" on the $3.5 trillion bill, saying he's unwilling to spend "anywhere near" that amount until his concerns about debt and inflation are quelled. His remarks sparked a fierce backlash from progressives, who threatened to tank the infrastructure bill, which he co-wrote, if he stands in the way of budget reconciliation.

Biden's role as peacemaker

Democrats will also have to agree on a series of tax increases on upper earners and corporations to help pay for the budget bill. Senate Finance Committee Chair Ron Wyden, D-Ore., circulated a menu of options over the recess, several of which don't have party consensus. It's unclear how the looming fights will affect Democrats' ability to coalesce behind a strategy to advance infrastructure and budget reconciliation. "Late September stands to be a train wreck for congressional Democrats, with their dual-track strategy on a collision course, but it also presents a faint silver lining in the form of a familiar foe," said Liam Donovan, a lobbyist and former Republican operative. "There's virtually no way the reconciliation package can be ready in time to satisfy all the promises that have been made by leadership, meaning President Biden will have to play a more active role as peacemaker. "The question is whether the muscle memory of fighting Republicans on the debt limit and the rest of the policy cliff helps paper over the party's divisions and heal intramural wounds," he added. "Either way, it's the biggest inflection point left in what might be the last fruitful year of the Democratic trifecta." In addition to all that, Pelosi last week put a bill on the schedule to enshrine protections for abortion rights into federal law after the Supreme Court refused to block a new law in Texas that bans the vast majority of abortions. And the devastation wrought by Hurricane Ida, from Louisiana to New York, could spark a debate about authorizing new relief funding. There are also calls from progressive Democrats to extend the lapsed eviction moratorium, as well as unemployment benefits that expired over the recess, but neither appears to have the votes to pass. Democrats' ability to handle these grueling tasks in September will shape their prospects to maintain control of Congress in the midterm elections next year, as history favors the party out of power to make gains. Party elites want to campaign on the multitrillion-dollar safety net package, which includes new benefits that voters could feel quickly in the form of Medicare expansion, paid leave and a direct cash allowance for raising children. "It's crunch time for Washington Democrats. Their odds of holding the House in the midterms are long, and campaign season will begin soon," said Michael Steel, a former House GOP leadership aide. "They have the slimmest margin possible and no room for error."

#### It's on track but it’s not certain

FABBS '9/8 [Federation of Associations in Behavioral & Brain Sciences; 9/8/21; coalition of scientific societies that share an interest in advancing the sciences; "Congress Debates Spending Priorities," https://fabbs.org/2021/09/opportunities-and-cause-for-concern-as-congress-debates-spending-priorities/]

Also important for federal science budgets is the Democratic budget reconciliation plan (see details below). This legislation is not sure to pass, but could provide significant funding boosts for federal research and development in the coming years.

The House Science, Space, and Technology Committee meets on September 9 to consider its portion of the budget reconciliation legislation. The committee has released draft text, which includes $11.03 billion of new money for the National Science Foundation over the next 10 years. This includes $3.43 billion for research infrastructure and $7.55 billion for research, scholarships, and fellowships, of which $700 million must go to Historically Black Colleges and universities and other Minority Serving Institutions. The House Committee on Education and Labor has also released draft text which would provide $2.00 billion over ten years to improve research infrastructure at minority serving institutions. Draft legislation that may include funding for other agencies relevant to FABBS members, such as NIH, is not yet available. Expect to see more details in the coming weeks.

House and Senate Committees are currently crafting the legislative text of the $3.5 trillion budget reconciliation package that aims to encompass much of President Biden’s legislative agenda. This process requires only 50 votes in the Senate, allowing Democrats to enact major party priorities, such as prescription drug pricing reform and free community college, without any Republican votes. Most recently, Democrats used the budget reconciliation process to pass additional COVID relief in the American Rescue Plan and, before that, Republicans used it to pass the Tax Cuts and Jobs Act in 2017.

Democratic leadership has vowed to pass the legislation this fall. In the House of Representatives, the legislation has been tied to a bipartisan infrastructure bill set for a vote on September 27. Due to conflict within the Democratic party, it is unlikely that one bill can pass without the other, meaning that House leaders will have to hold both votes by the end of September.

Senate Democratic leadership released an outline of provisions they would like to see included in the reconciliation package, though details will be determined by individual committees over the coming days and weeks. These details will determine the ultimate size of the bill, how much spending is paid for, or deficit-funded, and which programs and priorities are included. Here is a good explainer of the budget reconciliation process.

The House and Senate will need to come to agreement on the final legislation. If the appropriations process is any indication, and given the tight timelines, the process is likely to move quickly with little opportunity for input from the science community.

#### 1 – Persuadable –Manchin’s very persuadable but PC is key

Yang & Pickert 9-5 (Yueqi Yang is a reporter at Bloomberg News covering human-interest business and economic stories. He has also appeared in the New York Times, and The Economist. Reade Pickert is a reporter at Bloomberg covering the U.S. Economy. 9-5-21. “Biden Aide Sees Manchin Open to Persuasion on $3.5 Trillion Bill” https://www.bloomberg.com/news/articles/2021-09-05/biden-aide-sees-manchin-open-to-persuasion-on-3-5-trillion-bill) iowa js

A senior White House adviser expressed confidence that a key Democratic senator who raised objections to President Joe Biden’s $3.5 trillion tax and spending package can eventually be persuaded to give his backing. Senator Joe Manchin, who last week demanded a “strategic pause” in Biden’s economic agenda, should be “very persuadable” by the argument that the package as envisaged “adds nothing to the debt,” White House chief of staff Ron Klain said on CNN’s “State of the Union.” “We’ve worked with Senator Manchin every step of the way,” Klain said. “We’re going to work together to find a way to put together a package that can pass the House, that can pass the Senate, that can be put on the president’s desk and signed into law.” The West Virginia senator, whose vote is potentially decisive in an evenly divided U.S. Senate, wrote in a Wall Street Journal op-ed on Thursday that rising inflation and a soaring national debt require a go-slow approach and a “significantly” smaller plan than the one Democratic leaders and the White House have endorsed. Klain pushed back against the notion that Biden’s agenda could be headed for defeat in Congress this fall. “All I’ve heard is how this package is going to be dead,” he said. “And yet, amazingly, it continues to advance.”

#### 2 – Prioritization – Manchin will vote yes.

Easley '9/8 [Jason; 9/8/21; managing editor and political correspondent at PoliticusUSA; "Chuck Schumer Just Completely Rejected Joe Manchin’s Call For A Reconciliation Pause," https://www.politicususa.com/2021/09/08/schumer-manchin-pause.html/]

Joe Manchin Won’t Turn Down Vital Infrastructure For His State

Majority Leader Schumer understands Joe Manchin’s game. Sen. Manchin is trying to get a few concessions that he can take back home to dark red West Virginia to show that he stood up to the “big-spending liberals.”

