# 1AC

## 1AC

### Plan

#### Plan: The United States federal government should substantially increase prohibitions on private sector conduct that is more restrictive of competition than reasonably necessary to enable creation of information technology standards.

### 1AC---Innovation ADV

#### Advantage 1 is Innovation:

#### Current standard setting organization and FRAND enforcement is failing now

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I. Standard Setting and the Competitive Process

The fundamental economics in the information technology sector, driven by network effects, implies that there is enormous value associated with establishing compatibility standards. Popular standards include the mobile broadband standards used in cell phones, which are established by the 3rd Generation Partnership Project (3GPP), and the Wi-Fi technology for wireless local area networks, which is enabled by the 802.11 standard established by the Institute of Electrical and Electronics Engineers (IEEE).4

There are many SSOs, and their rules and procedures differ considerably. In addition to IEEE, leading SSOs include the International Organization for Standardization (ISO), the International Telecommunication Union (ITU), the European Telecommunications Standards Institute (ETSI), the Internet Engineering Task Force (IETF), and the World Wide Web Consortium (W3C).5 SSOs generally establish standards by holding a series of committee meetings among industry participants. These meetings culminate in a vote on a technical specification that describes what features or attributes a product must have in order to comply with the standard. Most SSOs are open to all industry participants and seek to operate on a consensus basis, applying certain voting rules. SSOs do not normally engage in patent licensing, nor do they specify how patent royalties will be divided up among patent holders. They leave that to their members, which in some cases form patent pools to address these issues.6

SSOs adopt specific policies relating to intellectual property rights (IPRs).7 These IPR policies are generally intended to enable the SEP holders to obtain reasonable royalties for licensing their patents, while prohibiting them from charging excessive royalties after other industry participants have committed to the standard. At that point, firms committed to implementing the standard— which we call “implementers”—would find it very costly to avoid using the patented technology. For this purpose, most SSOs require SEP owners to license their SEPs on FRAND terms.8

FRAND policies are especially necessary because negotiations between SEP holders and implementers generally take place only after the implementers have used and infringed the technologies claimed by the SEPs. Standards involving information and communications technology can involve hundreds or even thousands of SEPs, many with uncertain boundaries for infringement. In addition, a time lag exists between patent application and patent issuance. For these and other reasons, it is impractical for implementers to enter into negotiations for patent licenses with all SEP owners prior to the establishment of a standard and to their implementation of it.9

The fact that patent negotiations generally do not take place until after implementers have used and infringed the technologies has several critical implications. First, at the time of negotiation, implementers are locked into the standard and the technologies claimed by the SEPs—that is, the cost to switch to an alternative technology or standard at that point—ex post—is much greater than it was ex ante, before the patented technology was first included in the standard. Ex post, the patent holder is no longer competing to have its technology included in the standard, nor is it competing to have implementers of the standard use its technology. Instead, because the patent holder owns an asset that is essential to the standard, implementers have no choice but to use the patented technology.

If the standard is commercially successful, implementers are willing to pay a much larger royalty for use of the patented technology than they would have paid ex ante, when the SEP holder faced competition from other technologies. In these circumstances, the SEP holder can be said to have obtained monopoly power in the market in which the patented technology is licensed for use in implementing the standard.10

Second, because of lock-in and the implementer’s ongoing infringement, the potential for litigation looms large in licensing negotiations. In effect, the parties are negotiating about how to settle an infringement suit, and that negotiation is heavily influenced by their predictions as to what the court will do if they cannot agree. This situation is not unique to SEPs; it arises frequently when firms are faced with patent infringement claims for products they have independently developed or technologies they have inadvertently infringed. Patent law addresses such instances by specifying that patent holders are entitled to “reasonable royalties,” defined as the royalties that the parties would have negotiated prior to the infringement and thus prior to lock-in.11 Those hypothetical ex ante royalties reflect the market value of the patent license. Notwithstanding the law’s embrace of this principle, however, as a practical matter, patent holders are generally able to recover more than the ex ante value of the patent when litigation occurs after the implementers are locked in. Further, negotiations in the shadow of litigation after lock-in tend to result in royalties in excess of the ex ante or market value of the patented technology.12

Third, the shadow of litigation is particularly problematic in the communications and technology sector, in which products typically include hundreds or thousands of patented technologies. A court-ordered injunction involving such products would deprive the implementer of not only the value of the technology covered by the patent-in-suit, but also the value of the entire product.13 Implementers that are forced to bear the risk of an injunction are thus induced to agree to royalties greater than those that would be appropriate if only the value of the patented technology were at stake. Those royalties systematically provide SEP holders with excessive compensation in comparison with the benchmark of ex ante royalties.

These implications of lock-in and ex post dealings are well-understood: they represent an example of the general concept of lock-in and opportunism developed by Oliver Williamson.14 The Federal Circuit has also recognized the market distortions caused by the inclusion of patented technologies in public standards and the resulting danger of patent holdup involving SEPs.15

For these and other reasons, the SEP holder has ex post monopoly power that, if left unchecked, would enable it to obtain royalties far in excess of the royalties that it could earn in a competitive market.16 To address this common problem and limit ex post opportunism by SEP holders, SSOs typically require participants that own SEPs to make certain FRAND commitments. In particular, by requiring a commitment to license on “fair and reasonable” terms, the FRAND requirement aims to prevent, or at least reduce, the extent of monopoly pricing by SEP holders. And by requiring a commitment to license on “nondiscriminatory” terms, the FRAND requirement can prevent SEP holders from extracting monopoly premiums by selective licensing or, more important, migrating their monopoly power from the FRAND-regulated market to unregulated standard-implementing product markets by licensing to only one or a few implementers or licensing to selected implementers on discriminatorily favorable terms.

#### Holdup is accentuated by FTC v Qualcomm

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Standards can enhance competition and consumer choice, but they also massively inflate the value of patents deemed essential to the standard, and give their owners the power to sue companies that implement the standard for money damages or injunctions to block them from using their SEPs. When standards cover critical features like wireless connectivity, SEP owners wield a huge amount of “hold-up” power because their patents allow them to effectively block access to the standard altogether. That lets them charge unduly large tolls to anyone who wants to implement the standard.

To minimize that risk, standard-setting organizations typically require companies that want their patented technology incorporated into a standard to promise in advance to license their SEPs to others on fair, reasonable, and non-discriminatory (FRAND) terms. But that promise strikes at a key tension between antitrust and patent law: patent owners have no obligation to let anyone use technology their patent covers, but to get those technologies incorporated into standards, patent owners usually have to promise that they will give permission to anyone who wants to implement the standard as long as they pay a reasonable license fee.

Qualcomm is one of the most important and dominant companies in the history of wireless communication standards. It is a multinational conglomerate that has owned patents on every major wireless communication standard since its first CDMA patent in 1985, and it participates in the standard-setting organizations that define those standards. Qualcomm is somewhat unique in that it not only licenses SEPs, but also supplies the modem chips used by a wide range of devices. These include chips that implement wireless communication standards, which lie at the heart of every mobile computing device.

Although Qualcomm promised to license its SEPs (including patents essential to CDMA, 3G, 4G, and 5G) on FRAND terms, its conduct has to many looked unfair, unreasonable, and highly discriminatory. In particular, Qualcomm has drawn scrutiny for bundling tens of thousands of patents together—including many that are not standard-essential—and offering portfolio-only licenses no matter what licensees actually want or need; refusing to sell modem chips to anyone without a SEP license and threatening to withhold chips from companies trying to negotiate different license terms; refusing to license anyone other than original-equipment manufacturers (OEMs); and insisting on royalties calculated as a percentage of the sale price of a handset sold to end users for hundreds of dollars, despite the minimal contribution of any particular patent to the retail value.

In 2017, the U.S. Federal Trade Commission [sued](https://www.ftc.gov/news-events/press-releases/2017/01/ftc-charges-qualcomm-monopolizing-key-semiconductor-device-used) Qualcomm for violating both sections of the Sherman Antitrust Act by engaging in a number of anticompetitive SEP licensing practices. In May 2019, the U.S. District Court for the Northern District of California agreed with the FTC, identifying numerous instances of Qualcomm’s unlawful, anticompetitive conduct in a comprehensive [233-page opinion](https://www.eff.org/document/ftc-v-qualcomm-district-court-opinion). We were pleased to see the FTC take action and the district court credit the overwhelming evidence that Qualcomm’s conduct is corrosive to market-based competition and threatens to cement Qualcomm’s dominance for years to come.

But this month, a panel of judges from the Court of Appeals for the Ninth Circuit unanimously [overturned](https://www.eff.org/document/ninth-circuit-opinion-ftc-v-qualcomm) the district court’s decision, reasoning that Qualcomm’s conduct was “hypercompetitive” but not “anticompetitive,” and therefore not a violation of antitrust law. To reach that result, the Ninth Circuit made the patent grant more powerful and antitrust law weaker than ever.

According to the Ninth Circuit, patent owners don’t have a duty to let anyone use what their patent covers, and therefore Qualcomm had no duty to license its SEPs to anyone. But that framing requires ignoring the promises Qualcomm made to license its SEPs on reasonable and non-discriminatory terms—promises that courts in this country and around the world have consistently enforced. It also means ignoring antitrust principles like the essential facilities doctrine, which limits the ability of a monopolist with hold-up power over an essential facility (like a port) to shut out rivals. Instead, the Ninth Circuit held rather simplistically that a duty to deal could arise only if the monopolist had provided access, and then reversed its policy.

But even when Qualcomm restricted its licensing policies in critical ways, the Ninth Circuit found reasons to approve those restrictions. For example, Qualcomm stopped licensing its patents to chip manufacturers and started licensing them only to OEMs. This had a major benefit: it let Qualcomm charge a much higher royalty rate based on the high retail price of the end user devices, like smartphones and tablets, that OEMs make and sell. If Qualcomm had continued to license to chip suppliers, its patents would be “exhausted” once the chips were sold to OEMs, extinguishing Qualcomm’s right to assert its patents and control how the chips were used.

Patent exhaustion is a century-old doctrine that protects the rights of consumers to use things they buy without getting the patent owner’s permission again and again. Patent exhaustion is important because it prevents price-gouging, but also because it protects space for innovation by letting people use things they buy freely, including to build innovations of their own. The doctrine thus helps patent law serve its underlying goal—promoting economic growth and innovation. In other words, the doctrine of exhaustion is baked into the patent grant; it is not optional. Nevertheless, the Ninth Circuit wholeheartedly approved of Qualcomm’s efforts to avoid exhaustion—even when that meant cutting off access to previous licensees (chip-makers) in ways that let Qualcomm charge far more in licensing fees than its SEPs could possibly have contributed to the retail value of the final product.

It makes no sense that Qualcomm could contract around a fundamental principle like patent exhaustion, but at the same time did not assume any antitrust duty to deal under these circumstances. Worse, it’s harmful for the economy, innovation, and consumers. Unfortunately, the kind of harm that antitrust law recognizes is limited to harm affecting “competition” or the “competitive process.” Antitrust law, at least as the Ninth Circuit interprets it, doesn’t do nearly enough to address the harm downstream consumers experience when they pay inflated prices for high-tech devices, and miss out on innovation that might have developed from fair, reasonable, and non-discriminatory licensing practices.

We hope the FTC sticks to its guns and asks the Ninth Circuit to go en banc and reconsider this decision. Otherwise, antitrust law will become an even weaker weapon against innovation-stifling conduct in technology markets.

#### Weakened antitrust enforcement emboldens firms to follow Qualcomm’s lead

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While the FRAND process has been highly productive, it is also fragile. Firms are tempted to make commitments at the beginning when the incentive to join is large, but renege on them later when they can profit by doing so. At least in this particular case, private FRAND enforcement had not worked very well. Qualcomm had been able to violate FRAND commitments in order to exclude rivals and obtain higher royalties than FRAND would permit, largely with impunity. Other firms will very likely follow Qualcomm’s lead. If that happens the FRAND system will fall apart, doing irreparable injury to the modern wireless telecommunications network or, at the very least, diminishing the leadership role of the United States in preserving effective network competition.

While governments can be heavily involved in standard set-ting,9 the implementation of technical standards in information technologies is largely the work of private actors. Government involvement is limited mainly to enforcement of contract, intellectual property, or antitrust law. As private actors, those involved in standard setting or compliance are fully subject to the federal antitrust laws.

This Article addresses one question: when is an SSO participant’s violation of a FRAND commitment an antitrust violation, and if it is, of what kind and what are the implications for remedies? It warns against two extremes. One is thinking that any violation of a FRAND commitment is an antitrust violation as well. In the first instance FRAND obligations are contractual, and most breaches of contract do not violate any antitrust law. The other extreme is thinking that, because a FRAND violation is a breach of contract, it cannot also be an antitrust violation. The question of an antitrust violation does not de-pend on whether the conduct breached a particular agreement but rather on whether it caused competitive harm. This can happen because the conduct restrained trade under section 1 of the Sherman Act, was unreasonably exclusionary under section 2 of the Sherman Act, or amounted to an anticompetitive condition or understanding as defined by section 3 of the Clay-ton Act.10 The end goal is to identify practices that harm com-petition, thereby injuring consumers.

The Ninth Circuit’s Qualcomm decision will make antitrust violations in the context of FRAND licensing much more difficult to prove, even in cases where anticompetitive behavior and consumer harm seem clear.11 Indeed, in this case the court itself acknowledged the harm to consumers but appeared to think that they were not entitled to protection.12 If this decision stands, FRAND obligations will to a larger extent have to be settled through private litigation and the federal antitrust enforcement agencies will have a diminished role. Anticompetitive behavior by one firm that is not effectively disciplined will lead others to do the same thing.

#### A trusted and credible system for ICT innovation is critical to rapid tech diffusion and economic growth---absent FRAND, the system will collapse.

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It is easy to take a pessimistic view about whether the system will break. If the current trend continues, the system is likely to break at some point for the simple reason that companies will not trust it anymore. The series of legal disputes witnessed over the past years – sometimes referred to as the “smartphone patent wars” – has been fodder for a pessimistic reading of “the two tales of SEPs”. While it is common in the business world that disputes over patents and licenses are settled in courts, various SEP disputes have revealed problematic aspects of the SEP market that are different from those disputes that follow the normal stream of business and contracts. Often, the SEP disputes are less concerned about the rights and boundaries of patents, and more about antitrust limits to market behavior: they concern market abusive practices and restrictions to competition as much as they are about intellectual property.

If the SEP system actually does break at some point, the consequences would be felt throughout the economy. SEPs have been a critical part of the ICT revolution. SEPs have allowed for the fast rates of innovation diffusion that the world has witnessed over the past quarter of a century. All the computer and Internet related products and services that people are now dependent upon for their private and professional lives are intricate webs of intellectual property. As many as 250,000 patents can be used to claim ownership of some technical specification or design element in a single smartphone (NYT 2012). A laptop, suggests one calculation, implements more than 250 interoperability standards (Biddle et al. 2010), and the number of SEP holders for 3G and 4G standards grew from 2 in 1994 to 130 in 2013 while the number of SEPs rose from fewer than 150 in 1994 to more than 150,000 in 2013 (Galetovic and Gupta 2016). The standardization-body ETSI has registered more than 150,000 declarations of SEPs from companies, and ETSI is just one of many bodies in the world of ICT standardization. For the 3G standard, the same body has about 24,000 patents that have been declared essential. Now, with the economy yet again on the threshold of big technological change, a trusted and credible system for creators and users of technology to standardize proprietary technology would be a boon for innovation, interoperability and – ultimately – the consumers.

And there are reasons for optimism. Although many of the problems in the SEP regimes need to be addressed, the numbers above indicate that the SEP system is in fact attractive to patent holders and SEP implementers. It is easy to see why: neither holders nor implementers are presented with alternative options that on the face of it would be far more profitable for them. In other words, there simply would not be as many patents declared as essential if both creators and users of technology believed the SEP system worked to their disadvantage or was grossly unfair. While the reality for some companies may be that legal disputes and unpredictability prompt them to find other ways than SEPs to get access to key technologies for their products, it remains the case that most stakeholders have strong economic incentives to maintain a balanced SEP system that is trusted.

First, standard essential patents are an asset for creators of technology because, by becoming essential to a standard, their volumes of sales for technologies that users value rise significantly. As many holders want to raise more revenues for their SEPs and – ideally – have the freedom to contract with buyers on their terms, they can expand their customer base when they agree to sell patented technology in accordance with a set of rules that are designed to prevent SEP holders exploiting the weakness of a customer that has grown dependent on having access to their technology.

Second, SEPs are hugely beneficial also to those that buy the licenses – the implementers or users. Through the SEP system, they can access technologies that are interoperable and work with different products and functionalities – and they can do it under conditions that, if history is a guide, in most cases give them stable and predictable terms of contract. As a consequence, both creators and users can focus on their competitive advantages and profit on the economies of scale and specialization. Downstream firms do not need to develop their own upstream technology and upstream firms do not need to package their technologies in end-customer products in order to make their products valuable.

Third, standard-setting organisations (SSOs) also have a big stake in an SEP system that works well – and, like creators and users of technology, they would stand to lose significantly if the SEP system were to collapse.

Lastly, the biggest beneficiaries are individual consumers – those who buy the end products using FRAND-conditioned SEPs. The advent of SEPs and the rules represented by FRAND have enabled a development of fast technology creation and contributed to the rapid diffusion in ICT goods and ICT-based services. The SEP system has also allowed for new competition, both between existing technologies and brands, and from new ones that have stepped into the market with the ambition to disrupt it, again to the benefit of the consumer. It is difficult to imagine that the ICT and digital development would have been as fast as it has been if SEPs had not been a central feature of the market.

The changing fortunes of companies operating in the cellular and smartphone market would not have been possible if there had not been an SEP system that supported competition. Now that the world economy is on the doorstep of new innovations that are dependent on a great number of input technologies – e.g. the Internet-of-Things, transport connectivity and intelligent vehicles – it is crucially important for the consumer that a balanced and functioning SEP system is maintained and that actors in the system converge towards it – which would ultimately meet their economic interests.

#### ICT innovation is key to post-COVID economic recovery and long-term growth.

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Introduction

As the global economy has entered recession in 2020, triggered by the COVID-19 pandemic, the human casualties, and economic damage are perceived to be very large. Even as the health crisis will gradually become manageable, the impact on economic growth can be long-lasting and the recovery path can take several years. In particular, growth drivers such as the pace of job creation, income generation and investment may take several years to get back to pre-crisis trends. Initially the productivity of those growth drivers may be of less concern as the mantra of ‘we’ll do what it takes to avoid worse’ is predominant in this phase of the crisis.