When push comes to shove, Schumer also knows that Manchin isn’t going to turn down desperately needed federal money for West Virginia.

The Senate Majority Leader is also not going to be held hostage by the whims and wishes of one senator.

Joe Manchin could vote against the reconciliation bill but all indications from every Democrat in leadership from President Biden on down suggest that when the final vote is taken, Joe Manchin will be a yes for the Biden agenda.

#### We control link UQ – Biden’s full steam ahead on Manchin now

Scanlan 9-5 (Quinn Scanlan is an analyst for ABC News who covers voting, campaigns, and elections. 9-5-21. “Biden 'still full steam ahead' on domestic agenda, despite new opposition: Top adviser” <https://abcnews.go.com/Politics/biden-full-steam-ahead-domestic-agenda-opposition-top/story?id=79833577>) iowa js

Faced with new opposition to his [domestic agenda](https://abcnews.go.com/Politics/rocky-road-ahead-infrastructure-bill-35-trillion-budget/story?id=79404937) from a key Democratic senator, one of President Joe Biden's top advisers said the White House is "still full steam ahead on trying to get our legislation passed." "Look, Senator Manchin is a valued partner, we're going to continue to work with him, but we're also going to continue to push our agenda," senior adviser to the president Cedric Richmond said on "This Week" Sunday, pressed by anchor George Stephanopoulos on how it will pass without the senator's support. "It's not abnormal for this to happen in the legislative process ... we're still full steam ahead on trying to get our legislation passed," he added. With Congress set to return from recess next Monday, the fate of the president's [agenda is uncertain](https://abcnews.go.com/Politics/pelosi-moves-vote-bidens-infrastructure-agenda-moderate-dems/story?id=79617719) after moderate Sen. Joe Manchin declared in an [op-ed](https://www.wsj.com/articles/manchin-pelosi-biden-3-5-trillion-reconciliation-government-spending-debt-deficit-inflation-11630605657) Thursday that he would not support the $3.5 trillion budget resolution that Democrats alone, including Manchin, took the first step in passing last month through a process called reconciliation. Manchin called for a "strategic pause" on that bill, which contains many of Biden's "human infrastructure" priorities, including health care, child care and revamping the nation's energy sector to address climate change. With significant Republican support, the Senate has also passed a $1 trillion traditional infrastructure bill, but progressive Democrats have threatened to try to tank the smaller package if the $3.5 trillion bill is not also passed. Richmond cited Hurricane Ida, which caused over [1 million customers](https://abcnews.go.com/US/louisiana-week-ida-widespread-power-outages-persist-death/story?id=79829978) in Louisiana to lose power while killing [at least 67 people](https://abcnews.go.com/US/idas-remnants-deluge-york-jersey-flooding-rain-tornadoes/story?id=79780365) across eight states, as evidence the United States needs to both invest in its infrastructure and in combating climate change. Richmond, a former congressman for Louisiana, [accompanied the president](https://abcnews.go.com/Politics/president-biden-survey-hurricane-ida-damage-orleans/story?id=79813350) to his home state to survey storm damage Friday.

#### 3 – Empirics – Joe can do it

Stephen Collinson 21, a reporter for CNN Politics covering the White House, 9/3/2021, "Analysis: Supreme Court and Joe Manchin tighten Biden's political straitjacket ," <https://www.cnn.com/2021/09/03/politics/biden-supreme-court-abortion-joe-manchin/index.html>, MBA AM

Biden's legislative skills mean it's far too early to assume he will not be able to talk Manchin around. There have been other moments when the legislation's prospects have seemed dark. And most bills have near death moments before they pass.

But the complex choreography needed for this particular measure leaves it especially vulnerable. And it's also fair to ask how low Senate Budget Committee Chairman Bernie Sanders and House progressives are willing to go on the size of the final package and on its timing.

#### Manchin won’t block climate if he’s appeased – it’s all optics

Roberts 21 – staff writer(David, “Joe Manchin will decide whether Biden succeeds on climate change”, 3/18, https://www.vox.com/22337863/joe-manchin-biden-climate-change-senate-clean-energy-standard)//iowa