However, once the recovery gets underway the productive use of resources is key to sustained growth. While we do not ignore the short-term challenges of the economic recovery, our primary focus in this paper is on the productivity puzzle from a long-term perspective. Productivity is driven by technological change and innovation which, in turn, depends on investment in human and physical capital as well as in other ‘missing capitals’ often referred to as intangible assets. Indeed, those investments create a positive feedback effect, as the productivity it generates also helps to make more efficient usage of scarce resources in the future. When properly measured and valued, productivity also provides a critical yardstick to realise a fairer distribution of the gains from economic growth to those who bring the resources to bear. It thereby creates the incentives for people to produce and business to invest helping to drive economic growth and raise living standards.

Unfortunately, in the aftermath of the global financial crisis of 2008/2009, many economies around the world, especially advanced economies, have failed to recharge the economy by powering productivity as the key source of growth in the long term. Indeed the latest update of The Conference Board Total Economy Database (July 2020) points at significant weakening in labor productivity growth in Europe up to 2019 (figure 1a–c). While the United States experienced somewhat faster productivity growth from 2017 to 2019 than the Euro Area and the United Kingdom, it still has not recovered to the rates of productivity growth from before the global financial crisis either.

The slowdown in productivity growth over the past 15 years has been well documented. There are multiple causes including an exhaustion of catch-up potential in emerging markets impacting economies along entire global value chains, and the drag from the global financial crisis because of low demand and weak investment, too low interest rates causing misallocations an overreliance on cheap labor, and failing fiscal policies (Bauer et al., 2020; Cette et al., 2016; Crafts, 2018; Dieppe, 2020; Fernald et al., 2017; Syverson, 2016).1 Technical measurement issues regarding inputs and outputs may have played a role as well.

In our earlier work we have stressed the importance of time lags in the adoption of new technologies, and in particular the complexity in generating productivity growth from the latest round of new digital technologies since the early 2010s, including the move toward mobile, ubiquitous access to broadband, the rise of cloud storage and advances in artificial intelligence (AI) and robotics (van Ark, 2016a, 2016b; van Ark and O’Mahony, 2016; van Ark et al., 2016).

While the first priority for economic recovery from the COVID-19 crisis is to restore jobs, it is important that any employment-intensive growth path does go together with a productivity revival. In this paper, we argue that it is possible to avoid another productivity slowdown. Underneath the aggregate figures, there is evidence pointing toward a possible tipping point at which many advanced economies may expect to see more widespread impacts from the adoption and absorption of digital technology on productivity and GDP growth.

In Section 2 we review the latest literature on the productivity impacts of general purpose technologies (GPTs), including the notion of time lapses through which digital technologies result in faster productivity growth. We also look at patterns by which innovation and productivity effects GPTs emerge across industries and disperse across the economy. We explain why the New Digital Economy (NDE) is especially characterised by long lag effects.

In Section 3 we provide an empirical analysis of productivity growth by industry data to observe whether we can detect a distinct pattern across groups of industries pointing to a structural improvement in recent years. We use a taxonomy on digital intensity by industry which was recently developed by the Organisation for Economic Co-operation and Development (OECD) (Calvino et al., 2018), showing that the most digital-intensive industries have experienced a relatively strong performance in terms of labor productivity growth since 2007 and especially since 2013.

In Section 4 of the paper, we discuss the connection between labor and skills in the digital economy, which we believe provides the key to a productivity revival. We developed a new metric on innovation competencies by occupation on the basis of data from the O\*Net database on occupation-specific descriptors in the United States (Hao et al., 2018). When applied to the United Kingdom, we find that innovation competencies point at stronger productivity effects by industry.

In Section 5 we focus on how productivity has been behaving in the short-term during the COVID-19 recession. In particular, we address the potential trade-offs between traditional pro-cyclical recovery effects and scarring effects the recession leaves, especially on the labor market. We argue that increased adoption and usage of digital technologies during the COVID-19 crisis may create a positive productivity effect. In the final section, Section 6, we will review our hypothesis that a productivity revival could be imminent in the light of the recovery from the COVID-19 crisis. In order not to miss this opportunity again, as happened a decade ago, we argue that a coordinated effort from business and policy is needed, and has to be delivered in such a way that the gains from productivity will be more widespread and such that those who provide the resources for growth are incentivised to deliver them in an efficient way.

2. The productivity paradox of the New Digital Economy

It is well known that General Purpose Technologies (GPTs), defined as new methods of producing and inventing new goods and services which are important enough to have a long-term aggregate impact on the economy, can take a significant amount of time to translate to faster productivity growth at the aggregate level of the economy. This is inherent to the three critical characteristics of a GPT as identified by Bresnahan and Trajtenberg (1995).2

1. Pervasiveness –The GPT should spread to most sectors.

2. Improvement –The GPT should get better over time and, hence, should keep lowering the costs of its users.

3. Innovation spawning –The GPT should make it easier to invent and produce new products or processes.

Historical analysis has focussed on productivity trends in previous technology phases (Bakker et al., 2019; Crafts, 2004). Recent literature has shown that the information and communication technology (ICT) revolution of the past 50 years can be characterised as a GPT and doesn’t pale with previous GPTs such as steam technology, electricity and the combustion engine. For example, Hempell (2005) concludes that ‘investment in information and communication technologies (ICT) are closely linked to complementary innovations and are most productive in firms with experience from earlier innovations’. In a more recent analysis of the evolution of the Internet, Simcoe (2015) argues that the modularity of the internet has prevented a fall in return to investments in innovation by ‘facilitating low-cost adaptation of a shared general-purpose technology to the demands of heterogeneous applications’. In a review of the data, Liao et al. (2016) conclude that:

‘...ICT investment does contribute to productivity but not in the usual manner –we find a positive (but lagged) ICT effect on technological progress. We argue that for a positive ICT role on growth to actually take place, a period of negative relationship between productivity and ICT investment together with ICT-using sectors’ capacity to learn from the embodied new technology was crucial. In addition, it took a learning period with appropriate complementary co-inventions for the new ICT-capital to become effective and its gains to be realised. Our findings provide solid, further empirical evidence to support ICT as a general purpose technology’.

#### Growth solves nuclear war.

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What Is To Be Done?

The first marching order is to dodge any kind of perpetual war of the sort that George Orwell outlined in  “1984,” which engulfed the three super states of Eastasia, Eurasia, and Oceania, and made possible the totalitarian Big Brother regime. A long-running Cold War-type confrontation would almost certainly take another form than the one that ran from 1945 until the downfall of the Soviet Union.

What prescriptions can be offered in the face of the escalating competition among the three global powers? First, by staying militarily and economically strong, the United States will have the resources to deter its peers’ hawkish behavior that might otherwise trigger a major conflict. Judging by the history of the Cold War, the coming strategic chess match with Russia and China will prove tense and demanding—since all the countries boast nuclear arms and long-range ballistic missiles. Next, the United States should widen and sustain willing coalitions of partners, something at which America excels, and at which China and Russia fail conspicuously.

There can be little room for error in fraught crises among nuclear-weaponized and hostile powers. Short- and long-term standoffs are likely, as they were during the Cold War. Thus, the playbook, in part, involves a waiting game in which each power looks to its rivals to suffer grievous internal problems which could entail a collapse, as happened to the Soviet Union.

Some Chinese and Russian experts predict grave domestic problems for each other. They also entertain similar thoughts about the United States, which they view as terminally decadent and catastrophically polarized over politics, ethnicity, and the future direction of the country. So, the brewing three-way struggle also involves a systemic contest, which will test the competitors’ economic and political institutions.

At this juncture, the world is entering a standoff among the three great and several not-so-great powers. Averting war, while defending our interests, will prove a challenge, calling for deft policy, political endurance, and economic growth, as well as sufficient military force to keep at bay aggressive states or prevail over them if ever a war breaks out.

#### Holdup threatens the entire IOT economy.

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G. Summary

However, our overall conclusions regarding SEPs are more mixed. Policy and legal changes that have reduced the ability of SEP owners to engage in patent holdup appear to have stalled out, especially as regards reform of the IPR rules at SSOs other than the IEEE. If so, this could have important effects on innovation and efficiency. For example, the “Internet of Things” is a new and growing area where royalty stacking and patent holdup appear to be very real dangers. Devices of all sorts, from thermostats to railroad cars to refrigerators, are being given connectivity using standards developed by SSOs. The price of those chips, and whether the IP contained in them costs $5 or $0.50 or $0.005, will determine the nature of new applications and the rate of adoption.

Failure to prevent patent holdup relating to tomorrow’s information technology and communications standards is likely to cause significant social welfare loss in the years ahead. If new and more effective private solutions relating to standard setting do not emerge to promote innovation and protect consumers, antitrust enforcement is one of the only remaining remedies that seems feasible.

V. Conclusions

Over the past five years, the rewards provided to patent owners in the United States have become more closely matched with the value of the technology they contribute. When rewards and contributions are aligned, economic efficiency is promoted because investments into developing new technologies are commensurate with benefits. These changes have come from legislation, the federal courts, and policy statements and enforcement actions by regulators of various types. However, at this juncture, we see a substantial gap persisting between the ability of some patent owners to monetize their patents and the contributions provided by the technology underlying those patents. With the “Internet of Things” poised to create economic growth, this is a problem worthy of further research and policy attention.

#### Emergence of smart cities depends on IoT applications of 5G interoperability standards---absent FRAND, excessive royalties will undermine sustainable development.

Schwartz 18, \*Matt Schwartz, Privacy Fellowship Coordinator at ACT, App Association; (March 2nd, 2018, “It’s Smart to be FRANDly: How the FRAND Commitment Will Determine the Future of Smart Cities”, https://actonline.org/2018/03/02/its-smart-to-be-frandly-how-the-frand-commitment-will-determine-the-future-of-smart-cities/)

In December, we [outlined](https://actonline.org/2017/12/18/smart-cities-connecting-your-community-through-technology/%5d) the emergence of Smart Cities – cities that harness technological innovations like internet of things (IoT) devices and data analytics to improve essential infrastructure in growing urban centers. The technological foundation of Smart Cities aims to improve public safety, better allocate resources, and meet the needs of citizens more quickly.

A central element to Smart Cities is the comprehensive network of sensors and devices implemented within buildings, roads, traffic signs, and parking meters that allows them to interact with public, and potentially private-owned, infrastructure. These sensors will “speak” to one another, communicating information about energy usage, traffic density, or other elements of city management that have traditionally either been analyzed separately or not tracked at all. The potential of Smart Cities allows data to flow from previously disconnected branches of the city and be processed in real-time, unlocking previously unknown insights.

The powerful interoperability of Smart Cities will rely heavily on standardized technologies developed in organizations like the IEEE, which is responsible for standardizing the wi-fi technology we use every day. Standardized technologies often include standard-essential patents (SEPs), which, like their name suggests, are patents declared essential to an industry standard by a standards-setting organization. In simple terms, one cannot implement the standardized technology without using the patent.

Like regular patents, the users of SEPs must pay royalties or licensing fees to the patent owner before they may use it. For example, if a manufacturing company wants to make an IoT device interoperable with a 5G network, the manufacturer must pay a licensing fee to the owner of the SEP that is essential to the 5G standard. SEPs play a vital role in the new innovations we enjoy and have come to expect, and because of the value of these patents, SEP holders have the ability to demand high license fees from those who wish to implement the standard. To offset this competition issue, many SEP holders voluntarily agree to license their SEPs to any willing licensee under fair, reasonable, and non-discriminatory (FRAND) terms.

While wi-fi and LTE are standards that will be vital to Smart City deployment, countless new standardized technologies are being developed that will be integral to any fully-operational Smart City. With reasonable access to SEPs, assured by the FRAND commitment, innovators can enjoy the legal and business certainty they need to compete. While the meaning of the FRAND commitment continues to be refined – as evidenced by the development of SEP best practices recently launched by the App Association in Europe – its foundations are well-established.

But what happens when SEP holders do not abide by the FRAND licensing commitment, or simply refuse to license at all? Sadly, small and medium-sized companies would be forced to accept untenable licensing terms, but more realistically, they would be priced out of using the standard altogether. As a result, it would impose a barrier to innovation that would result in fewer products offered to consumers or cities eager to implement IoT technologies. For example, many hope the rise of autonomous vehicles will be seamlessly integrated into the Smart City network. But how beneficial would it be if only some autonomous vehicle brands are able to license the technology needed to communicate with traffic lights, simply because of the market power of a chipmaker? The FRAND commitment is an important backstop to that unfortunate possibility.

It is vital for SEP holders to honor FRAND licensing terms, if not for small and medium-sized innovators, then for the sustainability of future Smart Cities. FRAND creates a platform for innovation, providing a floor on which companies can stand, innovate, and compete. If the foundation of the FRAND commitment is reneged, American innovators pay a steep price – not only do they lose a key component of product development and market entry, but they are also left with years of expensive negotiations and litigation if they choose to challenge the licensing practice. What’s more, the confidence developed in the open standards development system is shaken, and Smart Cities have fewer choices in IoT solutions for their future.

To achieve the promise of Smart Cities, a balanced standards ecosystem is essential. We must allow small and medium-sized developers to leverage industry standards for innovation and prevent cost-prohibitive royalty structures and negotiating practices that are detrimental to competition, while also ensuring that SEP owners can protect their intellectual property and be fairly compensated for its use. The FRAND commitment continues to be the best framework to achieve this balance, and adherence to its principles will determine the future and success of Smart Cities.

#### Climate change is anthropogenic and causes extinction---5G-enabled smart cities are critical for mitigation and adaptation.

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Currently, the entire planet is at risk due to continual climate change [1–3]. The recorded increase in average temperature across the world in the past hundred years, and the associated changes attributed to this, are known as global warming. Many scientists are convinced by the published evidence that this change is anthropogenic and resulted from the elevated emission levels of global greenhouse gases (GHGs) [4,5]. Gases such as water vapor, carbon dioxide, methane, nitrous oxide, and ozone are responsible for the absorption and emission of thermal radiation. These changes in the relative quantities of the GHGs induce a proportional change in the amount of preserved solar energy. Presently, the accepted indicator for global warming is the sustained rise in the mean temperature worldwide. This definition is designed to account for the fact that there may be some localized exceptions to this rise. For example, there may be cooling experienced in a region while the global temperature may increase altogether, hence the need for average temperature. A key concern with the GHGs trapping of more heat in the atmosphere is that it affects both climate and short scale weather patterns. Consequently, it results in greater numbers of adverse weather events such as storms, heat waves, cold snaps, droughts, and fires [6]. Climate-related risks to health, livelihoods, food security, water supply, human safety, and economic growth are projected to increase with global warming of 1.5 ◦C [7] and further increase further at 2 ◦C, as shown in Figure 1. In addition, the risks to global aggregated economic growth due to the climate change impacts are projected to be lower at 1.5 ◦C than at 2 ◦C by the end of this century.

Carbon dioxide has the most substantial effect on global warming [8]. Although it was once assumed to have an ~100 year lifespan in the atmosphere, careful studies revealed that the situation is far worse, with three-quarters of the gas expected to remain for a time in the region of up to ~1000 years, with the remainder lasting for an indefinite period of time [9]. It was indicated that the present impacts of humanity on the atmosphere can certainly cause a long term problem [10]. Carbon dioxide is released when oil, coal, and other fossil fuels are burnt for the energy we use to power our homes, cars, and smartphones. By lessening its usage, we can curb our own contribution to climate change while saving money. The first challenge is eliminating the burning of coal, oil, and, eventually, natural gas. Oil is the lubricant of the global economy as it is hidden inside such ubiquitous items as plastic and corn, fundamental to the transportation of both consumers and goods. Coal is the substrate, supplying roughly half of the electricity worldwide, a percentage that is likely to grow according to the International Energy Agency (IEA). In fact, buildings contribute up to 43% of all the greenhouse gas emissions worldwide [11], even though investing in thicker insulation and other cost-effective as well as temperature-regulating strategies can save money in the long run. Investment in new infrastructures, or radical upgradation of the existing highways and transmission lines, may help to reduce greenhouse gas emissions, yielding economic growth in the developing countries.

Nations across the globe have kept very high targets to reducing their GHG discharges [12,13]. In order to meet these goals, considerable reductions in city energy usage is required. At a global scale, urban communities represent over half (55%) of the population, which is predicted to reach 68% by the middle of this century [14]. Urban areas claim ownership of the highest levels of energy use, gas emission, and also the largest local economy. As such, it is crucial for urban areas to reduce their consumption and utilize renewable sources wherever available to reduce their gas discharge levels. Smart cities often utilize digital sensors to measure and transmit data about the levels of GHGs in the city at that moment, as a means of tackling them [15]. The efficacy of such a system is thus reliant on the network used to collate and analyze the data collected as an extant network. The mobile telecommunications networks offer a convenient solution to this desire, as their pre-existence has the clear benefit of reducing costs compared to the design and implementation of a novel system. It is recognized that smart cities will certainly act as the key players meeting these ambitious targets [16,17]. In this study, we focused primarily on the potential applications of 5G network technology to control climate change in Singapore. In addition, a clear overview of the sustainability benefits of introducing 5G technology compatible smart cities, buildings, and farms in all aspects of urbanization is provided. Herein, the main purpose is to tackle the negative outcomes associated with anthropogenic climate change, with a particular focus on the contributions that are best made by the telecoms network operators.

Climate change is one of the most challenging problems that humanity has ever faced. Presently, hundreds of millions of lives, innumerable species, entire ecosystems, health, economy, and the future habitability of this planet are at risk. Fortunately, climate change is solvable, we just need to wisely exploit the existing technologies and sciences. Climate change mitigation is a pressing international need in which many management actions are required. The development of 5G technology has been largely driven by smart mobile devices and advanced communication technologies. It may thus serve as a technical enabler for a whole new range of business opportunities, energy, and facilities management, together with industrial applications. Moreover, it may enable different devices to work together seamlessly. Definitely, the 5G cellular network technology is expected to revolutionize the global industries with profound effects on the savings of energy, waste generation and recycling, and water resources management, thus reducing the climate change impacts.

#### Patent holdup is real and necessitates intervention, even if it can’t be systemically proven.

Contreras 19, \*Jorge Contreras, Professor, University of Utah S.J. Quinney College of Law; (2019, “MUCH ADO ABOUT HOLD-UP”, <https://www.illinoislawreview.org/wp-content/uploads/2019/08/Contreras.pdf>)

B. Protective Measures May Already Be Working to Reduce Hold-Up

Another important factor that should be considered regarding the purported lack of empirical evidence of systemic hold-up is the effect that existing policy measures have already had in reducing hold-up. As noted above, the threat of patent hold-up was a primary motivating factor for many SDOs to adopt policies requiring the disclosure and licensing of SEPs. These policies have been in place for decades. In the United States, the first such policy was adopted in 1959 by the American Standards Association (the predecessor to today’s American National Standards Institute (ANSI).102 Today, every one of the more than 200 ANSI-accredited developers of American National Standards must adhere to ANSI’s essential requirements, including the adoption of such a licensing policy for SEPs. Similar policies have existed in European and international standards organizations since at least the 1980s.103 These policies, which were developed by SDOs in large part to reduce the likelihood of hold-up within standard-setting systems, have had several decades to work, and it is likely that the lack of observed hold-up in some studies can be attributed to the successful operation of these policies.

Similarly, antitrust and competition enforcement agencies in the U.S. and Europe have been aware of the potential for hold-up connected with standardization for many years. Accordingly, they have brought enforcement actions when it has been alleged that hold-up behavior has resulted in a violation of the antitrust laws. High-profile enforcement actions against patent holders such as Rambus, 104 Google 105 and Qualcomm106 send powerful deterrent signals to the market and warn others not to engage in similar behavior lest they, too, become the subject of agency enforcement. Like SDO policies, it is likely that the general market awareness of agency interest in standard-setting and hold-up has, to a degree, limited the amount of hold-up that is actually attempted in the marketplace, thereby limiting the direct evidence of hold-up as a systemic problem.

But do the deterrent effects of SDO and agency efforts to reduce hold-up signify that hold-up is not a problem? Certainly not. To reach such a conclusion would be perverse: akin to claiming that burglary is not a problem in a neighborhood that experiences reduced burglary rates after it has implemented an active neighborhood watch program and enhanced policing.

C. Indicia of Healthy Markets do not Prove the Absence of Anticompetitive Conduct

As noted above, one of the principal arguments advanced by commentators seeking to refute the “hold-up theory” is that markets for telecommunications products, namely smart phones, are robust – evidenced by increasing product functionality, decreasing consumer prices and rapid innovation -- and that this degree of robustness indicates that hold-up cannot be a problem in these markets.107 If hold-up were a problem in these markets, they reason, we would see product stagnation, stable (but high) prices, and a lack of competition – features associated with classic examples of hold-up in markets for products such as natural resources and agricultural goods.108

But this argument relies on a false syllogism: hold-up results in market dysfunction; if a market functions well, then it cannot be subject to hold-up. The weaknesses in this argument are multifold. First, hold-up may exist in individual instances without sufficient weight to affect overall market characteristics, particularly in a large global market such as mobile telecommunications. Thus hold-up may exist, even in a market that outwardly appears to be functioning well. Second, there is no valid counterfactual to use to compare the health and robustness of the market for mobile telecommunications products.109 Other consumer electronics devices, such as televisions and DVD players, do not compare well with mobile telecommunications devices, which have taken on a unique character in the modern networked economy. Thus, observing the strength of the market fails to answer the critical questions “compared to what?” and how much stronger the market might be (through more product diversity, functionality, price reduction) without hold-up?

A simple historical illustration is useful in this context. During the decade leading up to the enactment of the Sherman Antitrust Act of 1890, several major U.S. commodity markets (e.g., steel, salt, petroleum, coal, sugar, lead, and others) came under intense scrutiny for a variety of allegedly anticompetitive industrial arrangements. One might have argued that these markets, had they been subject to the sorts of anticompetitive collusion that the Sherman Act sought to address, should have seen reductions of output and increases in price. Yet, between 1880 and 1890, U.S. output of salt, petroleum, steel, and coal all increased significantly, and prices of steel, sugar and lead all dropped significantly.110 Do these positive market indicia demonstrate that the subject markets were not subject to anticompetitive collusion, and that the Sherman Act was not necessary? Certainly, investigations of these industries revealed significant cartel behavior. I would suggest that few commentators today would argue that the coal, steel, sugar and other major industrial producers of the late nineteenth century were innocent of collusive and anticompetitive conduct, or that the Sherman Act was not a necessary and beneficial measure for the U.S. economy.111 Yet, had we relied solely on the positive characteristics exhibited by these markets as proof that anticompetitive conduct did not exist, then perhaps the Sherman Act never would have been enacted.

By the same token, the fact that global markets for standardized products such as computers and smart phones appear to be thriving does not itself refute the possibility of hold-up nor the existence of anticompetitive conduct in these markets. Nor does it allow regulators and policy makers to drop their guard or cease to monitor these important industries.

#### The plan requires SSO’s to administer reasonable action to prohibit ex post opportunism---that solves

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3. Application of the Basic Legal Principles

The antitrust principle is straightforward: industry-wide collaboration through SSOs to establish procompetitive standards is permitted only if it is no more restrictive of competition than reasonably necessary to enable creation of the standards. When standard setting predictably creates technology monopolies that, if unrestrained, will enable anticompetitive ex post opportunism that would otherwise not occur, an SSO that does not take effective measures to prevent or minimize such ex post opportunism engages in conduct that is more restrictive of competition than necessary. In that case, the SSO and, in appropriate cases, its members, may well violate Section 1 of the Sherman Act.

Under this principle, SSO procedures and FRAND rules should be evaluated based on whether they lead to reasonable SEP royalties, using the competitive ex ante licensing standard discussed above, which has been adopted by the courts in patent law. Put differently, FRAND rules should be evaluated based on their ability to prevent SEP holders from obtaining more than the ex ante value of their technology from implementers.

This limitation would not prevent a SEP holder from proﬁting, perhaps greatly, from participating in the SSO and having its patented technology included in the standard. The SEP holder continues to be rewarded for its technology because the inclusion of its technology in the standard can still greatly increase the volume of licensing opportunities available to the SEP holder.

Whether a particular set of FRAND rules are sufficiently effective in preventing ex post opportunism will depend on the particular circumstances. The procedural unfolding of the case will also depend upon the circumstances. As a general matter, the case would probably be structured as an ordinary Rule of Reason case.82

First, the plaintiff would have to demonstrate harm to competition as a result of the collaboration of the SSO’s members, many of which compete with one another. In this case, the harm to competition would stem from the ability of the SEP holder to exercise monopoly power by obtaining royalties in excess of the competitive, ex ante level. The decision to include patented technologies in the standard would be the allegedly unlawful agreement. Notably, the court need not determine what a FRAND royalty is; it would suffice to determine that market power has been created or exercised, and that existing SSO rules and policies were not adequate to prevent the competitive harm. The defendant, which could be the SSO or perhaps one or more SSO members, would win at this point if the plaintiff failed to show harm to competition. If might fail if the standard faces substantial competition and the court concludes that the SEP holder therefore does not have market power or if the SSO’s rules and policies are found to be effective in preventing ex post opportunism, even if the plaintiff or even the court thinks that other rules and policies would be preferable.

Second, if the plaintiff makes the requisite showing of harm to competition, the defendant(s) would then have to show some procompetitive justiﬁcation— in this case, the beneﬁts of the standard. These two initial steps should be straightforward.

Third, if as is likely the defendant is able to show a procompetitive justiﬁcation, the plaintiff would have to show that the SSO could have used available, reasonable alternatives to realize the efficiency beneﬁts with less or none of the competitive harms. The plaintiff might identify reasonable alternatives that would have led to a different standard, based on including unpatented technology in the standard or perhaps involving fewer SEPs or fewer owners of SEPs, which would be less subject to patent holdup. More likely, the plaintiff could suggest alternative SSO rules that would not change the standard, but would reduce the likelihood or extent of ex post opportunism. For example, the plaintiff might suggest more rigorous FRAND-type rules, such as rules that set forth more precise principles on which FRAND royalties are to be determined and the circumstances under which SEP holders might seek injunctions.

Fourth, the burden would then shift to the defendant(s) to show that the beneﬁts of the standard could not have been realized if the SSO had adopted any of the proffered alternatives or that those alternatives were unrealistic.83 The plaintiff would be entitled to judgment if the court concludes that those beneﬁts could have been realized with less competitive harm if the SSO had adopted the standard with different IPR rules or policies.

Our overall sense, based on experience and the empirical literature, is that the extant FRAND rules are generally useful, but tend to be inadequate because they are imprecise and leave unresolved such critical issues as (a) the meaning of a reasonable royalty, even conceptually; (b) the meaning of “non-discriminatory;” (c) to whom licenses must be offered; and (d) under what circumstances may a SEP holder obtain an injunction.84 These imprecise FRAND commitments are therefore not sufficient to adequately prevent ex post opportunism. The recent revisions to IEEE’s FRAND policy represent a signiﬁcant step in the right direction, but even this advance leaves important questions unanswered.85 If FRAND rules are inadequate in these ways, litigation involving extant FRAND rules would likely be resolved only at the ﬁnal, fourth step. The defendant would be able to demonstrate the beneﬁts created by the standard; the plaintiff would be able to demonstrate the creation of market power and that other reasonable and practical rules or policies would ameliorate the problem. The case would thus turn on whether the defendant is able to demonstrate that signiﬁcant beneﬁts associated with standardization could not have been realized if the SSO had adopted those other rules or policies.

The court would have available a variety of possible remedies if the plaintiff prevails. Implementers that paid supracompetitive royalties or were unlawfully excluded in whole or in part from product markets as a result of the inadequate FRAND policies would be entitled to damages and, in some cases, to treble damages.86 If the unlawful SSO conduct is regarded as the collective action of the SSO and its members, which is likely to be the case in most instances, SSO members would be jointly and severally liable for the damages. Forward-looking injunctive relief aimed at restoring competition would need to be fashioned to the requirements of the individual case. For example, a court could order the SSO to adopt a new rule or policy proposed by the plaintiff. If the court is reluctant to take on that governance role, it might give the SSO a period of time—maybe ninety days—to develop a rule, subject to the court’s ultimate approval, which would adequately ameliorate the competitive problem created by the SSO. Alternatively or in addition, the court might order the parties to attempt to negotiate a rule or policy on which they can agree. And, depending on the circumstances, the court might order SEP holders, including at least those that were defendants in the case, to comply with the new SSO rules and policies.

### 1AC---Cybersecurity ADV

#### Advantage 2 is Cybersecurity:

#### Aggressive patent strategies create structural flaws in 5G standardization that imperils domestic cybersecurity---market competition reduces the incidence of vulnerability and severity of attacks.

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III. COMPETITION AND CYBERSECURITY

In addition to the historical review done so far, another approach to understanding the relationship among patents, competition, and national security is to consider the role of cybersecurity. There is little doubt that computer system vulnerabilities that enable hacking and spread of computer exploits are a threat to the nation’s defenses, so better cybersecurity is a key part of national security strategy.155

Strong competition can thus complement national security by enhancing domestic cybersecurity, and patent assertion that unduly weakens competition detracts from cybersecurity.156 Competition promotes better cybersecurity in at least two ways. First, multiple studies show that competition encourages firms to improve their products on multiple vectors including cybersecurity. Second, competition avoids a situation that security experts call a “monoculture,” which increases vulnerability to severe cyberattacks. As former Secretary of Homeland Security Michael Chertoff wrote recently, “We need competition and multiple providers, not a potentially vulnerable technological monoculture,” to guarantee national security.157 Thus, cybersecurity provides a useful lens for understanding how unfettered patent assertion and licensing can detract from national security.

A. Cybersecurity as Competitive Value-Add

Competition enhances national security by reducing the incidence of technical vulnerabilities. That effect is especially important for security sensitive systems such as mobile telecommunications.

Intuitively, a causal chain from competition to cybersecurity makes logical sense. Computer security is a value-added benefit to consumers, so firms in competitive markets are likely to use security to gain an edge over their competitors.158 In monopolized markets, though, there may be less external impetus to test products for flaws, and the monopolist may choose to focus less on security and more on new product features or increased product quality.

Economic research confirms these hypotheses about competition leading to better cybersecurity. A 2009 empirical study of web browsers considered the impact of market concentration on the amount of time that vendors took to fix security vulnerabilities as they were discovered.159 The study found that the presence of more competitors correlated with faster cybersecurity response—a reduction of 8–10 days in response time per additional market rival.160 Similarly, business researchers in 2005 modeled incentives for firms to engage in sharing of cybersecurity information, and concluded that the “inclination to share information and invest in security technologies increases as the degree of competitiveness in an industry increases.”161 Another study found that, where two software firms are in competition, at least one will be willing to take on some degree of risk and responsibility for cybersecurity, whereas a monopoly software firm will consistently fail to accept such responsibility.162 To be sure, an unpublished study from 2017 found that some market concentration can make firms more responsive to cybersecurity issues, but only to a point: “being in a dominant position reduces the positive effect of having less competitors on the responsiveness of the vendor,” and indeed the “more dominant the firm is, the less rapid it is in releasing security patches.”163 This research confirms that competition is more conducive to cybersecurity.

It is not hard to see how this applies to emerging communication technologies markets. In the absence of competition, the above research suggests that device manufacturers, chip makers, and software developers will lack incentives to respond to vulnerabilities, to share information about cybersecurity practices and issues, and to take responsibility for security matters. Mobile phone chips have had their share of cybersecurity failures already.164 The best way to flush out ongoing and future cybersecurity issues is to maintain competitive pressure at all levels of the supply chain.

B. Vulnerabilities of “Monocultures”

A second reason why monopoly undermines cybersecurity is that monopoly leads to a “monoculture” of single-vendor products, opening the door to massive systemic failure in the case of a cyberattack. Computer researchers developed the theory of software monocultures in the early 2000s, in response to the regular phenomenon of computer viruses and other attacks spreading rapidly by exploiting flaws in the dominant operating system at the time, Microsoft Windows.165 Where a computer system such as Windows has a commanding share of users, a virus that exploits a flaw in that system can quickly spread to infect a whole interconnected ecosystem. An operating system monopoly thus enables fast and easy spread of cyberattacks, and better cybersecurity would be achieved through greater diversity in online systems.166 As one research group posited, “a network architecture that supports a collection of heterogeneous network elements for the same functional capability offers a greater possibility of surviving security attacks as compared to homogeneous networks.”167

There has been considerable study of the theory that computer monocultures are naturally more vulnerable to attacks.168 In one study, computer science researchers reviewed a catalog of 6,340 software vulnerabilities recorded in 2007, to compare whether comparable software would share the same flaws.169 Of the 2,627 vulnerabilities applicable to application software (as opposed to operating systems, web scripts, and other software components), only 29 (1.1%) applied to substitute products from different vendors but providing the same functionality.170 By contrast, different versions of a single software product were found to share vulnerabilities 84.7% of the time.171 Thus, software monocultures share exploitable flaws even when there is some variation in versions across the monoculture; by contrast, diversity in software is almost guaranteed to prevent a single flaw from affecting all users.

In the case of 5G and wireless mobile communications, a monoculture is an especially concerning possibility. To the extent that systems such as smart city sensors or communication networks are widely deployed in a monoculture fashion, a widespread attack could have devastating consequences, potentially blacking out a region and affecting essential services such as 911.172 A monoculture that is vulnerable to so-called “rootkits” or “backdoors”—maliciously installed software that enable bad actors to commandeer systems—could also enable mass surveillance or spying by private hackers or foreign governments.173 The presence of systems from multiple vendors would mitigate these possibilities.

#### Insecure technical standards cause inevitable systemic grid collapse---extinction.

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The infrastructure was essential, ubiquitous and providing basic functionality for everything in daily life from water to heat and transportation. And in an instant it was gone, plunging tens of thousands of residents into a life-threatening crisis. This is, of course, the narrative of the recent debacle in Texas, where a winter storm overwhelmed the state’s electrical grid and brought the state to a near-total blackout. But it should also be interpreted as a preemptive warning of what Americans will face from the next generation of the internet and the new realm of cybersecurity risk it will dramatically amplify.

Both forms of infrastructure—a state-run electrical grid and the 5G and “internet of things” future to which we are rapidly hurtling—share three attributes. First, their construction reflects a lack of imagination about the danger that can quickly coalesce when seemingly remote threat scenarios become real. Second, compounding a lack of analytic imagination is an absence of preparedness. Third, for both the Texas electrical grid and the emerging internet, public policy protections are either meager or completely absent.

In planning for the resilience of its electrical grid, public officials in Texas discounted the potentially devastating disruption that could occur from unpredictable events—whether related to climate change or just a once-a-century anomaly. They also eschewed precautions other states take seriously by allowing for the interconnection of electrical grid supply chains across their borders, ostensibly because of their ideological rejection of federal regulatory oversight governing such arrangements.

As the United States builds out a new national 5G cyber-physical communications network through private service providers, Americans similarly discount the risks—myriad in their diversity and severity—that are orders of magnitude more significant than what Texas confronted recently. More physical things than people are already connected. The super empowered internet of tomorrow, known among some in the field as the “internet of everything,” will exceed by tens of billions of devices the number of connections between individuals simply communicating via social media or digital screens.

This confronts policymakers with an imminent threat: A cyber outage is no longer about losing digital communications but about losing basic societal functioning and even human life. The failure of imagination is to think of the SolarWinds attack on U.S. federal agencies and tech companies as a worst-case scenario. The failure of imagination is to think of cybersecurity through a content-centric lens rather than as possible attacks on the material world. The emergence of internet-connected cardiac devices, digitally dependent cars, and internet-connected agriculture systems portend the stakes of a cyberattack to health care, economic and social functioning, and food security.

The United States should be prepared for, and certainly not be caught by surprise by, such cyberattacks. Yet, the internet of everything is notoriously insecure. Internet-connected physical objects are not necessarily upgradeable. Nor do they come with adequate default security and encryption. The 5G infrastructure that helps connect digital objects has been at the center of debates over Chinese espionage. Industrial cyber-physical systems are based on technical standards that have not been collaboratively vetted for security and interoperability. One of the most infamous cyberattacks—the so-called Mirai botnet that took down major media sites and corporations—hijacked these insecure objects in homes to carry out the assault. The United States is not yet prepared.

Finally, in the race to conceive and deploy effective public policy responses, the U.S. government as a whole is hardly more anticipatory or synthesized in its response to potential calamity than the state of Texas. The focus of U.S. cyber policy remains on information policy issues such as disinformation, manipulation and violent speech rather than securing the digital world that now powers our material day-to-day lives. The Biden administration confronts an enormous challenge in crafting a comprehensive strategy to the cybersecurity risks foreshadowed by the ruinous experience in Texas and its management of vital infrastructure. While the digital world has leapt from two-dimensional to three-dimensional space, cyber policy has not at all jumped from 2D to 3D.