President Joe Biden campaigned on a climate policy plan that included, as its backbone, a clean electricity standard (CES) that would push the US electricity sector to net-zero carbon emissions by 2035. Given how important electricity is in cleaning up other sectors of the economy, the CES is arguably Biden’s single most important climate policy promise. Figuring out whether he will be able to make good on that promise necessarily involves an inquiry into the beliefs, motivations, and intentions of one man: West Virginia Sen. Joe Manchin. Manchin is the hinge. He is the Senate Democrats’ 50th vote, the signal that other caucus “moderates” follow. Every Democratic legislative effort will, in the end, rely on his support. There’s no way around it. The question of whether Manchin may actually be good Let’s just acknowledge up front that everyone who follows US politics is already sick of talking about Joe Manchin. We’ve heard more about him in the last month than any other single political figure, possibly including Biden. Earlier this month, he drew intense press attention for kicking up a fuss about the Covid-19 relief bill. He held up the proceedings for an entire sleepless night, baffling his colleagues by flirting with Republican proposals. The bill’s passage was uncertain for tense hours as one Democrat after another pleaded with him. Here’s the thing, though: The bill passed. Manchin’s huff ended up trimming a little bit off of unemployment benefits, but at $1.9 trillion, the final product was roughly as large and ambitious as Biden and the Democrats wanted. It was a historic achievement. And it wouldn’t have been possible without Manchin. He sent the signals of independence he needed to send, establishing that his party’s agenda would have to pass a watchful moderate eye. He worked hard to muster Republican support. He reinforced the Manchin brand. And then, having provided the necessary optics, he voted with the Democrats. This is the charitable interpretation of Manchin politics: Coming from a red state, he needs to be seen bucking the Democrats, but ultimately, he wants Biden to be a successful president. He will put on shows of moderation, wrest concessions from leadership, and in the end, vote the right way. It matters a great deal whether this Manchin-friendly theory holds true. Democrats have precious little time to pass laws before the 2022 midterms, in which they are likely to lose the House and with it the ability to legislate. What they do between now and then could shape the next decade of US politics, including climate politics (among other things, whether Biden gets his CES). Manchin will be the one turning the ambition dial up or down. The crowded Democratic agenda Biden, while keeping a low personal profile (no alarming tweets!), has been cranking out dozens of executive orders, accelerating vaccine distribution, boosting unions, getting cabinet picks approved, and shepherding through one of the most significant social welfare bills of the last 70 years. Can Democrats keep this streak going? Now that lawmakers have passed the relief bill, there will be many competing demands on the Senate’s attention. This month, the House has passed both HR1, the Democrats’ sweeping bill to protect and expand voting rights, and the Protecting the Right to Organize (PRO) Act, their equally sweeping bill to update union law. Both bills have prompted calls for filibuster reform in order to pass them through the Senate. (Immigration bills are also in the works.) And then there’s the question of the next big reconciliation bill; Democrats can pass one more before the end of the year. Biden campaigned not only on recovery from the pandemic and recession but on renewal, on “building back better” with large-scale national investments in clean energy, domestic manufacturing, and infrastructure. That’s what the next big bill is likely going to be about. It will almost certainly involve hundreds of millions in green investments and tax credits. The question is whether it will include a clean energy standard. A clean energy standard can work through budget reconciliation If Democrats intend to pass their Build Back Better bill through the budget reconciliation process, then once again, every provision must pass muster with the Senate parliamentarian based on the Byrd rules. (If you think this arcane, priestly ritual sounds like an absurd way to govern an advanced democracy, you are not alone.) In a nutshell, the Byrd rules say that anything in a budget reconciliation bill must be budget-relevant — it must raise or lower federal revenue. As traditionally conceived, a national clean energy standard is a federal regulation that would require utilities to increase the share of carbon-free sources on their grids (reaching 100 percent by 2035). States would be required to come up with their own implementation plans, just as with Obama’s (never-implemented) Clean Power Plan. There is no effect on federal revenue. So a conventional CES will not get past a “Byrd bath.” However! Leah Stokes, assistant professor at UC Santa Barbara, and Sam Ricketts, co-founder of Evergreen Action and senior fellow at the Center for American Progress, recently reviewed a number of ways that a CES could be redesigned to pass reconciliation, including becoming a system of fees and credits. For details, you can check out their report with Evergreen Action and Data for Progress, their Vox piece about the work, or their podcast interview with me on Volts. TL;DR: It would be fairly straightforward to design an appropriately ambitious CES that could get past the parliamentarian. At least one senator, Minnesota’s Tina Smith, has gone on record in support of passing a CES through reconciliation. The question is how Manchin feels about it. Manchin’s mixed comments on a clean energy standard Reporters have asked Manchin about a clean energy standard several times. Without fail, he emphasizes that he’s an “all-in energy guy,” he values “energy independence,” and he wants to take care of hard-hit fossil fuel communities … but he refrains from ruling it out. Back in January, in an interview in E&E News, when asked about a clean energy standard, he said: “Oh, yeah, we are open to everything on that.” He continued: A number of investor-owned utilities are setting a net-zero, carbon-free or similar goals by 2050 or sooner on their own. These carbon reduction goals may be more achievable than we realized. Things are moving at warp speed. They really are. Sounds promising! “Joe Manchin understands that we’re in an energy transition and he understands the economic opportunity in clean energy,” Ricketts told me. “Hence the bill he just introduced with [Michigan Sen. Debbie] Stabenow to invest a billion dollars in clean-energy manufacturing, half of that for communities where coal plants or coal mines have closed in the last few years.” But in a January interview with the more conservative Washington Examiner, Manchin sounded a more skeptical note in response to questioning about a CES, saying: The market will take you there. We have moved the date farther ahead than we ever thought we would have, and we have done it without total mandates. … I will look and see what they are doing. Anything we pass sure as heck should be feasible. Just setting an artificial date doesn’t always work. You have to have faith in American ingenuity. He also emphasized that “you can use coal and oil and gas in much cleaner fashion.” At a February event for the Bipartisan Policy Center, Manchin was asked whether there are 50 votes in the Senate for any kind of carbon tax. He was flatly negative: Right now, no. No. They want to have a conversation how we improve our climate and do it in a responsible way? Yeah, they’d have me, in a heartbeat. They want to talk about this as a penalty? Forget it, as long as I’m here and there’s 50 votes and it takes 51 to pass it. Seems pretty clear. But later, when asked about a CES, he leaves the door open: You can’t put a yes or no answer on that. Are you gonna commit to the money that it takes to do the technology, that we can prove it under commercial load, that can show we can get to zero? That’s all. But I’m not gonna do it by elimination, I can tell you that. Because the rest of the world is not gonna follow us. What one makes of all this depends on one’s larger Theory of Manchin, whether one takes him literally or seriously. If we take him literally, he makes no sense. There is no way to get to net-zero emissions without eliminating carbon-emitting sources. There is no way to eliminate except “by elimination.” Nor will the market alone “take us there,” at least not fast enough. Any serious clean-electricity policy includes both carrots and sticks — there is no credible carrots-only alternative. But if we take Manchin seriously, he is simply saying that he will work to ensure that the fossil fuel sources and communities in his state are taken care of through the transition. The literal concern cannot be accommodated in a net-zero plan; the serious concern can. If Manchin just wants subsidies for carbon capture and economic redevelopment in coal country, they can easily be integrated into a bill that is being discussed in the multi-trillion-dollar range. Even those in the climate community who view carbon capture with suspicion realize that 50 votes means 50 votes and the most conservative Dems must be brought along. There’s no real question about whether some version of a CES can work for reconciliation. “Congress can design a policy that comports with the Byrd rules,” Stokes told me. “The program would simply have to be centered around a series of budgetary outlays and penalties. I am confident that this approach can fit within the rules of budget reconciliation.” The question is whether there’s a version of a CES that can work for Manchin. It’s easy to imagine him rendering the policy toothless, full of exemptions and loopholes. It’s also easy to imagine him putting up a big theatrical fuss, as he did on the Covid-19 relief bill, and then voting the right way when the time comes. The quest for bipartisanship and the prospects for filibuster reform For now, Manchin is telling everyone who will listen that he doesn’t want to pass another big bill through reconciliation (see here, here, here, here, here, and most recently, here). His interview with Axios includes an incredible line. Asked if he believes it’s possible to get 10 Republicans on the infrastructure package, which could yield the 60 votes needed under normal Senate rules, Manchin said: “I sure do.” Let’s be very clear: There is no universe in which 10 Senate Republicans cross the aisle to lend bipartisan credibility to a high-profile, multi-trillion-dollar Democratic infrastructure bill, not in the lead-up to crucial midterm elections that could give them the House. Doing so would be against their political interests, not to mention a clear pattern of behavior stretching back over a decade. Mitch McConnell is never going to let that happen. Does Manchin really believe it? Maybe. Another theme in his interviews is his deep faith that personal relationships can bridge the partisan divide. He has long had a close working relationship with Alaska Sen. Lisa Murkowski; she is one of many Republicans he considers close friends. Nonetheless, Manchin is a savvy politician, so perhaps he knows he will not get the cooperation he seeks. Perhaps he is simply determined to try in good faith, and to be seen and heard doing so, so that when the time comes — when Republicans inevitably filibuster the bill — he will have the credibility to turn to filibuster reform. Last week on Meet the Press, after months of relentlessly negative comments on filibuster repeal, Manchin expressed openness to filibuster reform: “If you want to make [filibustering] a little bit more painful — make them stand there and talk — I’m willing to look at any way we can.” That’s all that’s needed. There is only one filibuster reform that truly matters: Any filibuster must actually end. It is a form of debate, a way for the minority to be heard, but there must be some conclusion, some way to proceed from debate to a vote — an up-or-down, majority-wins vote on the bill, as the country’s founders intended. If Manchin supports that kind of filibuster reform, he may be able to bring other Senate rules obsessives like Arizona Sen. Kyrsten Sinema along with him. It’s been enough to make McConnell nervous. If filibuster reform does become a live possibility, the competition will be intense for which bills get through in the precious few months before the 2022 midterms. HR1, the PRO Act, the upcoming immigration bill, and the Build Back Better bill will all be on the table. If Manchin isn’t willing to use reconciliation for another big bill, and he isn’t willing to budge on the filibuster, then he will consign most of the Democrats’ agenda, including a CES and most of the rest of their climate agenda, to the same trash heap where Obama’s post-2010 hopes were discarded. It doesn’t seem like Manchin wants to go down in history as the man who ~~hobbled~~ [inhibited] another Democratic administration and paved the way for another Trump.