This failure of imagination, preparedness and policy protection must not be America’s cyber future; the stakes are far too high and the costs are far too great. The Texas disaster is a potent illustration of what has always been true: Our digital society and economy are extremely vulnerable and grow more porous and subject to penetration day by day. As digital sensors and cyber control systems become further embedded in physical infrastructure like energy systems, agriculture and transportation, there is no longer a separation between security of the “real” world and security of the online world. They are entangled and increasingly enmeshed—and policy has yet to catch up to either envisioning or mitigating the looming threats the U.S. confronts.

If the energy grid cannot weather a winter storm, how can it be expected to withstand a major cyberattack? What other vital forms of national infrastructure—ranging from water, bridges, highways and roads, and ultimately our day-to-day financial system—are comparably at risk? As Texas dramatizes, it is neither hyperbolic nor exaggerated to assert that our survival could now depend on securing the inevitable cyber-physical future that is accelerating with stunning rapidity.

#### Actors have the means and motivations to strike critical infrastructure.

Wintch 21, \*Timothy M. Wintch, an active-duty Major in the United States Air Force. He is currently a graduate student at the Oettinger School of Science & Technology Intelligence, National Intelligence University, in Bethesda, Maryland. Mr. Wintch has over 11 years of experience in command-and-control operations as an Air Battle Manager. He holds a Bachelor of Arts in Politics from the University of California, Santa Cruz, and a Master of Arts in Military Studies from American Military University. (April 20th, 2021, “PERSPECTIVE: Cyber and Physical Threats to the U.S. Power Grid and Keeping the Lights on”, https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/)

Among critical infrastructure sectors in the U.S., energy is perhaps the most crucial of the 16 sectors defined by the Department of Homeland Security. This sector is so vital because it provides the energy necessary to run every other critical infrastructure sector. However, the U.S. power grid, the backbone of the energy sector, is built upon an aging skeleton that is becoming increasingly vulnerable every day. Whether from terrorists or nation-states like Russia and China, the power grid is susceptible to not just physical attacks, but also to cyber intrusion as well. However, much of this threat can be mitigated if the U.S. takes the appropriate steps to safeguard the power grid and avoid a potential catastrophe in the future.

Since Sept. 11, 2001, terrorism on U.S. soil has been at the forefront of American consciousness. Critical infrastructure provides an appealing target because of the disproportionally large impact even a small attack can have on the sectors. In particular, the power grid represents a particularly lucrative target, both in terms of the ease of access and the large impact it can make. The National Research Council stated that the U.S. power grid is “vulnerable to intelligent multi-site attacks by knowledgeable attackers intent on causing maximum physical damage to key components on a wide geographical scale.”[[1]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn1) Additionally, the physical security of transmission and distribution systems is difficult due to the dispersed nature of these key components, which in turn is advantageous to attackers as it reduces the likelihood of their capture.[[2]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn2) From 2002-2012, approximately 2,500 physical attacks occurred against transmission lines and towers worldwide and approximately 500 attacks against transformer substations.[[3]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn3) Terrorists have the motivation to attack the U.S. power grid but the very nature of the grid makes it highly vulnerable. The power grid is not only at risk from physical attacks, but also nation-state cyberattacks.

One nation that has shown both the capability and intent to use attacks against critical energy infrastructure is Russia, as demonstrated in their 2015 annexation of Crimea from Ukraine. A Russian cyber threat group known as Sandworm, which used its BlackEnergy malware, attacked Ukrainian computer systems that provide remote control of the Ukraine power grid.[[4]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn4) This attack, and another in 2016, each left the capital Kiev without power, prompting cyber experts to raise concern about the same malware already existing in NATO and the U.S. power grids.[[5]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn5) In any conflict between Russia and NATO, not only would similar cyberattacks pose a threat, but so would potential physical attacks severing fuel oil and natural gas lines to Western Europe. Russia has both the capability and intent to attack critical infrastructure, particularly power grids, during future conflicts in their “hybrid warfare” approach.

Another nation that has the capability to attack critical energy infrastructure is China, representing a threat to not just the U.S. energy infrastructure but also that of our allies whose support would be vital in a major conflict. A recent NATO report highlighted this threat from China’s Belt and Road Initiative, stating that “[China’s] foreign direct investment in strategic sectors [such as energy generation and distribution] …raises questions about whether access and control over such infrastructure can be maintained, particularly in crisis when it would be required to support the military.”[[6]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn6) Like Russia, China has been active with cyber intrusions in U.S. energy infrastructure. The Mission Support Center at Idaho National Laboratory characterized these as attacks as “multiple intrusions into US ICS/SCADA [Industrial Control Systems/Supervisory Control and Data Acquisition] and smart grid tools [that] may be aimed more at intellectual property theft and gathering intelligence to bolster their own infrastructure, but it is likely that they are also using these intrusions to develop capabilities to attack the [bulk electric system], as well.”[[7]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn7) China, therefore, has both the capability and intent to conduct cyber intrusions and attacks for myriad reasons.

Another arm of this threat is the reliance the U.S. energy industry has on imports from China, especially transformers. In early 2020, federal officials seized a transformer in the port of Houston that had been imported by the Jiangsu Huapeng Transformer Company before sending it to Sandia National Laboratory in Albuquerque. Sandia is contracted by the U.S. Department of Energy for mitigating national security threats.[[8]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn8) The Wall Street Journal reported that “Mike Howard, chief executive of the Electric Power Research Institute, a utility-funded technical organization, said that the diversion of a huge, expensive transformer is so unusual – in his experience, unprecedented – that it suggests officials had significant security concerns.”[[9]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn9) Previously destined for the Washington Area Power Administration’s Ault, Colo., substation, the transformer is believed to have been seized due to “backdoor” exploitable hardware emplaced by the Chinese prior to shipment.[[10]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/#_ftn10) Shortly after these events, President Trump issued Executive Order 13920, “[Securing the United States Bulk-Power System](https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-securing-united-states-bulk-power-system/),” essentially limiting the import of Chinese-built critical energy infrastructure components due to concerns about cybersecurity.[[11]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/#_ftn11) Interestingly, Jiangsu Huapeng “boasted that it supported 10 percent of New York City’s electricity load.”[[12]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/#_ftn12)

Franklin Kramer, the former Assistant Secretary of Defense for International Security Affairs, testified before a U.S. House of Representatives Energy and Commerce subcommittee during an energy and power hearing in 2011 and said that a “highly-coordinated and structured cyber, physical, or blended attack on the bulk power system, however, could result in long-term (irreparable) damage to key system components in multiple simultaneous or near-simultaneous strikes.” He added that “an outage could result with the potential to affect a wide geographic area and cause large population centers to lose power for extended periods.”[[13]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/#_ftn13) Even the inclusion of features such as smart grids to the overall grid structure poses new vulnerabilities through their connectivity. Kramer stated that “such connectivity means that the distribution system could be a key vector for a national security attack on the grid.”[[14]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/#_ftn14)

#### Those attacks cause accidental nuclear escalation.

Klare 19, \*Michael T. Klare is a professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association; (November 19th, “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation”, https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation)

Yet another pathway to escalation could arise from a cascading series of cyberstrikes and counterstrikes against vital national infrastructure rather than on military targets. All major powers, along with Iran and North Korea, have developed and deployed cyberweapons designed to disrupt and destroy major elements of an adversary’s key economic systems, such as power grids, financial systems, and transportation networks. As noted, Russia has infiltrated the U.S. electrical grid, and it is widely believed that the United States has done the same in Russia.[12](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote12) The Pentagon has also devised a plan known as “Nitro Zeus,” intended to immobilize the entire Iranian economy and so force it to capitulate to U.S. demands or, if that approach failed, to pave the way for a crippling air and missile attack.[13](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote12)

The danger here is that economic attacks of this sort, if undertaken during a period of tension and crisis, could lead to an escalating series of tit-for-tat attacks against ever more vital elements of an adversary’s critical infrastructure, producing widespread chaos and harm and eventually leading one side to initiate kinetic attacks on critical military targets, risking the slippery slope to nuclear conflict. For example, a Russian cyberattack on the U.S. power grid could trigger U.S. attacks on Russian energy and financial systems, causing widespread disorder in both countries and generating an impulse for even more devastating attacks. At some point, such attacks “could lead to major conflict and possibly nuclear war.”[14](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote14)

These are by no means the only pathways to escalation resulting from the offensive use of cyberweapons. Others include efforts by third parties, such as proxy states or terrorist organizations, to provoke a global nuclear crisis by causing early-warning systems to generate false readings (“spoofing”) of missile launches. Yet, they do provide a clear indication of the severity of the threat. As states’ reliance on cyberspace grows and cyberweapons become more powerful, the dangers of unintended or accidental escalation can only grow more severe.

#### Cyber-compromised NC3 causes nuclear war.

Klare 19, \*Michael T. Klare is a professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association; (November 19th, “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation”, <https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation>)

The Nuclear-Cyber Connection

These links exist because the NC3 systems of the United States and other nuclear-armed states are heavily dependent on computers and other digital processors for virtually every aspect of their operation and because those systems are highly vulnerable to cyberattack. Every nuclear force is composed, most basically, of weapons, early-warning radars, launch facilities, and the top officials, usually presidents or prime ministers, empowered to initiate a nuclear exchange. Connecting them all, however, is an extended network of communications and data-processing systems, all reliant on cyberspace. Warning systems, ground- and space-based, must constantly watch for and analyze possible enemy missile launches. Data on actual threats must rapidly be communicated to decision-makers, who must then weigh possible responses and communicate chosen outcomes to launch facilities, which in turn must provide attack vectors to delivery systems. All of this involves operations in cyberspace, and it is in this domain that great power rivals seek vulnerabilities to exploit in a constant struggle for advantage.

The use of cyberspace to gain an advantage over adversaries takes many forms and is not always aimed at nuclear systems. China has been accused of engaging in widespread cyberespionage to steal technical secrets from U.S. firms for economic and military advantages. Russia has been accused, most extensively in the Robert Mueller report, of exploiting cyberspace to interfere in the 2016 U.S. presidential election. Nonstate actors, including terrorist groups such as al Qaeda and the Islamic State group, have used the internet for recruiting combatants and spreading fear. Criminal groups, including some thought to be allied with state actors, such as North Korea, have used cyberspace to extort money from banks, municipalities, and individuals.[4](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote04) Attacks such as these occupy most of the time and attention of civilian and military cybersecurity organizations that attempt to thwart such attacks. Yet for those who worry about strategic stability and the risks of nuclear escalation, it is the threat of cyberattacks on NC3 systems that provokes the greatest concern.

This concern stems from the fact that, despite the immense effort devoted to protecting NC3 systems from cyberattack, no enterprise that relies so extensively on computers and cyberspace can be made 100 percent invulnerable to attack. This is so because such systems employ many devices and operating systems of various origins and vintages, most incorporating numerous software updates and “patches” over time, offering multiple vectors for attack. Electronic components can also be modified by hostile actors during production, transit, or insertion; and the whole system itself is dependent to a considerable degree on the electrical grid, which itself is vulnerable to cyberattack and is far less protected. Experienced “cyberwarriors” of every major power have been working for years to probe for weaknesses in these systems and in many cases have devised cyberweapons, typically, malicious software (malware) and computer viruses, to exploit those weaknesses for military advantage.[5](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote05)

Although activity in cyberspace is much more difficult to detect and track than conventional military operations, enough information has become public to indicate that the major nuclear powers, notably China, Russia, and the United States, along with such secondary powers as Iran and North Korea, have established extensive cyberwarfare capabilities and engage in offensive cyberoperations on a regular basis, often aimed at critical military infrastructure. “Cyberspace is a contested environment where we are in constant contact with adversaries,” General Paul M. Nakasone, commander of the U.S. Cyber Command (Cybercom), told the Senate Armed Services Committee in February 2019. “We see near-peer competitors [China and Russia] conducting sustained campaigns below the level of armed conflict to erode American strength and gain strategic advantage.”

Although eager to speak of adversary threats to U.S. interests, Nakasone was noticeably but not surprisingly reluctant to say much about U.S. offensive operations in cyberspace. He acknowledged, however, that Cybercom took such action to disrupt possible Russian interference in the 2018 midterm elections. “We created a persistent presence in cyberspace to monitor adversary actions and crafted tools and tactics to frustrate their efforts,” he testified in February. According to press accounts, this included a cyberattack aimed at paralyzing the Internet Research Agency, a “troll farm” in St. Petersburg said to have been deeply involved in generating disruptive propaganda during the 2016 presidential elections.[6](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote06)

Other press investigations have disclosed two other offensive operations undertaken by the United States. One called “Olympic Games” was intended to disrupt Iran’s drive to increase its uranium-enrichment capacity by sabotaging the centrifuges used in the process by infecting them with the so-called Stuxnet virus. Another left of launch effort was intended to cause malfunctions in North Korean missile tests.[7](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote07) Although not aimed at either of the U.S. principal nuclear adversaries, those two attacks demonstrated a willingness and capacity to conduct cyberattacks on the nuclear infrastructure of other states.

Efforts by strategic rivals of the United States to infiltrate and eventually degrade U.S. nuclear infrastructure are far less documented but thought to be no less prevalent. Russia, for example, is believed to have planted malware in the U.S. electrical utility grid, possibly with the intent of cutting off the flow of electricity to critical NC3 facilities in the event of a major crisis.[8](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote08) Indeed, every major power, including the United States, is believed to have crafted cyberweapons aimed at critical NC3 components and to have implanted malware in enemy systems for potential use in some future confrontation.

Pathways to Escalation

Knowing that the NC3 systems of the major powers are constantly being probed for weaknesses and probably infested with malware designed to be activated in a crisis, what does this say about the risks of escalation from a nonkinetic battle, that is, one fought without traditional weaponry, to a kinetic one, at first using conventional weapons and then, potentially, nuclear ones? None of this can be predicted in advance, but those analysts who have studied the subject worry about the emergence of dangerous new pathways for escalation. Indeed, several such scenarios have been identified.[9](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote09)

The first and possibly most dangerous path to escalation would arise from the early use of cyberweapons in a great power crisis to ~~paralyze~~ undermine the vital command, control, and communications capabilities of an adversary, many of which serve nuclear and conventional forces. In the “fog of war” that would naturally ensue from such an encounter, the recipient of such an attack might fear more punishing follow-up kinetic attacks, possibly including the use of nuclear weapons, and, fearing the loss of its own arsenal, launch its weapons immediately. This might occur, for example, in a confrontation between NATO and Russian forces in east and central Europe or between U.S. and Chinese forces in the Asia-Pacific region.

Speaking of a possible confrontation in Europe, for example, James N. Miller Jr. and Richard Fontaine wrote that “both sides would have overwhelming incentives to go early with offensive cyber and counter-space capabilities to negate the other side’s military capabilities or advantages.” If these early attacks succeeded, “it could result in huge military and coercive advantage for the attacker.” This might induce the recipient of such attacks to back down, affording its rival a major victory at very low cost. Alternatively, however, the recipient might view the attacks on its critical command, control, and communications infrastructure as the prelude to a full-scale attack aimed at neutralizing its nuclear capabilities and choose to strike first. “It is worth considering,” Miller and Fontaine concluded, “how even a very limited attack or incident could set both sides on a slippery slope to rapid escalation.”[10](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote10)

What makes the insertion of latent malware in an adversary’s NC3 systems so dangerous is that it may not even need to be activated to increase the risk of nuclear escalation. If a nuclear-armed state comes to believe that its critical systems are infested with enemy malware, its leaders might not trust the information provided by its early-warning systems in a crisis and might misconstrue the nature of an enemy attack, leading them to overreact and possibly launch their nuclear weapons out of fear they are at risk of a preemptive strike.

“The uncertainty caused by the unique character of a cyber threat could jeopardize the credibility of the nuclear deterrent and undermine strategic stability in ways that advances in nuclear and conventional weapons do not,” Page O. Stoutland and Samantha Pitts-Kiefer wrote in 2018 paper for the Nuclear Threat Initiative. “[T]he introduction of a flaw or malicious code into nuclear weapons through the supply chain that compromises the effectiveness of those weapons could lead to a lack of confidence in the nuclear deterrent,” undermining strategic stability.[11](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote11) Without confidence in the reliability of its nuclear weapons infrastructure, a nuclear-armed state may misinterpret confusing signals from its early-warning systems and, fearing the worst, launch its own nuclear weapons rather than lose them to an enemy’s first strike. This makes the scenario proffered in the 2018 NPR report, of a nuclear response to an enemy cyberattack, that much more alarming.

### Extra

#### Don’t trust neg authors---Qualcomm funded their papers.

McLaughlin 21, Bloomberg, (David, March 12th, 2021, “One Tech-Funded University Helped Shape FTC’s Hands-Off Approach”, <https://www.bloomberg.com/news/articles/2021-03-12/how-george-mason-university-shaped-ftc-s-hands-off-approach-to-tech>)

* Alden Abbott, Jonathan Barnett are both fellows at George Mason University’s Center for Intellectual Property and Innovation Policy (funded by Qualcomm)
* Joshua Wright is a former FTC commissioner who taught at the institute and lobbied for Qualcomm

The [Tech Transparency Project](https://www.techtransparencyproject.org/) (TTP), a watchdog group in Washington, details in a new report an unusually close relationship between the law school at Virginia’s George Mason University and the Federal Trade Commission. By helping shape the workforce of the FTC, the group claims, the school infused it with a laissez-faire philosophy favorable to the school’s tech donors.

[The report](https://www.techtransparencyproject.org/articles/big-techs-backdoor-ftc) throws a harsh light on the FTC’s hands-off approach to tech companies over the past decade. As the agency prepares to argue the lawsuit against [Facebook Inc.](https://www.bloomberg.com/quote/FB:US) that it filed late last year, seeking to break up the social media giant, it must contend with an inconvenient fact: It approved Facebook’s acquisitions of Instagram in 2012 and WhatsApp in 2014—the very mergers it now seeks to undo. The FTC’s consent to those deals is cited by critics as evidence of a permissive attitude that allowed tech companies to grow into leviathans.

One explanation for its lenience, the TTP report charges, is that the industry used a corner of academia to capture the agency. According to the report, which was published on March 12, Silicon Valley donated substantial sums to George Mason’s Antonin Scalia Law School, which built a pipeline of professors and graduates who went to work at the FTC. Dozens of people went from the school to the regulator—commissioners, bureau heads, attorney-advisers, legal interns—during the Obama and Trump administrations.

Under President Trump alone, professors and graduates of Scalia Law, and heads of affiliated programs at George Mason, served as the FTC chair, general counsel, policy planning head, and leaders of its three main divisions: the bureaus of competition, consumer protection, and economics.