#### Every thumper is reason there’s zero room for error and quickly infrastructure push is key

Montonaro, 8-24 – Domenico, “Here's How Democrats Get Their Domestic Agenda Through — And It's Not Easy,” NPR, <https://www.npr.org/2021/08/24/1027592836/heres-how-democrats-get-their-domestic-agenda-through-and-its-not-easy> -- Iowa

For Democrats, getting their historic domestic agenda done was already going to be a tough needle to thread, with a narrowly divided Congress and tensions within the party itself. But now, because of the resurgent coronavirus due to the delta variant and the chaotic U.S. withdrawal in Afghanistan, President Biden's approval rating has dropped. His reduced influence and political capital don't leave much room for error on items that might be difficult to get through Congress. And it doesn't get much more challenging than the path Democratic leaders are going down, pushing dual-track, multitrillion-dollar pieces of legislation — a $1 trillion infrastructure bill and a budget plan that could be $3.5 trillion. "I think it is like backing a big semitrailer truck into a small loading dock," David Axelrod, a former senior adviser in the Obama White House, said in a recent interview. "It is an arduous, precise kind of maneuver where you have to move a little to the left, a little to the right, and hope at the end of the day, you land it right." At the same time, Biden's recent political troubles have increased Democrats' sense of urgency to get as much done as possible, as quickly as possible, especially as party leaders and operatives are growing increasingly pessimistic about Democrats retaining control of the House of Representatives after next year's elections.

#### Biden has momentum despite every thumper but focus and PC are try or die

Cuts emissions by 50% by 2030!

Cochrane, 8-27 – Jim Tankersley and Emily Cochrane. “Biden, Needing a Win, Enters a Sprint for His Economic Agenda,” The New York Times - International Edition, p. Nexis Uni – Iowa