Katie Paul, who heads the TTP, says an investigation is needed into “whether George Mason University has effectively become Big Tech’s back door into the FTC, giving the companies an undisclosed way to sway its decision-making and hobble enforcement action.”

Revolving Door

Large tech companies have donated to two programs affiliated with Scalia Law, the Global Antitrust Institute and the Law & Economics Center. From January 2018 to the end of last year, [Google](https://www.bloomberg.com/quote/GOOGL:US) donated $900,000, [Amazon.com Inc.](https://www.bloomberg.com/quote/AMZN:US) contributed $925,000, and Facebook Inc. gave $675,000, according to documents obtained by Bloomberg Businessweek through a public records request. Google, Amazon, and Facebook declined to comment on their donations.

The law school says the ties between its faculty and the FTC aren’t unusual. Alison Price, a senior associate dean, says it’s common for professors to work for federal agencies and then return to their teaching jobs. “Since Scalia Law has special expertise and a relatively large faculty in antitrust, it’s logical that our faculty is called to serve with frequency,” she says. “But faculty don’t set policy; administrations do.”

The Tech Transparency Project is part of a larger watchdog group, [Campaign for Accountability](https://campaignforaccountability.org/). The TTP website cites several philanthropists as donors, including George Soros’s Open Society Foundations. Oracle Corp. had been a donor to a TTP predecessor group that focused mostly on Google, but the TTP says it no longer accepts corporate funding.

Both George Mason programs, which host conferences and offer training for judges and antitrust enforcers, promote the consumer-welfare standard articulated by Robert Bork, the late federal judge and Yale Law School professor. That standard, the guidepost for regulators and courts since the 1980s, looks to price increases as a gauge of competitive harm. It is blamed by some antitrust experts for handcuffing enforcers when it comes to policing tech companies.

The tech companies’ donations are drawing scrutiny. At a hearing on Feb. 25, New York Democratic Representative Mondaire Jones called Abbott “Tad” Lipsky, a former FTC official now at the [Global Antitrust Institute](https://gai.gmu.edu/), “a wolf in sheep’s clothing.” As he testified against proposals to give the antitrust laws more teeth, Lipsky drew Jones’s scorn. Programs such as the GAI “have worked to teach judges and regulators to let their guard down as corporate funders like yours came to dominate our economy,” Jones said. Lipsky responded that his antitrust views predated “any of these digital technology companies.”

A key figure in the law school-to-regulator pipeline is Lipsky’s boss, Joshua Wright, an FTC commissioner from 2013 to 2015. He now teaches antitrust law at George Mason while also running the GAI.

Wright wielded outsize influence at the agency, pushing through a 2015 policy statement in an attempt to rein in the agency’s enforcement power. After he left he improperly lobbied the agency on behalf of Qualcomm Inc., one of the law school’s largest donors, according to a report by the FTC inspector general that was obtained by TTP and verified by Bloomberg Businessweek. His name was redacted in the report, but Wright confirmed it was about him. He says he did nothing wrong.

The New York Times last year [reported that tech companies bankrolled the work of the GAI](https://www.nytimes.com/2020/07/24/technology/global-antitrust-institute-google-amazon-qualcomm.html) and that Wright had worked with corporate donors to fend off critics. The extent of the revolving door between the FTC and the law school, and Wright’s alleged violation of ethics laws, haven’t been previously reported.

Many companies support higher education, and many universities send professors and graduates to Washington. But George Mason is unique in cultivating a specific regulator, says Jeff Hauser, executive director of the [Revolving Door Project](https://therevolvingdoorproject.org/), which tracks government officials’ corporate ties.

“In terms of feeding directly into a government agency, I’m not aware of any equivalent at the SEC or the EPA or anything else,” he says, referring to the Securities and Exchange Commission and the Environmental Protection Agency.

A public university in the northern Virginia suburbs of Washington, George Mason is home to the free-market think tank the [Mercatus Center](https://www.mercatus.org/" \t "_blank" \o "Mercatus Center website). It is a leader in the study of applying economic analysis to the law, emphasizing that markets work best when government regulates less. The university became known as a haven for conservatives at the end of the Reagan administration in 1988. Even Bork taught there after stepping down from the bench in 1988.

The George Mason conduit was steady and robust, according to the TTP, which details dozens of examples of people moving between the FTC and the law school over the past decade. One is James Cooper, who directs an economics and privacy program at the Law & Economics Center. He simultaneously taught at the school and served as a deputy director for the FTC’s Bureau of Consumer Protection.

Cooper was among the academics who urged House lawmakers last year to reject proposals to break up tech companies and make merger approvals more difficult. George Mason’s Wright, Lipsky, and John Yun, a professor at the law school who was an economist at the FTC, joined the filing. Cooper didn’t respond to a request for comment, and Yun declined to comment.

But Wright, the former FTC commissioner, perhaps best embodies the ties linking the FTC to the law school and its donors. After leaving the agency in 2015, Wright simultaneously taught at George Mason, ran the GAI, and worked for the Wilson Sonsini Goodrich & Rosati law firm, where he represented Qualcomm.

The FTC sued Qualcomm in January 2017 in a monopoly case that was developed while Wright was an FTC commissioner. Wright tried to broker a settlement about four months after the case was brought. He met Lipsky, then the acting director of the FTC’s competition bureau, for lunch at a steakhouse in Washington and tried to set up an additional meeting with agency officials, according to the inspector general’s report.

In doing so, Wright violated an ethics law that bans officials for life from lobbying on issues they worked on “personally and substantially,” according to the inspector general. Those findings were referred to the Department of Justice’s public integrity section. The Justice Department, which decided not to prosecute, declined to comment.

Lipsky resigned two months after his lunch with Wright, who then hired him at the GAI. Lipsky didn’t respond to a request for comment.

“I never made any appearance at the FTC involving its enforcement action against Qualcomm or discussed the merits of the case with any FTC official,” says Wright, who declined to elaborate on the specifics of the investigation. “I immediately complied when the FTC ethics office informed me that I should not make any appearance based upon a single preliminary vote I had cast years before the case was filed.”

Qualcomm contributed almost $5.8 million to the George Mason law school programs from 2016 through 2020. Less than two months before Wright met with the FTC to try to settle the Qualcomm case, the company gave $525,000 to the GAI. The company didn’t respond to requests for comment.

Tech companies that donate to George Mason collaborate with the school’s professors on projects, according to emails obtained through a public records request.

#### Don’t trust Big Tech-funded academic papers---they’re not credible.

Mullins and Nicas 17, \*Brody Mullins is an investigative reporter in the Washington D.C. bureau of The Wall Street Journal where he covers business, lobbying and campaign finance; \*Jack Nicas covers Google and other companies owned by Alphabet Inc. He is based in The Wall Street Journal's San Francisco bureau; (July 14th, 2017, “Paying Professors: Inside Google’s Academic Influence Campaign”, https://www.wsj.com/articles/paying-professors-inside-googles-academic-influence-campaign-1499785286)

Ms. Feldman and other critics of the funding say even disclosing money received from a company that has benefited from the research can give the appearance of a conflict of interest and undermine academic credibility.

“Yeah, the money is good but it does get in the way of objective academic research,” said Daniel Crane, a University of Michigan law professor. He said he turned down Google’s offers to fund his research that opposed antitrust regulation of internet search engines. “If I am reading an academic paper, and they disclose an interest with a party with an interest in the outcome,” he said, “you take [the research] with a grain of salt.”

Paying for favorable academic research has long been a tool of influence by U.S. corporations in food, drug and oil industries. Scandals involving conflicts of interest in medical research have spurred many medical schools, scientific researchers and journals to require disclosure of corporate funding and to prohibit corporate sponsors from meddling with findings.

The tech industry now includes the world’s top five companies by market value: [Apple](https://www.wsj.com/market-data/quotes/AAPL) Inc., Google parent [Alphabet](https://www.wsj.com/market-data/quotes/GOOG) Inc., [Microsoft](https://www.wsj.com/market-data/quotes/MSFT) Corp. , [Amazon.com](https://www.wsj.com/market-data/quotes/AMZN) Inc. and [Facebook](https://www.wsj.com/market-data/quotes/FB) Inc.

Several of the companies also are active in funding academic research. Microsoft has paid Harvard business professor Ben Edelman, the author of papers saying Google abuses its market dominance. Chip maker [Qualcomm](https://www.wsj.com/market-data/quotes/QCOM) Inc. funded papers supporting its side of a fight against Google over patents. And telecommunication giants [Verizon Communications](https://www.wsj.com/market-data/quotes/VZ) Inc. and [AT&T](https://www.wsj.com/market-data/quotes/T) Inc. have funded various papers against Google. The companies either declined to comment or didn’t respond to requests for comment.

#### Big Tech bankrolls academic papers---compromises academic integrity in a manner identical to Big Tobacco.

Auslender 20, (June 10th, 2020, “This research was sponsored by Amazon: How ‘Big Tech’ is compromising academic integrity”, https://www.calcalistech.com/ctech/articles/0,7340,L-3854970,00.html)

Research with questionable backing

The entry of corporate money into controversial research fields has always raised concerns. In the 1950s and 1960s, it was the big tobacco companies that poured billions into universities and research centers to produce academic studies into why smoking or second-hand smoke was not a health concern, or that there was no link between smoking and various diseases.

In the 80s and 90s, the same model was adopted by the energy companies, who used it to build the foundations of global warming and climate change denial. The huge amounts of capital the companies poured into the research bodies enabled them to shape the science in such a way as to produce as many studies as possible that emphasized the lack of certainty regarding climate change and help make the argument that man-made global warming was nothing but a theory. In between, there were always the food companies who tried to bridle science to downplay the risks of sugar consumption or the dangers of processed food by sponsoring studies that confused consumers and regulators alike.

In retrospect, it is clear that the money invested by tobacco and energy companies in academic studies served them to help manipulate the public and the regulators put in place to defend it in order to ensure huge profits while ignoring the dangers to people’s health, human lives and the future of the planet. The lessons learned from the previous decades are apparent in the academic institutions’ readiness to accept more money from such companies. When Philip-Morris announced in 2018 that it was launching a research fund that will hand out a billion dollars over 15 years, a long line of researchers, scientists, and doctors spoke out against accepting funding from a company whose products kill millions of people a year. It’s a good start, but it’s only the beginning. There are now several organizations dedicated to tracking the secret donations of tobacco and oil companies to research centers and NGOs.

Small sums, a huge impact

In recent years technology giants have joined the ranks of organizations that infuse the scientific community, and even some in the non-profit and watchdog sector, with small, but well-targeted sums. At first glance, it is difficult to point out the benefit they seek from cutting the checks, but chances are it’s there just waiting to be cashed. There are many examples and Amazon is only the most recent. Last July, IBM announced it was granting Notre Dame $20 million to establish an ethics lab and last year it was exposed that Oxford University received 17 million GBP from Google, in part to fund research into the ethics of AI and the public responsibility of tech companies. Facebook, in turn, launched a giant campaign to fund 60 research projects across 30 institutions to examine the impact of social media on democracy and at the same time donated $7.5 million for the establishment of a computer science ethics center in Munich. Earlier this week [a study](https://www.wired.com/story/top-ai-researchers-financial-backing-big-tech/) by a researcher at the University of Toronto revealed that more than half of the faculties dealing with AI at four leading universities receive funding from large tech companies, including Alphabet, Amazon, Facebook, Microsoft, Apple, Nvidia, Intel, IBM, Huawei, Samsung, Uber, Alibaba, Element AI, and Elon Musk’s OpenAI. Moreover, not all donations are transparent. Last July, the [New York Times revealed](https://www.nytimes.com/2020/07/24/technology/global-antitrust-institute-google-amazon-qualcomm.html?auth=linked-google) that the Global Antitrust Institute, a part of the Antonin Scalia Law School at George Mason University in Fairfax, Va., which often host regulators and judges from all over the world at its functions, has received over the years donations from Google ($500,000), Amazon ($225,000) and Qualcomm ($2.9 million). Those sums may be small compared to the huge amounts available to the tech giants, but for research institutes and universities they are substantial, especially compared to the government grants they compete fiercely over. In such a way, with minimal but precise contributions, the tech giants purchase access and influence over the shaping of the collective knowledge surrounding such critical subjects as competition, ethical technologies, and long-term social and political impact.

Researchers wake up!

Even though the tech giants are buying influence over social issues that are of critical importance, their relationships with research bodies are nearly free of critique, mostly due to the fact that there are no set rules to protect scientific integrity in such situations. There is no question that technology companies should take part in the discussion over the shaping of the regulatory environment and the ethical frameworks within which they develop new technology and one can’t ignore the two-way flow of people from companies to independent research institutes throughout their careers or completely negate its reciprocal impact. But these bodies, both the tech giants and the research centers, must conduct the dialog in a transparent space, uncorrupted by the money various stakeholders have spread around.

Big Oil and Big Tobacco and now Big Tech too all operate within the limitations of the law, and the money they pour in is all permitted. But when the research bodies are seduced into taking their money, they cast a shadow on the already elusive concept of scientific integrity. No matter how much academic freedom the donors promise, when money is involved there is always a way to pressure the researchers into serving financial interests.

# 2AC---Doubles

## ADV---Innovation

### 2AC---AT Teece & Sherry

#### Teece and Sherry---no impact to the card, and it votes aff. [Kansas]

David J. 2AC Teece & Edward F. Sherry 3, Mitsubishi Bank Professor in the Haas School of Business and Director of the Institute of Management, Innovation and Organization at the University of California, Berkeley, Ph.D. in Economics from the University of Pennsylvania; Senior Managing Economist at LECG, “THE INTERFACE BETWEEN INTELLECTUAL PROPERTY LAW AND ANTITRUST LAW: Standards Setting and Antitrust,” Minnesota Law Review, Vol. 87, June 2003, accessed via Lexis

These two interpretations have fundamentally different bases and policy implications. In our opinion, it is simply unnecessary to adopt mandatory rules in this area. SSOs are perfectly capable of adopting their own search, disclosure, and licensing rules, and of adapting those rules to the needs of the SSO participants. The results of Professor Lemley's survey indicate that SSOs have a variety of different rules. 227 There is no reason why a "one size fits all" mandatory-type approach is appropriate. 228

[\*1986] We find it is extremely telling that, at the recent FTC and Department of Justice (DOJ) hearings on the intersection between antitrust and intellectual property, both of the comments from SSOs expressed the belief that the current system worked reasonably well, and expressed concern that the antitrust authorities might adopt a "one size fits all" interventionist approach to standards issues. 229 We believe that those comments, coupled with the results of Professor Lemley's survey showing the wide diversity of policies across SSOs, 230 strongly suggest that the antitrust authorities should proceed cautiously in this area.

In particular, we are concerned that antitrust intervention may reduce the clarity of the rules, thereby making participation in SSOs more risky and reducing the willingness of firms with valuable IP (and which therefore presumably have much to contribute to selecting the appropriate standard) to participate. If the SSO's rules are unclear, the obvious public policy solution is to encourage SSOs to adopt clearer rules on a going-forward basis.

Most significantly, we believe that intervention runs a significant risk of slowing down the standards-setting process, thus delaying the adoption of new standards and new products made in accordance with those standards, to the detriment of consumers and of society generally.

This is not, of course, to suggest that there will never be an appropriate role for antitrust scrutiny of the standards-setting actions of SSOs or their participants. There is no question but that the activities of SSOs can affect non-participants, and one [\*1987] rationale for antitrust intervention is to protect the interests of such non-participants from being adversely affected by decisions in which they did not participate or could not exert influence. And there are obvious examples of manipulation of SSO rules/policies, such as the "stuffing the ballot box" example of Allied Tube, 231 in which antitrust intervention may be the only solution.

But we believe that the antitrust authorities are likely to give too little weight to the fact that SSOs, as voluntary organizations, must often walk a fine line between competing interests. In our view, ex post intervention runs the serious risk of failing to recognize the ex ante balancing of competing interests.

### 2AC---AT Walt

#### Walt is unsure at best- he says short term conflicts unlikely not long term economic decline

1NC Walt ‘20

Kansas reads blue

(Robert and Renée Belfer professor of international relations at Harvard University. (Stephen M., 5/13/20, “Will a Global Depression Trigger Another World War?”, *Foreign Policy*, https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/)

If one takes a longer-term perspective, however, a sustained economic depression could make war more likely by strengthening fascist or xenophobic political movements, fueling protectionism and hypernationalism, and making it more difficult for countries to reach mutually acceptable bargains with each other. The history of the 1930s shows where such trends can lead, although the economic effects of the Depression are hardly the only reason world politics took such a deadly turn in the 1930s. Nationalism, xenophobia, and authoritarian rule were making a comeback well before COVID-19 struck, but the economic misery now occurring in every corner of the world could intensify these trends and leave us in a more war-prone condition when fear of the virus has diminished.

1nc walt starts here

On balance, however, I do not think that even the extraordinary economic conditions we are witnessing today are going to have much impact on the likelihood of war. Why? First of all, if depressions were a powerful cause of war, there would be a lot more of the latter. To take one example, the United States has suffered 40 or more recessions since the country was founded, yet it has fought perhaps 20 interstate wars, most of them unrelated to the state of the economy. To paraphrase the economist Paul Samuelson’s famous quip about the stock market, if recessions were a powerful cause of war, they would have predicted “nine out of the last five (or fewer).”   
Second, states do not start wars unless they believe they will win a quick and relatively cheap victory. As John Mearsheimer showed in his classic book Conventional Deterrence, national leaders avoid war when they are convinced it will be long, bloody, costly, and uncertain. To choose war, political leaders have to convince themselves they can either win a quick, cheap, and decisive victory or achieve some limited objective at low cost. Europe went to war in 1914 with each side believing it would win a rapid and easy victory, and Nazi Germany developed the strategy of blitzkrieg in order to subdue its foes as quickly and cheaply as possible. Iraq attacked Iran in 1980 because Saddam believed the Islamic Republic was in disarray and would be easy to defeat, and George W. Bush invaded Iraq in 2003 convinced the war would be short, successful, and pay for itself.

The fact that each of these leaders miscalculated badly does not alter the main point: No matter what a country’s economic condition might be, its leaders will not go to war unless they think they can do so quickly, cheaply, and with a reasonable probability of success.

Third, and most important, the primary motivation for most wars is the desire for security, not economic gain. For this reason, the odds of war increase when states believe the long-term balance of power may be shifting against them, when they are convinced that adversaries are unalterably hostile and cannot be accommodated, and when they are confident they can reverse the unfavorable trends and establish a secure position if they act now. The historian A.J.P. Taylor once observed that “every war between Great Powers [between 1848 and 1918] … started as a preventive war, not as a war of conquest,” and that remains true of most wars fought since then.