WASHINGTON - President Biden, his aides and his allies in Congress face a September sprint to secure a legislative victory that could define his early presidency. Democrats are racing the clock after party leaders in the House struck a deal this week to advance the two-track approach that Mr. Biden hopes will deliver a $4 trillion overhaul of the federal government's role in the economy. That agreement sets up a potentially perilous vote on one part of the agenda by Sept. 27: a bipartisan deal on roads, broadband, water pipes and other physical infrastructure. It also spurred House and Senate leaders to intensify efforts to complete a larger, Democrats-only bill to fight climate change, expand educational access and invest heavily in workers and families, inside that same window. If the party's factions can bridge their differences in time, they could deliver a signature legislative achievement for Mr. Biden, on par with the New Deal or Great Society, and fund dozens of programs for Democratic candidates and the president to campaign on in the months to come. If they fail, Mr. Biden could find both halves of his economic agenda dashed, at a time when his popularity is slumping and few if any of his other top priorities have a chance to pass Congress. The president finds himself at a perilous moment seven months into his term. His withdrawal of American troops from Afghanistan has devolved into a chaotic race to evacuate tens of thousands of people from the country by the month's end. After throwing a July 4 party at the White House to "declare independence" from the coronavirus pandemic, he has seen the Delta variant rampage through unvaccinated populations and send hospitalizations and death rates from the virus soaring in states like Florida. Mr. Biden's approval ratings have dipped in recent months, even on an issue that has been an early strength of his tenure: the economy, where some recent polls show more voters disapproving of his performance than approving it. The country is enjoying what will most likely be its strongest year of economic growth in a quarter century. But consumer confidence has slumped in the face of rapidly rising prices for food, gasoline and used cars, along with shortages of home appliances, medical devices and other products stemming from pandemic-fueled disruptions in the global supply chain. While unemployment has fallen to 5.4 percent, workers have not flocked back to open jobs as quickly as many economists had hoped, creating long waits in restaurants and elsewhere. Private forecasters have marked down their expectations for growth in the back half of the year, citing supply constraints and the threat from the Delta variant. White House economists still expect strong job gains through the rest of the year and a headline growth rate that far exceeds what any forecasters expected at the start of 2021, before Mr. Biden steered a $1.9 trillion stimulus plan through Congress. But the White House economic team has lowered informal internal forecasts for growth this year, citing supply constraints and possible consumer response to the renewed spread of the virus, a senior administration official said this week. Mindful of that markdown, and of what White House economists estimate will be a hefty drag on economic growth next year as stimulus spending dries up, administration officials have mounted a multiweek blitz to pressure congressional moderates and progressives to pass the spending bills that officials say could help reinvigorate the recovery - and possibly change the narrative of the president's difficult late summer. The importance of the package to Mr. Biden was clear on Tuesday, when he pre-empted a speech on evacuation efforts in Afghanistan to laud House passage of a measure that paves the way for a series of votes on his broader agenda. "We're a step closer to truly investing in the American people, positioning our economy for long-term growth, and building an America that outcompetes the rest of the world," the president said. Many steps remain before Mr. Biden can sign both bills into law - but his party has given itself only a few weeks to complete them. The infrastructure bill is written. But the House and Senate must agree on the spending programs, revenue increases and overall cost of the larger bill, balancing the desires of progressives who see a generational chance to expand government to address inequality and curb climate change and moderates who have pushed for a smaller package and resisted some of the tax proposals to pay for it. It is a timeline reminiscent of what Republicans set for themselves in the fall of 2017, when they rushed a nearly $2 trillion package of tax cuts to President Donald J. Trump's desk without a single Democratic vote. Sticking to it will require sustained support from administration officials both in and out of Washington. In the first three weeks of August, Mr. Biden dispatched cabinet members to 31 states to barnstorm for the infrastructure bill and his broader economic agenda, with events in the districts of moderate and progressive members of Congress, according to internal documents obtained by The New York Times. His secretaries of transportation, labor, interior, energy, commerce and agriculture sat for dozens of local television and radio interviews to promote the bills. Even with those efforts, the initial clash over advancing the budget this week was resolved with a flurry of calls from Mr. Biden, top White House officials and senior Democrats to the competing factions in the House. Congressional leaders say they have spent months laying the groundwork so that their party can move quickly toward consensus. Speaker Nancy Pelosi of California told colleagues in a letter on Wednesday that "we have long had an eye to having the infrastructure bill on the president's desk by the Oct. 1," the date when many provisions in the bipartisan package are slated to go into effect. Committee leaders have been instructed to finish their work by Sept. 15, and rank-and-file lawmakers have been told to make their concerns and priorities known quickly as they maneuver through substantive policy disagreements, including whether it should be as much as $3.5 trillion and the scope of Mr. Biden's proposed tax increases. "I'm sure everybody's going to try their best," said Representative John Yarmuth of Kentucky, the House Budget Committee chairman. "Some committees will have it rougher than others." Senator Ron Wyden of Oregon, the chairman of the Senate Finance Committee, has been releasing discussion drafts of proposals to fund the $3.5 trillion budget reconciliation spending - the larger bill that Democrats plan to move without any Republican support - including raising taxes on high earners and businesses. On Wednesday, he provided granular details of a plan to increase taxes on the profits that multinational companies earn and book overseas. "I'm encouraged by where we are," Mr. Wyden said in an interview. Democratic leaders and the White House have pushed analyses of their proposals that speak to core liberal priorities; on Wednesday, Senator Chuck Schumer of New York, the majority leader, released a report suggesting the two bills combined would "put our country on the path to meet President Biden's climate change goals of 80 percent clean electricity and 50 percent economywide carbon emission reduction by 2030." White House economists released a detailed report this week claiming the spending Mr. Biden supports, like universal prekindergarten and subsidized child care, would expand the productive capacity of the economy and help reduce price pressures in the future. While Republicans are not expected to get on board with the larger spending bill, they are still making their concerns known, labeling the bill socialist and a spending spree and claiming it will stoke inflation and drive jobs overseas. Mr. Biden can pass the entire agenda now with only Democratic votes, but the party's thin majorities - including no room for even a single defection in the Senate - complicates the task. Ms. Pelosi said on Wednesday that the House would "write a bill with the Senate, because there's no use our doing a bill that is not going to pass the Senate, in the interest of getting things done." As part of an agreement to secure the votes needed to approve the $3.5 trillion budget blueprint on Tuesday, Ms. Pelosi gave centrist and conservative Democrats a commitment that she would only take up a reconciliation package that had the support of all 50 Senate Democrats and cleared the strict Senate rules that govern the fast-track process. "I'm not here to pass messaging bills - I'm here to pass bills that will actually become law and help the American people," said Representative Stephanie Murphy of Florida, one of the Democrats who initially announced that she would not support advancing the budget, but ultimately joined every Democrat in advancing it. For moderates, Ms. Pelosi's commitment served to shield them from potentially tough votes on provisions that the Senate may reject. It also signaled the political realities that could shape the final legislation. No Democrat will want to vote on a large spending bill doomed for failure. It will be Mr. Biden's job to lead his coalition to a bill that can pass muster with moderates and progressives alike - and to convince every holdout that failure is not an option.

#### It’s only about what Biden presses – he’s pressing climate

Kate Sullivan, Cnn, 9-2-2021, "Biden says he'll press Congress on infrastructure after wildfires and Ida wreak havoc on US: 'The climate crisis is here'," CNN, <https://www.cnn.com/2021/09/02/politics/biden-hurricane-ida/index.html> -- Iowa

(CNN) President Joe Biden said Thursday he plans to press Congress to take further action on his infrastructure proposals that he says will better prepare the nation for future natural disasters and the effects of climate change.

Speaking hours after remnants of Hurricane Ida caused dangerous flash floods and tornadoes across the Northeast and as wildfires burn their way across the western US, Biden said his infrastructure proposals would shore up infrastructure that will be challenged in the coming decades.

#### The bill slashes emissions 50% before 2030

Ella Nilsen, Cnn, 8-25-2021, "Climate measures in reconciliation, infrastructure bills will mostly meet Biden's emissions goals, Schumer says," CNN, <https://www.cnn.com/2021/08/25/politics/reconciliation-climate-change-emissions-schumer-biden/index.html> -- Iowa

(CNN) An analysis from Senate Majority Leader Chuck Schumer's office estimates that combined, the bipartisan infrastructure bill and $3.5 trillion budget reconciliation bill can meet the majority of President Joe Biden's target to drastically slash emissions by the end of the decade.

In a letter sent Wednesday to congressional Democrats, Schumer said new analysis shows the combined impact of both bills would put the US on track to reduce its greenhouse gas emissions by approximately 45% below 2005 levels by 2030.

"When you add Administrative actions being planned by the Biden Administration and many states -- like New York, California, and Hawaii -- we will hit our 50% target by 2030," Schumer wrote in the letter.