The bottom line: Economic conditions (i.e., a depression) may affect the broader political environment in which decisions for war or peace are made, but they are only one factor among many and rarely the most significant. Even if the COVID-19 pandemic has large, lasting, and negative effects on the world economy—as seems quite likely—it is not likely to affect the probability of war very much, especially in the short term.

[NEWSCHOOLS reading ends here]

To be sure, I can’t rule out another powerful cause of war—stupidity—especially when it is so much in evidence in some quarters these days. So there is no guarantee that we won’t see misguided leaders stumbling into another foolish bloodletting. But given that it’s hard to find any rays of sunshine at this particular moment in history, I’m going to hope I’m right about this one.

## T---Per Se

### 2AC---AT: T---Prohibit = Per Se---TL

#### We meet---the plan still increases prohibitions on anticompetitive conduct, the rule of reason is simply a test that decides whether certain conduct actually violates said prohibition.

Fishman 19, \*Todd Fishman, [Allen & Overy LLP](https://www.jdsupra.com/profile/Allen_Overy_docs/); (January 31st, 2019, “The Rule of Reason as a Bar to Criminal Antitrust Enforcement”, https://www.jdsupra.com/legalnews/the-rule-of-reason-as-a-bar-to-criminal-87406/)

Antitrust law’s rule of reason was born of technical necessity. By its terms, §1 of the Sherman Act prohibits “[e] very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade.” 15 U.S.C. §1. Despite the expansive language of the statutory prohibition, the Supreme Court has held that §1 prohibits only agreements that unreasonably restrain trade. *Board of Trade of Chicago v. United States*, 246 U.S. 231, 238 (1918); *Standard Oil Co. of N.J. v. United States*, 221 U.S. 1, 58-60 (1911). With the rule of reason, antitrust courts assumed a prudential role in administering the scope of antitrust violations, applying a factual inquiry weighing legitimate justifications for a restraint against any anticompetitive effects. Under the rule of reason, “the factfinder weighs all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition.” *Continental T.V. v. GTE Sylvania,* 433 U.S. 36, 49 (1977).

#### Counter-interpretation---rule of reason is a prohibition.

Light 19, Sarah E. Light Assistant Professor of Legal Studies and Business Ethics, The Wharton School, University of Pennsylvania., The Law of the Corporation as Environmental Law, 71 Stan. L. Rev. 137, 2019, Lexis/Nexis

While antitrust law can serve as an environmental mandate by prohibiting collusive behavior that keeps environmentally preferable goods from the market, there is also conflict between antitrust law's goals of promoting competition and environmental law's goals of promoting [\*177] conservation. 192 Because antitrust law's per se rule and rule of reason operate on a somewhat fluid continuum, 193 this Subpart discusses the two doctrines together. The per se rule operates as a prohibition, whereas the rule of reason operates as both a prohibition and a disincentive. As noted above, antitrust law generally prohibits certain types of market activity - price fixing, horizontal boycotts, and output limitations - as illegal per se, and harm to competition is presumed. 194 For example, if an industry association declines to award a seal of approval necessary for a product's sale without any good faith attempt to test the product's performance, but rather simply because that product is manufactured by a competitor, such an action would be illegal per se. 195 Under this Article's framework, a per se violation is thus a prohibition. The more fact-intensive inquiry under the rule of reason tests "whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition." 196 While this extremely broad statement might suggest that any fact is relevant to the inquiry, the salient facts under the rule of reason are "those that tend to establish whether a restraint increases or decreases output, or decreases or increases prices." 197 If an anticompetitive effect is found, then the action is illegal and the rule of reason operates, like the per se rule, as a prohibition. 198 The rule of reason can also operate as a disincentive, even if no [\*178] court finds an anticompetitive effect, as uncertainty and litigation risk may discourage firms from undertaking legally permissible, environmentally positive industry collaborations. 199 Associations of firms have adopted numerous mechanisms of private environmental governance to address the management of common pool resources like fisheries, forests, and the global climate. 200 Examples include the Sustainable Apparel Coalition's Higg Index 201 and the American Chemistry Council's Responsible Care program. 202 But private industry standards raise special antitrust concerns. An agreement among competitors with respect to product or process specifications may exclude competitors who fail to meet such standards, raising the specter that such industry collaborations really constitute output limitations or efforts to limit competition. 203 While the U.S. Supreme Court has scrutinized private standard-setting associations carefully, 204 it has noted that if associations "promulgate … standards based on the merits of objective expert judgments and through procedures that prevent the standard-setting process from being biased by members with economic interests in stifling product competition … , those private standards can have significant procompetitive advantages." 205 In the absence of price fixing or a boycott, a rule of reason analysis generally applies to product standard setting by private associations. 206 The uncertain outcome [\*179] inherent in the application of antitrust law in this context could therefore serve as a potential disincentive to the adoption of private industry standards. 207 The challenge of course is that some form of explicit sanctions on noncompliant industry members may be necessary for private industry standards to be effective. In the context of private reputational mechanisms like the New York Diamond Dealers Club, 208 Barak Richman has pointed out that the Club's use of reputational sanctions and voluntary refusals to deal with actors who flout industry norms, while welfare enhancing, could nonetheless amount to violations of antitrust law. 209 This echoes the concern raised by Andrew King and Michael Lenox in their extensive empirical analysis of the Responsible Care program created by the Chemical Manufacturers Association (now the American Chemistry Council). 210 King and Lenox concluded that the absence of explicit sanctions on members who failed to meet the standards set by the program left the program vulnerable to "opportunism." 211 While they suggested that industry associations could look to third parties to enforce the rules, 212 an alternative way to facilitate the long-term environmental benefits of stronger sanctions would be to interpret antitrust law in conformity with the environmental priority principle presented below. 213 [\*180] In some instances, the conflict between the values of promoting competition and conserving environmental resources can be stark. 214 Jonathan Adler, for example, has identified this conflict in the context of fisheries - a tragedy of the commons situation in which some form of collective action is required to avoid overfishing. 215 He cites as an example Manaka v. Monterey Sardine Industries, Inc., in which a fisherman was excluded from a local fishing cooperative. 216 The fisherman sued the cooperative under the Sherman Act, and the court found an antitrust violation in his exclusion. 217 While the fishing cooperative's policies were no doubt exclusionary, Adler contends that they also promoted conservation by restricting catch. 218 The fishery collapsed by the 1950s, a collapse Adler hypothesizes might have been "inevitable" but that perhaps might not have occurred in the absence of the antitrust suit. 219 While a court performing a rule of reason analysis must consider whether a restraint on trade suppresses or destroys competition, Adler points out that courts may also "consider offsetting efficiencies from otherwise anticompetitive arrangements." 220 It is not clear, however, that the courts have consistently taken these factors into account. 221 Among other potential remedies, Adler argues that to resolve this tension between antitrust law, on the one hand, and private collective action to conserve environmental resources, on the other, courts should more actively consider the "ancillary conservation benefits of otherwise anticompetitive conduct." 222 Recognizing the long-term health of a fishery would be consistent with antitrust law's purpose of ensuring viable markets exist in the future, and consistent with the environmental priority principle introduced below. 223

#### Prohibit can mean ‘severely hinder’---doesn’t necessitate a ban.

Washington Court of Appeals 19 (KORSMO-judge. Opinion in State v. Kimball, No. 35441-5-III (Wash. Ct. App. Apr. 2, 2019). Google scholar caselaw. Date accessed 7/13/21).

His argument runs counter to the meaning of the word "prohibit." It means "1. To forbid by law. 2. To prevent, preclude, or severely hinder." BLACK'S LAW DICTIONARY 1405 (10th ed. 2014). As "severely hinder" suggests, a "prohibition" need not be an all or nothing proposition.

#### **Anticompetitive practices are strategies that have anticompetitive effects.**

Wells 16, Executive Notes Editor, Washington University Global Studies Law Review, J.D., Washington University in St. Louis. (Todd Wells, “Exploring the Space for Antitrust Law in the Race for Space Exploration,” Washington University Global Studies Law Review, Vol. 15, 2016, LexisNexis)

Antitrust law attempts to fight anti-competitive actions. "Anticompetitive practices refer to a wide range of business practices in which a firm or group of firms may engage in order to restrict inter-firm competition to maintain or increase their relative market position and profits without necessarily providing goods and services at a lower cost or of higher quality." The Organization for Economic Cooperation and Development, Glossary of Statistical Terms, Anticompetitive Practices http://stats.oecd.org.proxy.library.georgetown.edu/glossary/detail.asp?ID=3145. Obviously, with such a broad definition of anticompetitive practices, many types of actions can fall under the regulation of anticompetitive law. This can cover forms of collusion, price fixing, bid rigging, bid suppression, complementary bidding, bid rotation, subcontracting, and market divisions. Price Fixing, Bid Rigging, and Market Allocation Schemes: What They Are and What to Look For, U.S. Dep't of Justice, http://www.justice.gov/atr/ public/guidelines/211578.htm. An even broader approach would put patents under antitrust law. "All of these developments, in Congress and the Courts, are in the spirit of harmonizing patent and antitrust law, generally in the direction of subsuming patent law under antitrust law. From the perspective of providing clarity and certainty for those who are the targets of patent and antitrust suits, harmonization has much appeal." Robin Feldman, Patent and Antitrust: Differing Shades of Meaning,13 Va. J.L. & Tech. 1, 7 (2008).

#### 2---the ‘per se’ distinction is meaningless---rules always devolve into standards.

Crane 7 Daniel A. Crane is Assistant Professor, Benjamin N. Cardozo School of Law, Yeshiva University, Rules Versus Standards in Antitrust Adjudication, 64 Wash. & Lee L. Rev. 49 (2007), https://scholarlycommons.law.wlu.edu/wlulr/vol64/iss1/3

Before proceeding much further, it is worth pausing to consider the possibility that a world of antitrust rules would be illusory because, in practice, rules always fade into standards. Take H.L.A. Hart's observation that "[n]atural languages like English are... irreducibly open-textured" when specifying "general classifying terms,' ' 0 0 or Wittgenstein's point that the problem with rules is that they do not tell you when they should be applied.' 0 ' Because language is irreducibly open-textured and indeterminate and because rules lack internal mechanisms to specify when they should be applied, even when the law is formally framed as a rule, it requires penumbral rules, canons of interpretation, and other secondary decisional criteria which end up swallowing the apparent simplicity of the rule. 10 2 Specifying the governing law as a simple, bright-line rule may merely conceal the fact that important balancing of social interests, weighing of probabilities, and choosing between competing ends and means lurk in the shadow of the rule. Declaring a legal rule thus appears misleading or even dishonest because it hides the social preferences that animate the decision-maker's conclusion. Under one interpretation, antitrust law provides the perfect illustration for Hart and Wittgenstein's point. In this view, there never have been such things as case-determinative antitrust rules-only standards clad in rule-bound rhetoric. The current march toward standards, then, is not so much a change in liability determinants as a dissipation of the mystery surrounding antitrust's concealed methodology. In a moment, I will dispute this possibility and argue that the specification of antitrust law as rule or standard has very important practical consequences. But first, it is worth acknowledging the extent to which Hart and Wittgenstein's observation rings true in antitrust. A case in point is antitrust law's long-standing per se prohibition against "price fixing." As any antitrust practitioner will recognize, price fixing appears in quotation marks because application of the per se rule depends not on the fact that competitors have literally fixed prices but that the challenged conduct falls within the antitrust category known as "price fixing." The judicial decision often thought to have established the per se rule against price-fixing did not involve price fixing either literally or figuratively but rather a gentleman's agreement by dominant oil producers to buy up distressed oil from small refineries and thereby stabilize the wholesale market. 1 03 The defendants never came close to agreeing on price. Nonetheless, the Supreme Court held that any "combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity in interstate or foreign commerce" amounts to "price fixing" in the relevant legal sense, whether or not the defendants have actually done the act that a lay person might suppose "price fixing" to be-fixing a price. 1 On the other hand, the Supreme Court has described an act of apparent price fixing by competitors-an agreement on prices for blanket licensing of musical repertoires-as something other than "price fixing" and hence subject to the rule of reason. 0 5 In BMI v. CBS, the Supreme Court rejected textual "literalism" and held that application of the per se rule against price fixing is not as "simplistic" as "determining whether two or more potential competitors have literally 'fixed' a 'price.'" 06 Rather, "[a] s generally used in the antitrust field, 'price fixing' is a shorthand way of describing certain categories of business behavior to which the per se rule has been held applicable."' 0 7 Application of the per se rule turns not on whether the conduct amounts literally to price fixing but on whether the "particular practice is one of those types or that it is 'plainly anticompetitive' and very likely without 'redeeming virtue."" 8 This flexibility in the per se rule invites endless pages of briefing on whether the conduct at issue should be properly characterized as "price fixing" because it unjustifiably tampers with the market mechanism for determining prices or as something else because it can be justified by efficiencies, a standard-favoring way of doing law.'0 9 Hence, Hart explains that rules inevitably dissolve into standards and Wittgentsein explains that rules do not tell us when to apply them.

## T---Private Sector

### 2AC---AT: T---Private Sector = All---TL

#### Counter-interpretation---the private sector includes an industry.

The Law Dictionary N.D., (The Law Dictionary: Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed. “Private Sector” , <https://thelawdictionary.org/private-sector/> , date accessed 9/11/21)

What is PRIVATE SECTOR?

An industry that is composed of private companies. The corporate sector and the personal sector are encompassed in the private sector and they are responsible for the allocation of the majority of resources within the economy.

#### The private sector includes subsets---refers to many different actors.

Waler and Hofstetter 16 (Katharina Walker is Advisor for vocational skills development and Helvetas’ youth focal person. Sonja Hofstetter joined Swisscontact in Cambodia in July 2016. She is the Quality Assurance Manager and Deputy Team Leader of the Skills Development Programme. “ Study on Agricultural Technical and Vocational Education and Training (ATVET) in Developing Countries” Federal Department of Foreign Affairs FDFA, Swiss Agency for Development and Cooperation SDC, Global Programme Food Security, 25.1.2016, <https://www.shareweb.ch/site/Agriculture-and-Food-Security/focusareas/Documents/ras_capex_ATVET_Study_2016.pdf> , date accessed 7/19/21)

In many developing countries, the private sector1 [[BEGIN FOOTNOTE 1]] 1 The private sector is not perceived as a homogenous mass even though the terminology might suggest this to be the case. In this study, the term “private sector” is used to circumscribe the various actors such as small and medium sized companies, large companies, sectorial associations, business associations, chambers of commerce, etc.[[END FOOTNOTE 1]] faces challenges in finding adequately skilled employees. This also holds true for sectors linked to agriculture, e.g. processing, distribution, marketing, etc. The development of ATVET from a purely productivity-oriented approach to provide broader and more specialised skills sets along agricultural value chains is likely to raise the interest of private sector actors. This incentive can result in a stronger and more sustainable financial and conceptual engagement of employers in ATVET.

#### ‘By’ only requires anticompetitive practices resulting from private sector action.

Michigan Court of Appeals 10 (SAWYER, J. Opinion in DEQ. v. Worth Twp., 808 N.W.2d 260, 289 Mich. App. 414 (Ct. App. 2010). Google scholar caselaw. Date accessed 7/23/21).

Second, we look to the meaning of the phrase "by the municipality." This phrase is key because it answers plaintiffs' contention that MCL 324.3109(2) imposes responsibility for a discharge on a municipality without regard to the source of the discharge. That is, plaintiffs argue that any discharge of raw sewage within a municipality constitutes prima facie evidence of a violation by the municipality even if the municipality is not the source of the discharge. We disagree. The word "by" has many meanings. For its meaning as a nonlegal term, we look to a layman's dictionary rather than a legal one. Horace v. City of Pontiac, 456 Mich. 744, 756, 575 N.W.2d 762 (1998). We find these definitions from the Random House Webster's College Dictionary (1997) to be particularly helpful: "10. through the agency of" and "12. as a result or on the basis of[.]" Thus, MCL 324.3109(2) imposes responsibility on the municipality not when the violation merely occurs within the boundaries 264\*264 of the municipality, but when the violation occurs "through the agency of" the municipality or "as a result" of the municipality, that is to say, when it is the actions of the municipality that lead to the discharge.