#### Infrastructure checks warming – five reasons

* Zero carbon emissions in the power sector by 2035
* Renewables (solar, wind)
* Clean tech (government fleet conversion)
* Efficiency (4mn top class building upgrades by 2025)
* CCS

Glueck and Friedman, 20 (Katie Glueck is a national politics reporter at The New York Times. Lisa Friedman is a reporter on the climate desk at The New York Times, focusing on climate and environmental policy in Washington. July 14, “Biden Announces $2 Trillion Climate Plan,” https://www.nytimes.com/2020/07/14/us/politics/biden-climate-plan.html) iowa js

[Joseph R. Biden Jr.](https://www.nytimes.com/interactive/2020/us/elections/joe-biden.html) announced on Tuesday a new plan to spend $2 trillion over four years to significantly escalate the use of clean energy in the transportation, electricity and building sectors, part of a suite of sweeping proposals designed to create economic opportunities and strengthen infrastructure while also tackling climate change. In a speech in Wilmington, Del., Mr. Biden built on his plans, [released last week](https://www.nytimes.com/2020/07/09/us/politics/biden-buy-american.html), for reviving the economy in the wake of the coronavirus crisis, with a new focus on enhancing the nation’s infrastructure and emphasizing the importance of significantly cutting fossil fuel emissions. As he denounced [President Trump](https://www.nytimes.com/interactive/2020/us/elections/donald-trump.html)’s stewardship of the virus and climate change, he drew criticism from Republicans — but he also faced a key test from progressives who have long been skeptical of the scope of his climate ambitions. “These are the most critical investments we can make for the long-term health and vitality of both the American economy and the physical health and safety of the American people,” he said. “When Donald Trump thinks about climate change, the only word he can muster is ‘hoax.’ When I think about climate change, the word I think of is ‘jobs.’” The proposal is the second plank in Mr. Biden’s [economic recovery plan](https://www.nytimes.com/2020/07/09/us/politics/biden-buy-american.html). His team sees an opportunity to take direct aim at Mr. Trump, who has struggled to deliver on his pledges to pay for major improvements to American infrastructure. “Seems like every few weeks when he needs a distraction from the latest charges of corruption in his staff, or the conviction of high-ranking members of administration and political apparatus, the White House announces, quote, ‘It’s Infrastructure Week,’” Mr. Biden said, referring to a [long-running Washington joke](https://www.nytimes.com/2019/05/22/us/politics/trump-infrastructure-week.html). “He’s never delivered. Never really even tried. Well, I know how to get it done.” Throughout his remarks, Mr. Biden sought to signal that he grasps the urgency of global climate challenges while also casting the issue as the next great test of American ingenuity. “I know meeting the challenge would be a once-in-a-lifetime opportunity to jolt new life into our economy, strengthen our global leadership, protect our planet for future generations,” Mr. Biden said. “If I have the honor of being elected president, we’re not just going to tinker around the edges. We’re going to make historic investments that will seize the opportunity, meet this moment in history.” Even before Mr. Biden spoke, Mr. Trump’s allies painted the plan as a costly threat to jobs in the energy sector, and his campaign sought to link the proposal to the Green New Deal, the far-reaching climate plan. Early Tuesday evening, in an appearance from the White House Rose Garden, Mr. Trump launched into a rambling attack on his opponent filled with falsehoods and baseless claims, while also seeking to paint Mr. Biden and his environmental plan as radical. Mr. Biden’s “agenda is the most extreme platform of any major party nominee, by far, in American history,” Mr. Trump said. Referring to Mr. Biden’s primary opponent, the progressive Senator Bernie Sanders, he continued, “I think it’s worse than actually Bernie’s platform.” In fact, many liberals have long been unenthusiastic at best about Mr. Biden, a former Delaware senator who staunchly opposes a range of progressives’ top priorities: He has said that he does not support “Medicare for all” or defunding the police, he has not fully endorsed the Green New Deal and has reservations about marijuana legalization. His record on issues like criminal justice has drawn fierce criticism from the left, and some in his party view his reverence for bipartisan deal-making as naïve. Still, his climate plan does appear to have made some inroads with progressive Democrats. “This is not a status quo plan,” said Gov. Jay Inslee of Washington, a prominent environmentalist who ran a [climate-focused campaign](https://www.nytimes.com/2019/08/21/us/politics/jay-inslee-2020-campaign.html) for the Democratic presidential nomination and later [endorsed Mr. Biden](https://www.nytimes.com/2020/04/22/us/politics/jay-inslee-endorses-biden.html). He added: “It is comprehensive. This is not some sort of, ‘Let me just throw a bone to those who care about climate change.’” **Mr. Inslee called** the proposal “visionary.” Mr. Biden’s plan outlines specific and aggressive targets, including achieving an emissions-free power sector by 2035 and upgrading four million buildings over four years to meet the highest standards for energy efficiency. Mr. Biden’s remarks sometimes assumed a populist bent, directly challenging Mr. Trump’s efforts to woo workers in the industrial Midwest with promises of “America First” job policies. As Mr. Biden discussed converting government vehicles into electric vehicles, he promised that “the U.S. auto industry and its deep bench of suppliers will step up, expanding capacity so that the United States, not China, leads the world in clean vehicle production.” And he offered a vision for “new, clean, made-in-America vehicles” to be made more accessible to American consumers as well. He also pressed the need to link environmental advocacy to racial justice, describing pollution and other toxic harms that disproportionately affect communities of color. His plan calls for establishing an office of environmental and climate justice at the Justice Department and developing a broad set of tools to address how “environmental policy decisions of the past have failed communities of color.” Mr. Biden set a goal for disadvantaged communities to receive 40 percent of all clean energy and infrastructure benefits he was proposing. He also made explicit references to tribal communities and called for expanding broadband access to tribal lands. Elizabeth Kronk Warner, the dean of the S.J. Quinney College of Law at the University of Utah and a citizen of the Sault Ste. Marie Tribe of Chippewa Indians, said she was pleasantly surprised by Mr. Biden’s plan. “Usually environmental justice is an afterthought or it’s not clearly quantified,” she said. “As a citizen of a tribe, I very much appreciate that he explicitly references tribal communities.” In a call with reporters on Tuesday morning, senior Biden campaign officials said the proposal was the product of discussions with climate activists and experts; union officials and representatives from the private sector; and mayors and governors. Evergreen Action, an organization that advocates far-reaching climate goals and is led by a number of former Inslee staff members, also discussed ideas with Mr. Biden’s staff in recent months, the organization said. Mr. Biden’s original plan called for spending $1.7 trillion over 10 years with a goal of achieving net-zero emissions before 2050. **The new blueprint significantly** increases the amount of money and accelerates the timetable. To pay for it, campaign officials said, Mr. Biden proposes an increase in the corporate income tax rate to 28 percent from 21 percent, “asking the wealthiest Americans to pay their fair share,” and using some still-undetermined amount of stimulus money. Mr. Biden’s team said the proposal included a combination of executive actions and legislation. The legislation would require congressional cooperation. That is hardly a certainty in a partisan political environment, especially if Republicans maintain control of the Senate or retake the House of Representatives, even as polls show the G.O.P. facing major political headwinds. Representative Steve Scalise, Republican of Louisiana and the House Republican whip, suggested the plan was a boondoggle. “The only thing I can think of is that is Solyndra on steroids,” he said on a Trump campaign call, referring to the California solar company that went bankrupt and had received a $535 million loan guarantee from the Obama administration. “You would have higher energy costs and you would see who gets hit the hardest — it’s low-income families.” Mr. Biden insisted that “these aren’t pie-in-the-sky dreams,” saying, “These are actionable policies.” One major element of the announcement will include charting a path to zero carbon pollution from the U.S. electricity sector by 2035. According to the Energy Information Association, coal and natural gas still account for more than 60 percent of the sector. Campaign officials said they expected to achieve the goal by encouraging the installation of “millions of new solar panels and tens of thousands of wind turbines,” but also keeping in place existing nuclear energy plants. The plan also will call for investing in carbon capture and storage technology for natural gas. Under the plan, Mr. Biden also promises new research funding and tax incentives for carbon-capture technology. Kathleen Sgamma, the president of the Western Energy Alliance, which represents oil and gas companies, said Mr. Biden’s goals were “unrealistic” and would hurt energy producers. “We’ll focus on moderating these policies once Biden moves from appeasing the left during the campaign to potentially governing,” she said.

#### Try-or-die in 2021. Even if the terminal is a bit further off, the path to extinction will be permanently set this year

Rowlatt 21 (Justin, “Why 2021 could be turning point for tackling climate change,” *BBC*, <https://www.bbc.com/news/science-environment-55498657>)

Countries only have only a limited time in which to act if the world is to stave off the worst effects of climate change. Here are five reasons why 2021 could be a crucial year in the fight against global warming. Covid-19 was the big issue of 2020, there is no question about that. But I'm hoping that, by the end of 2021, the vaccines will have kicked in and we'll be talking more about climate than the coronavirus. 2021 will certainly be a crunch year for tackling climate change. Antonio Guterres, the UN Secretary General, told me he thinks it is a "make or break" moment for the issue.

#### We’re approaching the tipping point, but there’s time to avert it

Evers 19 - editor at SPIEGEL's science department

Marco, 12-12-2019, The Time to Save the Climate Is Now, Der Spiegel, https://www.spiegel.de/international/world/is-it-too-late-to-save-the-climate-a-1300898.html

There is no longer any doubt: The pace of climate change is accelerating. Of the 20 hottest years measured since records began, 19 have occurred since 2000. The top five were the last five years. Summer 2019 saw a new temperature record set in Germany of 42.6 degrees Celsius (108 degrees Fahrenheit) and 46 degrees in France. Preliminary findings indicate that the world experienced its warmest average temperatures ever during the months of June, July, September and October of this year. Only the El Niño-fueled year of 2016 remains unsurpassed, with temperatures boosted by the natural weather phenomenon that heats up the eastern Pacific every few years. Indeed, 2019 could ultimately beat out 2015 for second place and will definitely exceed 2017, 2018 and, as has been clear for some time, each of the 1,000 years before that. It is, of course, not possible to accurately predict where 2020 will fit in. It is clear, however, that the coming year will once again be marked by extreme weather events such as heat waves, excessive rainfall, thawing of permafrost, glacier melting, tropical storms, forest fires and droughts, even though it remains difficult to attribute a single weather event to climate change. The Greenhouse Age The new Greenhouse Age is dawning irrevocably, and the state of the world is becoming increasingly precarious. In October 2019, global sea levels were at their highest ever since the start of satellite measurements in 1993. The oceans are warmer than ever before, and the ice sheets of Greenland and the ice shelves of West Antarctica have thinned to an even greater extent than predicted. The cause of the highest temperatures in a millennium can be found in the atmosphere. Never before in the past 3 million years has our atmosphere stored as much of the greenhouse gas carbon dioxide (CO2) as it does right now. Before the Industrial Revolution, the concentration of CO2 in the atmosphere remained relatively constant for thousands of years at between 260 and 280 parts per million (ppm). But then, mankind began burning ever-increasing amounts of fossil fuels and the CO2 content of the atmosphere rose. The planet reached a value of 320 ppm in May 1960. On May 9, 2013, that figure crossed the 400-ppm threshold for the first time. And in 2019, the concentration reached its record level of 415.7 ppm. The values decrease slightly from May to September owing to the abundance of plants growing in the Northern Hemisphere in summer that absorb CO2 through photosynthesis. Next spring, though, is sure to set a new record, because despite the Paris Climate Protection Agreement of 2015 and annual climate conferences like the one currently being held in Madrid, global CO2 emissions are still on the rise. After stagnating between 2014 and 2016, they have been growing ever since. This is the shocking truth about the "climate crisis" that the European Parliament and many countries and cities declared in 2019. At least since the Rio de Janeiro Earth Summit in 1992, researchers have been warning that CO2 emissions need to be reduced. But that hasn't happened. On the contrary, annual global CO2 emissions have increased by 60 percent since then. Four years ago in Paris, countries set the goal of limiting global warming to well below 2 degrees Celsius by 2100 or, if possible, even 1.5 degrees Celsius. The Intergovernmental Panel on Climate Change (IPCC) calculated one year ago that it is even still theoretically possible to meet the lower of the two targets, but doubts persist about whether it is still feasible politically, economically and in practical terms. The world has already warmed by 1.1 degrees compared to pre-Industrial Revolution levels. The IPCC believes that meeting the 1.5-degree target would require an extremely ambitious effort, requiring that the world halve its CO2 to roughly the level of 1979. And we would have to do so by 2030, just 10 years from now. It would also require that CO2 emissions be further reduced to zero by 2040. For the more realistic 2-degree target, CO2 emissions would have to be reduced by a quarter by 2030. If both targets are missed, the only other possibility for a future with a climate that is still bearable would be for humanity to find a way to artificially extract hundreds of billions of tons of CO2 from the atmosphere at extremely high costs, using large-scale technologies for which there are no guarantees that they will work. 'Nowhere Near on Track' The prospects for reaching the 1.5-degree goal, though, are "on the brink of becoming impossible," researchers warned in the annual "Emissions Gap Report" compiled by the UN Environmental Program and released on Nov. 26. The report takes a look at the CO2 reductions countries should be undertaking with those that they are actually achieving. Enormous discrepancies become apparent in the report. Even if the countries were to achieve all the climate change goals they have committed themselves to so far, global warming would still exceed 3 degrees Celsius by 2100, according to the report. This would cause a sea level rise of half a meter (1'8"), meaning cities like Miami or Shanghai might have to be abandoned. In order to achieve the 1.5-degree target, though, the countries of the world would have to multiply their efforts -- and ensure that they emit 32 billion tons less CO2 by 2030. The UNEP report states that even just 2-degree target would require a rapid reduction of total CO2 emissions by around 15 billion tons. It's not impossible, but it is extremely difficult. Researchers who worked on the UN report say achieving the 1.5 degree goal would require that each country reduce its CO2 emissions by 7.6 percent each year between 2020 and 2030. In order to achieve the 2-degree target, reductions of 2.7 percent per year are necessary. "We are nowhere near on track to meet the Paris Agreement target," said Petteri Taalas, secretary-general of the World Meteorological Organization, summing up the situation. Meanwhile, UNEP head Inger Anderson has said that "radical transformations" of economies and societies toward increased sustainability are now needed. Otherwise, she says, we will find ourselves facing a "planet radically altered by climate change." There is no third option. The