## DA---Court

### 2AC---Thumper Wall

#### Generic links are thumped:

#### FIRST---NCAA

Dillickrath and Newman 8-12-2021, both JD @ Sheppard Mullin Richter and Hampton (Thomas and Bevin, “Two Important Antitrust Cases Decided by US Supreme Court,” *JD Supra*, https://www.jdsupra.com/legalnews/two-important-antitrust-cases-decided-7489047/)

The second case, NCAA v. Alston, considered whether the NCAA’s eligibility rules regarding compensation of student-athletes violate federal antitrust laws. NCAA bylaws contain an ‘amateurism rule,’ which prohibits student-athletes from competing in intercollegiate sports if they “[u]se[] [their] athletics skill (directly or indirectly) for pay in any form in [their] sport.” In 2014, a group of student-athletes challenged NCAA compensation restrictions in district court. The court held that “NCAA limits on education-related benefits are unreasonable restraints of trade in violation of section 1,” and the Ninth Circuit affirmed. At the Supreme Court, the NCAA cited the Court’s previous decision in the 1984 case NCAA v. Board of Regents to argue that the NCAA’s amateurism rule should not be subject to a detailed rule of reason analysis. Rather, it argued, amateurism is a defining feature of college sports, “necessary for the ‘product’ of amateur college sports to be available at all.” Thus, the amateurism rule should be upheld as procompetitive. By contrast, plaintiffs argued that increasingly lucrative television contracts, which bring in billions in revenue each year, differentiate the 1984 intercollegiate sports market from its present day counterpart. Thus, the truncated, “quick look” analysis applicable in Board of Regents should not apply here. Under a full rule of reason analysis, plaintiffs argued, the anticompetitive harms associated with the amateurism rule outweigh any procompetitive benefits. At the time of writing, the Court had not yet reached a decision on the merits of this case. However, the Court would go on to find for the plaintiffs and affirm the lower court’s opinion. Justice Gorsuch, writing for a unanimous Court, observed that the NCAA never challenged plaintiffs’ market definition, allegation of monopsony power, or its fundamental characterization of the challenged activity. Rather, “this suit involves admitted horizontal price fixing in a market where the defendants exercise monopoly control.” On the other side, “the student-athletes do not question that the NCAA may permissibly seek to justify its restraints in the labor market by pointing to procompetitive effects they produce in the consumer market.” Thus, the only question was whether “the lower courts erred by subjecting its compensation restrictions to a rule of reason analysis.” Harkening back to Board of Regents, the Court acknowledged that “[w]ithout some agreement among rivals—on things like how many players may be on the field or the time allotted for play—the very competitions that consumers value would not be possible.” In such cases, a “quick look” analysis may be appropriate. The amateurism rule falls outside the scope of necessary agreement, however, for “[n]obody questions that Division I basketball and FBS football can proceed (and have proceeded) without the education-related compensation restrictions the district court enjoined.” Thus, the district court was correct to apply a more detailed rule of reason analysis to determine “whether and to what extent those restrictions in the NCAA’s labor market yield benefits in its consumer market that can be attained using substantially less restrictive means.” In evaluating the district court’s application of the rule of reason, the Court marched through the rule of reason’s three-step framework. For the first step, the NCAA “did not meaningfully dispute” that its compensation restrictions “produced significant anticompetitive effects.” As to the second step, the NCAA failed “to establish that the challenged compensation rules . . . have any direct connection to consumer demand” but nevertheless demonstrated that “some” of its compensation restrictions “may” be procompetitive effect “to the extent” they prohibit compensation “unrelated to education, akin to salaries seen in professional sports leagues.” On the third step, the Court held that the district court permissibly found the challenged restraints “patently and inexplicably stricter than is necessary’” to achieve any purported procompetitive benefits. Thus, the Court affirmed. Importantly, the Supreme Court’s decision extends only to “education-related benefits schools may offer student-athletes—such as rules that prohibit schools from offering graduate or vocational school scholarships.” It does not extend to the NCAA’s restrictions on non-education related compensation. However, Justice Kavanaugh’s concurrence signaled that these may also be open to challenge: “[T]here are serious questions whether the NCAA’s remaining compensation rules can pass muster under ordinary rule of reason scrutiny. Under the rule of reason, the NCAA must supply a legally valid procompetitive justification for its remaining compensation rules. As I see it, however, the NCAA may lack such a justification.” While no other member of the Court joined Justice Kavanaugh’s concurrence, this language signals that the Court may not be done with antitrust challenges to the NCAA’s compensation rules.

#### SECOND---Apple vs. Epic

Albertgotti 9/10/21, \*[Reed Albergotti](https://www.washingtonpost.com/people/reed-albergotti/), Washington Post; (September 10th, 2021, “Judge’s ruling may take a bite out of Apple’s App Store, but falls short of calling the iPhone maker a monopolist”, https://www.washingtonpost.com/technology/2021/09/10/apple-epic-decision-judge-market-monopoly/)

A federal judge fundamentally altered Apple’s App Store business model on Friday in a landmark ruling that accused the iPhone maker of illegal anticompetitive behavior and is likely to have ripple effects across the U.S. antitrust landscape. In a decision on an antitrust lawsuit brought by Fortnite maker Epic Games, U.S. District Judge Yvonne Gonzalez Rogers ruled that Apple must allow app developers to “steer” customers to alternatives to the tech giant’s payment processing service, which collects a 30 percent fee on most digital transactions. That was previously not allowed by the company, and marks a major victory for developers which have long complained of the tight grip the tech giant holds over its App Store on the roughly one billion iPhones currently in use. [The blockbuster trial between Apple and the maker of ‘Fortnite’ goes out with a ‘hot tub’ session](https://www.washingtonpost.com/technology/2021/05/24/apple-epic-trial-hot-tubbing/?itid=lk_interstitial_manual_5) Gonzalez Rogers also found that Apple was in violation of California state competition laws because of the way it forces developers into using Apple’s payment processing service without allowing them to tell customers there are alternatives, which are often cheaper. She stopped short of ruling in favor of Epic‘s claims that Apple is a monopolist, although she left the door open by suggesting more evidence could have changed her decision. “The court does not find that it is impossible; only that Epic Games failed in its burden to demonstrate Apple is an illegal monopolist,” she wrote. Epic spokeswoman Elka Looks said the company plans to appeal the ruling. Tim Sweeney, chief executive of Epic, said in a tweet that, “Today’s ruling isn’t a win for developers or for consumers.” Apple did not respond to requests for comment. The ruling, one of the first major legal actions taken against a tech giant in a new era of antitrust scrutiny, is sure to echo loudly both in Washington, where a legislative effort to rein in the power of Big Tech is underway, and in the courts, which are facing the biggest test of existing antitrust laws in decades. Tech giants have come under the microscope in recent years as it became clear that current antitrust law does not effectively address their power, and regulators and lawmakers have been pushing to change that.

### 2AC---Bipartisan

#### Plan is bipartisan.

Contreras 18, \*Jorge L. Contreras teaches in the areas of intellectual property law, property law and genetics and the law at the University of Utah. He has recently been named one of the University of Utah's Presidential Scholars, and won the 2018-19 Faculty Scholarship Award from the S.J. Quinney College of Law. Professor Contreras has previously served on the law faculties of American University Washington College of Law and Washington University in St. Louis, and was a partner at the international law firm Wilmer Cutler Pickering Hale and Dorr LLP, where he practiced transactional and intellectual property law in Boston, London and Washington DC; (August 2018, “Taking it to the Limit: Shifting U.S. Antitrust Policy Toward Standards Development”, https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1114&context=scholarship)

This being said, antitrust policy regarding standard-setting, and hold-up in particular, did not previously appear to run along party lines. In fact, many key DOJ position statements regarding hold-up, including those expressed in its 2006 and 2007 business review letters to VITA and IEEE, respectively, and the 2007 report on antitrust and IP that it produced jointly with the FTC, were developed during the Republican George W. Bush Administration. Each of these documents acknowledged the existence and potential anticompetitive effects of hold-up. At least in this area, the Obama DOJ did not appear to deviate significantly from the policies of prior administrations. As observed by FTC Commissioner Terrell McSweeny, the FTC and prior DOJ approach to combatting hold-up were based on “15 years of scholarship and bipartisan study” and should not lightly be discarded.37

### 2AC---LD---Precedent

#### No link---the plan uses a ‘reasonably necessary’ lens to evaluate anticompetitive conduct, which is consistent with long-held antitrust principles.

Melamed & Shapiro 18, \*A. Douglas Melamed is Professor of the Practice of Law at Stanford Law School; \*Carl Shapiro is the Transamerica Professor of Business Strategy at the Haas School of Business at the University of California at Berkeley; (May 2018, “How Antitrust Law Can Make FRAND Commitments More Effective”, https://www-cdn.law.stanford.edu/wp-content/uploads/2018/05/How-Antitrust-Law-Can-Make-FRAND-Commitments-More-Effective.pdf)

The key antitrust question, therefore, is: how does the law reconcile the legitimate purpose of collaborative standard setting with its likely creation of market power for SEP holders? The answer is found in the fundamental principle of antitrust law that, when firms—and especially competitors—collaborate, even for a legitimate purpose, their collaboration must be no more restrictive of competition than reasonably necessary to enable achievement of the legitimate purpose.

This principle has its origins in the common law 67 and in some of the earliest U.S. antitrust cases.68 It means not just that the collaboration in question—for present purposes, SSO rules and practices regarding the creation of standards and the licensing of SEPs—must on balance enhance competition or consumer welfare, but also that the collaboration is unlawful if a different set of rules and practices could largely achieve the intended benefits with less harm.69 As the Court explained in Allied Tube, “[a]n association cannot validate the anticompetitive activities of its members simply by adopting rules that fail to pro- vide . . . safeguards” against conduct by members “with economic interests in restraining competition.”70

This principle has repeatedly been expressed in lower court decisions and antitrust enforcement agency guidelines. In Kreuzer v. American Academy of Periodontology, which concerned the lawfulness of a professional association’s rules of practice, the court reasoned as follows: “[A] practice intended to benefit the public may have a collateral adverse effect on competition. If it does, then such a practice must be the least restrictive means of achieving the desired goal and the public benefit rendered must outweigh the adverse effect on competition.”71 And the U.S. enforcement agencies’ Competitor Collaboration Guidelines make clear that when a collaboration among competitors harms competition or creates market power—as the creation by SSOs of monopoly power for SEP holders surely does—that harm must be justified by an offsetting, procompetitive justification.

## CP---States

### 2AC---Preemption

#### The Ninth Circuit imposed court-order limitations on antitrust law to preserve its balance with patent law.

Martino et al. 20, \*[Matthew M. Martino](https://www.skadden.com/professionals/m/martino-matthew-m) [Tara L. Reinhart](https://www.skadden.com/professionals/r/reinhart-tara-l) [Steven C. Sunshine](https://www.skadden.com/professionals/s/sunshine-steven-c) [Julia K. York](https://www.skadden.com/professionals/y/york-julia-k), works with clients at Skadden, Arps, Slate, Meagher & Flom LLP; (August 14th, 2020, “Ninth Circuit Strikes Down Sweeping Injunction Against Qualcomm and Reins In Expansive Interpretation of Sherman Act”, https://www.skadden.com/insights/publications/2020/08/ninth-circuit-strikes-down-sweeping-injunction)

In its highly anticipated decision, the Ninth Circuit panel unanimously rejected the lower court’s reasoning, vacating the judgment and reversing the worldwide injunction against Qualcomm. The panel concluded that the district court had erroneously imposed the antitrust duty to deal on Qualcomm, had impermissibly looked outside the relevant antitrust market in order to infer an anticompetitive act and had relied on outdated evidence of agreements that were terminated before the suit was filed to justify a broad, forward-looking global injunction. The Ninth Circuit further rejected the argument that a SEP holder’s violation of FRAND commitments could independently create antitrust liability, instead pointing to patent and contract law as sources for potential remedies. The decision reflects a considered effort to rei

n in the district court’s expansive interpretation of general antitrust principles and their specific application to SEP holders, as well as recognition that the antitrust laws aim to preserve companies’ incentives to innovate and compete. Recognizing that while “[a]nticompetitive behavior is illegal under federal antitrust law[,]” the panel was adamant that “[h]ypercompetitive behavior is not.”[7](https://www.skadden.com/insights/publications/2020/08/ninth-circuit-strikes-down-sweeping-injunction" \l "ftn7)

Rejection of District Court’s Expansive Interpretation of Antitrust Laws

The Ninth Circuit decision contains several notable conclusions regarding the scope of Section 2 of the Sherman Act and what constitutes cognizable antitrust harm.

#### State efforts to impose greater antitrust liability than established by federal courts will be preempted to protect that balance.

Samp 14, \*Richard A. Samp is the chief counsel for Washington Legal Foundation (WLF), a non-profit, public interest law firm in Washington, D.C. WLF filed an amicus brief in support of Love Terminal Partners. (2014, “The Role of State Antitrust Law in the Aftermath of Actavis”, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1062&context=mjlst)

V. ACTAVIS’S PREEMPTIVE EFFECT

Application of state antitrust law to reverse payment settlements is not merely a hypothetical possibility. There are a fair number of pending lawsuits that challenge reverse payment settlements on state-law grounds. The California Supreme Court has agreed to review one such suit.74 In seeking affirmance of the appeals court’s dismissal of the suit, the defendants argue inter alia that the suit is preempted by federal law.75

As noted above, there is precedent for a finding that state antitrust law is preempted to the extent that it conflicts with the policy underlying a federal statute.76 Moreover, in the context of patent law, federal courts have not hesitated to preempt state laws that the courts deem to stand as an obstacle to accomplishing Congress’s objectives (i.e., encouraging efforts to develop new and useful products).77 To the extent that any portions of Actavis’s holding can be deemed to reflect the Court’s perception of Congress’s new-product-development objectives, a state law is preempted if it is inconsistent with that holding and seeks to impose a greater degree of antitrust liability on the parties to a reverse payment settlement.

Actavis’s treatment of settlements involving a compromise entry date appears to meet that description. Actavis held that federal antitrust liability could not arise from a settlement in which the generic manufacturer agrees not compete for a number of years and in return is rewarded with an exclusive license to market its product several years in advance of the patent’s expiration date.78 Accordingly, states are not permitted to impose antitrust liability under similar circumstances because doing so would upset the balance that, according to Actavis, Congress sought to achieve between antitrust and patent law.

Other issues left open by Actavis are likely to be answered in the years ahead. For example, the Supreme Court did not specify whether noncash benefits received by a generic manufacturer in connection with a patent settlement can ever serve as the basis for federal antitrust liability. If the Supreme Court eventually answers that question by stating: “No, federal antitrust law will not examine settlement benefits other than cash that flow to the infringing party,” then it is likely that state antitrust law would be required to conform to that rule. The potential grounds for such a ruling (a desire both to promote settlement of patent disputes and to uphold reliance interests in existing patents) are based largely on values embedded in federal patent law.

There is little reason to believe, however, that the Court would prevent application of state antitrust law to patent settlement agreements where state law is fully consistent with federal antitrust law. Even in areas subject to extensive federal regulation, the Supreme Court has upheld the authority of states to engage in parallel regulation that is not inconsistent with the federal regulation.79 Unless the Court were to determine, as in Connell,80 that states could not be trusted to properly accommodate the objectives of the federal statute at issue (here, federal patent law), there is no reason to conclude that Congress would not have wanted states to be permitted to police the same sorts of anticompetitive conduct that is policed by federal antitrust law. Moreover, states are likely free to impose greater penalties on the proscribed conduct than is available under federal law. As the Court explained in California v. ARC America Corp., state antitrust law is not required to adhere to the same set of sanctions imposed by federal antitrust law.81

It seems reasonably clear, however, that Actavis prohibits states from adopting the procedural devices rejected by the U.S. Supreme Court—either a per se condemnation of reverse payment settlements or a presumption of illegality accompanied by “quick look” review. The Supreme Court rejected those approaches because it determined that in many cases there might well be pro-competitive economic justifications for reverse payment settlements and that presuming their illegality could result in the suppression of economically useful conduct.82 State antitrust laws that adopted the FTC’s proposed presumption of illegality would be subject to similar criticism, and thus would likely be impliedly preempted as inconsistent with the careful balance between antitrust and patent law established by Actavis.

CONCLUSION

Because Actavis left so many questions unanswered regarding the application of federal antitrust law to patent settlement agreements, the extent to which federal law preempts the application of state antitrust law to such agreements remains similarly unsettled. One can be reasonably confident that if private plaintiffs become dissatisfied with the results of pending litigation under federal antitrust law, they will turn with increasing frequency to state antitrust law as an alternative remedy. Even if state law ends up doing no more than “parallel” federal antitrust law, defendants are likely to incur substantial litigation costs fending off such state claims in the years to come.

## K---Capitalism

### 2AC---Extinction

#### Prioritize existential risk prevention---it encompasses AND outweighs other threats.

Dennis Pamlin & Stuart Armstrong 15, Dennis Pamlin, Executive Project Manager Global Risks, Global Challenges Foundation, and Stuart Armstrong, James Martin Research Fellow, Future of Humanity Institute, Oxford Martin School, University of Oxford, February 2015, “Global Challenges: 12 Risks that threaten human civilization: The case for a new risk category,” Global Challenges Foundation, p.30-93, https://api.globalchallenges.org/static/wp-content/uploads/12-Risks-with-infinite-impact.pdf