UNEP report is critical of lack of action taken by countries around the world despite the promises they have made. When the first "Emissions Gap Report" was released in 2010, many countries promised to phase out subsidies for fossil fuels, but little has happened since then. Others promised to stop deforestation, but often enough, words weren't followed by deeds. The organization is now urging G-20 countries to adopt a series of tough measures. The EU should stop generating power from coal, for instance, and forget about installing gas pipelines from Russia. Europe should also abolish the combustion engine, make buildings more energy-efficient more quickly and massively expand local public transportation everywhere. The new head of the European Commission, Ursula von der Leyen, announced a "European Green Deal" on Wednesday, which the commission said would likely require investments of over 1 trillion euros in additional climate protection measures by 2030. The aim is for the entire Continent to become carbon-neutral by 2050, at least according to the official plan. The measures that will ultimately be taken to achieve this, however, will likely fall short of UNEP's demands. The tone of the UNEP report is largely pessimistic, but it does contain passages that leave some room for optimism. The cost of producing renewable energy has fallen much faster than experts thought possible just a few years ago. The price of solar energy, for instance, has dropped by more than 75 percent since 2010, while the price of wind power has gone down by around 35 percent. In many parts of the world, renewables are already the cheapest source of energy. A surprising number of coal-fired power plants are therefore being shut down sooner than expected, or are simply not built in the first place. The report's authors see enormous -- and realistic -- potential for reducing CO2 by 2030 in the areas of green power generation, reforestation, electromobility and more energy-efficient industry. So, has the era of renewable energies finally dawned? Not entirely. Tipping Points UNEP and its partners, including the Stockholm Environment Institute, have published another report. This one examines just how many fossil fuels will be extracted from the earth in the foreseeable future on the basis of decisions that have already been made, investment commitments or permits that have been granted. The result: Unless governments intervene on a massive scale, the amount of oil, coal and gas being extracted and burned will be 50 percent more than otherwise permitted under the 2 degrees Celsius target, and more than twice as much as the 1.5 degrees Celsius target. At the moment, the global mean temperature is rising by 0.2 degrees Celsius per decade. From this, barring some radical about-face, it can be surmised that the earth will already be 1.5 degrees hotter in 2040 than in the pre-industrial era -- 60 years sooner than predicted by the Paris Climate Agreement. Prospects like these make some climate researchers nervous, because as global temperatures rise, so does the risk that so-called tipping points in the climate system will be reached. If these thresholds are exceeded, self-reinforcing and perhaps irreversible processes could occur that might lead to even more warming. A Stalled Gulf Stream This is already happening with sea ice in the Arctic. Because it's so bright, it reflects massive amounts of solar energy back into space. But if the ice melts due to global warming, like it is already doing in the summer months, that solar energy gets absorbed by the sea, which then heats up and melts even more ice. A warmer Arctic also results in more permafrost thawing, which allows huge amounts of methane, a particularly potent greenhouse gas, to escape into the atmosphere. In turn, the temperature rises even further and more ice melts on, say, Greenland. This fresh water then pours into the Atlantic, which could cause sea levels around the world to rise and could also alter the Gulf Stream, the strong ocean current that warms Western and Northern Europe. The Gulf Stream is primarily driven by the thick, heavy salt water that sinks along Greenland's coast. If this water is diluted by enough fresh water, the current could weaken, which would disrupt ocean circulation worldwide. In the scientific journal Nature, researchers from the Potsdam Institute for Climate Impact Research (PIK) and other organizations have now expressly warned against these and other tipping points. It is conceivable that some of these could trigger others like dominoes; if a critical mass is reached, the earth's composition could be changed quite abruptly. Our planet is already considerably warmer and it could be "dangerously close" to these tipping points. This possibility, though theoretical, constitutes "a planetary emergency" and "an existential threat to civilization," PIK founder Hans Joachim Schellnhuber and his colleagues write. Does this count as alarmism? Absolutely. Other climate researchers have their doubts as to whether these tipping points are really that imminent. But what if they are?

#### Biden’s XO is modest, incrementalist, pebble-throwing

Silverman**,** 7-9-21 (Jacob, “Biden Wants to Tame Big Tech With a Thousand Paper Cuts,” accessed 8-6-21, <https://newrepublic.com/article/162940/biden-executive-order-big-tech-monopoly>) JFN

On Friday, **the White House announced a** potentially important, if **modest, effort to** further **tamp down the power of the technology industry**. This time the instrument is **an executive order**—the kind of wide-ranging declaration that often gets called “sweeping” or “major,” though **its efficacy may take years to gauge**—that covers everything from competition in the economy to drug prices to reforming a tech sector that is defined by a handful of seemingly unstoppable titans. Offering a mix of general recommendations, requests for action from other government agencies, and new administration policies, the Executive Order on Promoting Competition in the American Economy may be just what our overconsolidated economic system needs. But in tackling the power of a tech sector that has not only wrested control of the economy but remade it in its own data-hungry image, **the Biden administration is** still **throwing pebbles at its enemy’s parapets**. The tech industry has had 20 years to establish a stranglehold over our personal data, attention, and consumer choice. To tackle these problems, we need more, much more. Despite promising to take on the power of Big Tech, President Joe **Biden** and his administration **have** so far **taken a cautiously incrementalist approach**. He’s appointed tough industry critics like Lina Khan to be commissioner of the Federal Trade Commission, but he has yet to name a head of the Justice Department’s antitrust division, a key role for any future enforcement action. In Congress, Democrats have introduced six smallish antitrust bills, but their path out of the House is murky, as ongoing disputes between Republicans and Democrats over how to fight this legislative battle mean that the final bills could look much different than they did in committee—if they make it to a floor vote at all. (It doesn’t help that some Silicon Valley–adjacent Democratic politicians, like Representative Ted Lieu and Representative Ro Khanna, have been less than supportive of the bills.)