2. Risks with infinite impact: A new category of risks “Most risk management is really just advanced contingency planning and disciplining yourself to realise that, given enough time, very low probability events not only can happen, but they absolutely will happen.” Lloyd Blankfein, Goldman Sachs CEO, July 2013 1 Risk = Probability × Impact Impacts where civilisation collapses to a state of great suffering and do not recover, or a situation where all human life end, are defined as infinite as the result is irreversible and lasts forever. A new group of global risks This is a report about a limited number of global risks – that can be identified through a scientific and transparent process – with impacts of a magnitude that pose a threat to human civilisation, or even possibly to all human life. With such a focus it may surprise some readers to find that the report’s essential aim is to inspire action and dialogue as well as an increased use of the methodologies used for risk assessment. The real focus is not on the almost unimaginable impacts of the risks the report outlines. Its fundamental purpose is to encourage global collaboration and to use this new category of risk as a driver for innovation. The idea that we face a number of global challenges threatening the very basis of our civilisation at the beginning of the 21st century is well accepted in the scientific community, and is studied at a number of leading universities.2 But there is still no coordinated approach to address this group of challenges and turn them into opportunities for a new generation of global cooperation and the creation of a global governance system capable of addressing the greatest challenges of our time. This report has, to the best of our knowledge, created the first science-based list of global risks with a potentially infinite impact and has made the first attempt to provide an initial overview of the uncertainties related to these risks as well as rough quantifications for the probabilities of these impacts. What is risk? Risk is the potential of losing something of value, weighed against the potential to gain something of value. Every day we make different kinds of risk assessments, in more or less rational ways, when we weigh different options against each other. The basic idea of risk is that an uncertainty exists regarding the outcome and that we must find a way to take the best possible decision based on our understanding of this uncertainty.3 To calculate risk the probability of an outcome is often multiplied by the impact. The impact is in most cases measured in economic terms, but it can also be measured in anything we want to avoid, such as suffering. At the heart of a risk assessment is a probability distribution, often described by a probability density function4; see figure X for a graphic illustration. The slightly tilted bell curve is a common probability distribution, but the shape differs and in reality is seldom as smooth as the example. The total area under the curve always represents 100 percent, i.e. all the possible outcomes fit under the curve. In this case (A) represents the most probable impact. With a much lower probability it will be a close to zero impact, illustrated by (B). In the same way as in case B there is also a low probability that the situation will be very significant, illustrated by (C). Figure 1: Probability density function [FIGURE 1 OMITTED] The impacts (A), (B) and (C) all belong to the same category, ~~normal~~ [common] impacts: the impacts may be more or less serious, but they can be dealt with within the current system. The impacts in this report are however of a special kind. These are impacts where everything will be lost and the situation will not be reversible, i.e challenges with potentially infinite impact. In insurance and finance this kind of risk is called “risk of ruin”, an impact where all capital is lost.5 This impact is however only infinite for the company that is losing the money. From society’s perspective, that is not a special category of risk. In this report the focus is on the “risk of ruin” on a global scale and on a human level, in the worst case this is when we risk the extinction of our own species. On a probability curve the impacts in this report are usually at the very far right with a relatively low probability compared with other impacts, illustrated by (D) in Figure 2. Often they are so far out on the tail of the curve that they are not even included in studies. For each risk in this report the probability of an infinite impact is very low compared to the most likely outcome. Some studies even indicate that not all risks in this report can result in an infinite impact. But a significant number of peer-reviewed reports indicate that those impacts not only can happen, but that their probability is increasing due to unsustainable trends. The assumption for this report is that by creating a better understanding of our scientific knowledge regarding risks with a potentially infinite impact, we can inspire initiatives that can turn these risks into drivers for innovation. Not only could a better understanding of the unique magnitude of these risks help address the risks we face, it could also help to create a path towards more sustainable development. The group of global risks discussed in this report are so different from most of the challenges we face that they are hard to comprehend. But that is also why they can help us to build the collaboration we need and drive the development of further solutions that benefit both people and the planet. As noted above, none of the risks in this report is likely to result directly in an infinite impact, and some are probably even physically incapable of doing so. But all are so significant that they could reach a threshold impact able to create social and ecological instability that could trigger a process which could lead to an infinite impact. For several reasons the potentially infinite impacts of the risks in this report are not as well known as they should be. One reason is the way that extreme impacts are often masked by most of the theories and models used by governments and business today. For example, the probability of extreme impacts is often below what is included in studies and strategies. The tendency to exclude impacts below a probability of five percent is one reason for the relative “invisibility” of infinite impacts. The almost standard use of a 95% confidence interval is one reason why low-probability high-impact events are often ignored.6 Figure 2: Probability density function with tail highlighted [FIGURE 2 OMITTED] Climate change is a good example, where almost all of the focus is on the most likely scenarios and there are few studies that include the low-probability high-impact scenarios. In most reports about climate impacts, the impacts caused by warming beyond five or six degrees Celsius are even omitted from tables and graphs even though the IPCC’s own research indicates that the probability of these impacts are often between one and five percent, and sometimes even higher.7 Other aspects that contribute to this relative invisibility include the fact that extreme impacts are difficult to translate into monetary terms, they have a global scope, and they often require a time-horizon of a century or more. They cannot be understood simply by linear extrapolation of current trends, and they lack historical precedents. There is also the fact that the measures required to significantly reduce the probability of infinite impacts will be radical compared to a business-as-usual scenario with a focus on incremental changes. The exact probability of a specific impact is difficult or impossible to estimate.8 However, the important thing is to establish the current magnitude of the probabilities and compare them with the probabilities for such impacts we cannot accept. A failure to provide any estimate for these risks often results in strategies and priorities defined as though the probability of a totally unacceptable outcome is zero. An approximate number for a best estimate also makes it easier to understand that a great uncertainty means the actual probability can be both much higher and much lower than the best estimate. It should also be stressed that uncertainty is not a weakness in science; it always exists in scientific work. It is a systematic way of understanding the limitations of the methodology, data, etc.9 Uncertainty is not a reason to wait to take action if the impacts are serious. Increased uncertainty is something that risk experts, e.g. insurance experts and security policy experts, interpret as a signal for action. A contrasting challenge is that our cultural references to the threat of infinite impacts have been dominated throughout history by religious groups seeking to scare society without any scientific backing, often as a way to discipline people and implement unpopular measures. It should not have to be said, but this report is obviously fundamentally different as it focuses on scientific evidence from peer-reviewed sources. Infinite impact The concept infinite impact refers to two aspects in particular; the terminology is not meant to imply a literally infinite impact (with all the mathematical subtleties that would imply) but to serve as a reminder that these risks are of a different nature. Ethical These are impacts that threaten the very survival of humanity and life on Earth – and therefore can be seen as being infinitely negative from an ethical perspective. No positive gain can outweigh even a small probability for an infinite negative impact. Such risks require society to ensure that we eliminate these risks by reducing the impact below an infinite impact as a top priority, or at least do everything we can to reduce the probability of these risks. As some of these risks are impossible to eliminate today it is also important to discuss what probability can right now be accepted for risks with a possible infinite impact. Economic Infinite impacts are beyond what most traditional economic models today are able to cope with. The impacts are irreversible in the most fundamental way, so tools like cost-benefit assessment seldom make sense. To use discounting that makes infinite impacts (which could take place 100 years or more from now and affect all future generations) close to invisible in economic assessments, is another example of a challenge with current tools. So while tools like cost-benefit models and discounting can help us in some areas, they are seldom applicable in the context of infinite impacts. New tools are needed to guide the global economy in an age of potential infinite impacts. See chapter 2.2.2 for a more detailed iscussion. Roulette and Russian roulette When probability and normal risks are discussed the example of a casino and roulette is often used. You bet something, then spin the wheel and with a certain probability you win or lose. You can use different odds to discuss different kinds of risk taking. These kinds of thought experiment can be very useful, but when it comes to infinite risks these gaming analogies become problematic. For infinite impact a more appropriate analogy is probably Russian roulette. But instead of “normal” Russian roulette where you only bet your own life you are now also betting everyone you know and everyone you don’t know. Everyone alive will die if you lose. There will be no second chance for anyone as there will be no future generations; humanity will end with your loss. What probability would you accept for different sums of money if you played this version of Russian roulette? Most people would say that it is stupid and – no matter how low the probability is and no matter how big the potential win is – this kind of game should not be played, as it is unethical. Many would also say that no person should be allowed to make such a judgment, as those who are affected do not have a say. You could add that most of those who will lose from it cannot say anything as they are not born and will never exist if you lose. The difference between ordinary roulette and “allhumanity Russian roulette” is one way of illustrating the difference in nature between a “normal” risk that is reversible, and a risk with an infinite impact. An additional challenge in acknowledging the risks outlined in this report is that many of the traditional risks including wars and violence have decreased, even though it might not always looks that way in media.10 So a significant number of experts today spend a substantial amount of time trying to explain that much of what is discussed as dangerous trends might not be as dangerous as we think. For policy makers listening only to experts in traditional risk areas it is therefore easy to get the impression that global risks are becoming less of a problem. The chain of events that could result in infinite impacts in this report also differ from most of the traditional risks, as most of them are not triggered by wilful acts, but accidents/mistakes. Even the probabilities related to nuclear war in this report are to a large degree related to inadvertent escalation. As many of the tools to analyse and address risks have been developed to protect nations and states from attacks, risks involving accidents tend to get less attention. This report emphasises the need for an open and democratic process in addressing global challenges with potentially infinite impact. Hence, this is a scientifically based invitation to discuss how we as a global community can address what could be considered the greatest challenges of our time. The difficulty for individual scientists to communicate a scientific risk approach should however not be underestimated. Scientists who today talk about low-probability impacts, that are serious but still far from infinite, are often accused of pessimism and scaremongering, even if they do nothing but highlight scientific findings.11 To highlight infinite impacts with even lower probability can therefore be something that a scientist who cares about his/her reputation would want to avoid. In the media it is still common to contrast the most probable climate impact with the probability that nothing, or almost nothing, will happen. The fact that almost nothing could happen is not wrong in most cases, but it is unscientific and dangerous if different levels of probability are presented as equal. The tendency to compare the most probable climate impact with the possibility of a low or no impact also results in a situation where low-probability high-impact outcomes are often totally ignored. An honest and scientific approach is to, whenever possible, present the whole probability distribution and pay special attention to unacceptable outcomes. The fact that we have challenges that with some probability might be infinite and therefore fundamentally irreversible is difficult to comprehend, and physiologically they are something our brains are poorly equipped to respond to, according to evolutionary psychologists.12 It is hard for us as individuals to grasp that humanity for the first time in its history now has the capacity to create such catastrophic outcomes. Professor Marianne Frankenhaeuser, former head of the psychology division, Karolinska Institute, Stockholm, put it this way: “Part of the answer is to be found in psychological defence mechanisms. The nuclear threat is collectively denied, because to face it would force us to face some aspects of the world’s situation which we do not want to recognise.” 13 This psychological denial may be one reason why there is a tendency among some stakeholders to confuse “being optimistic” with denying what science is telling us, and ignoring parts of the probability curve.14 Ignoring the fact that there is strong scientific evidence for serious impacts in different areas, and focusing only on selected sources which suggest that the problem may not be so serious, is not optimistic. It is both unscientific and dangerous.15 A scientific approach requires us to base our decisions on the whole probability distribution. Whether it is possible to address the challenge or not is the area where optimism and pessimism can make people look at the same set of data and come to different conclusions. Two things are important to keep in mind: first, that there is always a probability distribution when it comes to risk; second, that there are two different kinds of impacts that are of interest for this report. The probability distribution can have different shapes but in simplified cases the shape tends to look like a slightly modified clock (remember figure 1). In the media it can sound as though experts argue whether an impact, for example a climate impact or a pandemic, will be dangerous or not. But what serious experts discuss is the probability of different oucomes. They can disagree on the shape of the curve or what curves should be studied, but not that a probability curve exists. With climate change this includes discussions about how sensitive the climate is, how much greenhouse gas will be emitted, and what impacts that different warmings will result in. Just as it is important not to ignore challenges with potentially infinite impacts, it is also important not to use them to scare people. Dramatic images and strong language are best avoided whenever possible, as this group of risks require sophisticated strategies that benefit from rational arguments. Throughout history we have seen too many examples when threats of danger have been damagingly used to undermine important values. The history of infinite impacts: The LA-602 document The understanding of infinite impacts is very recent compared with most of our institutions and laws. It is only 70 years ago that Edward Teller, one of the greatest physicists of his time, with his back-of-the-envelope calculations, produced results that differed drastically from all that had gone before. His calculations indicated that the explosion of a nuclear bomb – a creation of some of the brightest minds on the planet, including Teller himself – could result in a chain reaction so powerful that it would ignite the world’s atmosphere, thereby ending human life on Earth.16 Robert Oppenheimer, who led the Manhattan Project to develop the nuclear bomb, halted the project to see whether Teller’s calculations were correct.17 The resulting document, LA- 602: Ignition of the Atmosphere with Nuclear Bombs, concluded that Teller was wrong, But the sheer complexity drove them to end their assessment by writing that “further work on the subject [is] highly desirable”.18 The LA-602 document can be seen as the first scientific global risk report addressing a category of risks where the worst possible impact in all practical senses is infinite.19 Since the atomic bomb more challenges have emerged with potentially infinite impact. Allmost all of these new challenges are linked to the increased knowledge, economic and technical development that has brought so many benefits. For example, climate change is the result of the industrial revolution and development that was, and still is, based heavily on fossil fuel. The increased potential for global pandemics is the result of an integrated global economy where goods and services move quickly around the world, combined with rapid urbanisation and high population density. In parallel with the increased number of risks with possible infinite impact, our capacity to analyse and solve them has greatly increased too. Science and technology today provides us with knowledge and tools that can radically reduce the risks that historically have been behind major extinctions, such as pandemics and asteroids. Recent challenges like climate change, and emerging challenges like synthetic biology and nanotechnology, can to a large degree be addressed by smart use of new technologies, new lifestyles and institutional structures. It will be hard as it will require collaboration of a kind that we have not seen before. It will also require us to create systems that can deal with the problems before they occur. The fact that the same knowledge and tools can be both a problem and a solution is important to understand in order to avoid polarisation. Within a few decades, or even sooner, many of the tools that can help us solve the global challenges of today will come from fields likely to provide us with the most powerful instruments we have ever had – resulting in their own sets of challenges. Synthetic biology, nanotechnology and artificial intelligence (AI) are all rapidly evolving fields with great potential. They may help solve many of today’s main challenges or, if not guided in a benign direction, may result in catastrophic outcomes. The point of departure of this report is the fact that we now have the knowledge, economic resources and technological ability to reduce most of the greatest risks of our time. Conversely, the infinite impacts we face are almost all unintended results of human ingenuity. The reason we are in this situation is that we have made progress in many areas without addressing unintended low-probability high-impact consequences. Creating innovative and resilient systems rather than simply managing risk would let us focus more on opportunities. But the resilience needed require moving away from legacy systems is likely to be disruptive, so an open and transparent discussion is needed regarding the transformative solutions required. Figure 3: Probability density function with tail and threshold highlighted [FIGURE 3 OMITTED] 2.1 Report structure The first part of the report is an introduction where the global risks with potential infinite impact are introduced and defined. This part also includes the methodology for selecting these risks, and presents the twelve risks that meet this definition. Four goals of the report are also presented, under the headings “acknowledge”, “inspire”, “connect” and “deliver”. The second part is an overview of the twelve global risks and key events that illustrate some of the work around the world to address them. For each challenge five important factors that influence the probability or impact are also listed. The risks are divided into four different categories depending on their characteristics. “Current challenges” is the first category and includes the risks that currently threaten humanity due to our economic and technological development - extreme climate change, for example, which depends on how much greenhouse gas we emit. “Exogenic challenges” includes risks where the basic probability of an event is beyond human control, but where the probability and magnitude of the impact can be influenced - asteroid impacts, for example, where the asteroids’ paths are beyond human control but an impact can be moderated by either changing the direction of the asteroid or preparing for an impact. “Emerging challenges” includes areas where technological development and scientific assessment indicate that they could both be a very important contribution to human welfare and help reduce the risks associated with current challenges, but could also result in new infinite impacts.20 AI, nanotechnology and synthetic biology are examples. “Global policy challenge” is a different kind of risk. It is a probable threat arising from future global governance as it resorts to destructive policies, possibly in response to the other challenges listed above. The third part of the report discusses the relationship between the different risks. Action to reduce one risk can increase another, unless their possible links are understood. Many solutions are also able to address multiple risks, so there are significant benefits from understanding how one relates to others. Investigating these correlations could be a start, but correlation is a linear measure and non-linear techniques may be more helpful for assessing the aggregate risk. The fourth part is an overview, the first ever to our knowledge, of the uncertainties and probabilities of global risks with potentially infinite impacts. The numbers are only rough estimates and are meant to be a first step in a dialogue where methodologies are developed and estimates refined. The fifth part presents some of the most important underlying trends that influence the global challenges, which often build up slowly until they reach a threshold and very rapid changes ensue. The sixth and final part presents an overview of possible ways forward. 2.2 Goals Goal 1: Acknowledge That key stakeholders, influencing global challenges, acknowledge the existence of the category of risks that could result in infinite impact. They should also recognice that the list of risks that belong to this category should be revised as new technologies are developed and our knowledge increases. Regardless of the risks included, the category should be given special attention in all processes and decisions of relevance. The report also seeks to demonstrate to all key stakeholders that we have the capacity to reduce, or even eliminate, most of the risks in this category. Establish a category of risks with potentially infinite impact. Before anything significant can happen regarding global risks with potentially infinite impacts, their existence must be acknowledged. Rapid technological development and economic growth have delivered unprecedented material welfare to billions of people in a veritable tide of utopias.21 But we now face the possibility that even tools created with the best of intentions can have a darker side too, a side that may threaten human civilisation, and conceivably the continuation of human life. This is what all decision-makers need to recognise. Rather than succumbing to terror, we need to acknowledge that we can let the prospect inspire and drive us forward. Goal 2: Inspire That policy makers inspire action by explaining how the probabilities and impacts can be reduced and turned into opportunities. Concrete examples of initiatives should be communicated in different networks in order to create ripple effects, with the long-term goal that all key stakeholders should be inspired to turn these risks into opportunities for positive action. Show concrete action that is taking place today. This report seeks to show that it is not only possible to contribute to reducing these risks, but that it is perhaps the most important thing anyone can spend their time on. It does so by combining information about the risks with information about individuals and groups who has made a significant contribution by turning challenges into opportunities. By highlighting concrete examples the report hopes to inspire a new generation of leaders. Goal 3: Connect That leaders in different sectors connect with each other to encourage collaboration. A specific focus on financial and security policy where significant risks combine to demand action beyond the incremental is required. Support new meetings between interested stakeholders. The nature of these risks spans countries and continents; they require action by governments and politicians, but also by companies, academics, NGOs, and many other groups. The magnitude of the possible impacts requires not only leaders to act but above all new models for global cooperation and decision-making to ensure delivery. The need for political leadership is therefore crucial. Even with those risks where many groups are involved, such as climate change and pandemics, very few today address the possibility of infinite impact aspects. Even fewer groups address the links between the different risks. There is also a need to connect different levels of work, so that local, regional, national and international efforts can support each other when it comes to risks with potentially infinite impacts. Goal 4: Deliver That concrete strategies are developed that allow key stakeholders to identify, quantify and address global challenges as well as gather support for concrete steps towards a wellfunctioning global governance system. This would include tools and initiatives that can help identify, quantify and reduce risks with potentially infinite impacts. Identify and implement strategies and initiatives. Reports can acknowledge, inspire and connect, but only people can deliver actual results. The main focus of the report is to show that actual initiatives need to be taken that deliver actual results. Only when the probability of an infinite impact becomes acceptably low, very close to zero, and/or when the maximum impact is significantly reduced, should we talk about real progress. In order to deliver results it is important to remember that global governance to tackle these risks is the way we organise society in order to address our greatest challenges. It is not a question of establishing a “world government”, it is about the way we organise ourselves on all levels, from the local to the global. The report is a first step and should be seen as an invitation to all responsible parties that can affect the probability and impact of risks with potentially infinite impacts. But its success will ultimately be measured only on how it contributes to concrete results. 2.3 Global challenges and infinite impact This chapter first introduces the concept of infinite impact. It then describes the methodology used to identify challenges with an infinite impact. It then presents risks with potentially infinite impact that the methodology results in. 2.3.1 Definition of infinite impact The specific criterion for including a risk in this report is that well-sourced science shows the challenge can have the following consequences: 22 1. Infinite impact: When civilisation collapses to a state of great suffering and does not recover, or a situation where all human life ends. The existence of such threats is well attested by science.23 2. Infinite impact threshold – an impact that can trigger a chain of events that could result first in a civilisation collapse, and then later result in an infinite impact. Such thresholds are especially important to recognise in a complex and interconnected society where resilience is decreasing.24 A collapse of civilisation is defined as a drastic decrease in human population size and political/economic/social complexity, globally for an extended time.25 The above definition means the list of challenges is not static. When new challenges emerge, or current ones fade away, the list will change. An additional criterion for including risks in this report is “human influence”. Only risks where humans can influence either the probability, the impact, or both, are included. For most risks both impact and probability can be affected, for example with nuclear war, where the number/size of weapons influences the impact and tensions between countries affects the probability. Other risks, such as a supervolcano, are included as it is possible to affect the impact through various mitigation methods, even if we currently cannot affect the probability. Risks that are susceptible to human influence are indirectly linked, because efforts to address one of them may increase or decrease the likelihood of another. 2.3.2 Why use “infinite impact” as a concept? The concept of infinity was chosen as it reflects many of the challenges, especially in economic theory, to addressing these risks as well as the need to question much of our current way of thinking. The concept of a category of risks based on their extreme impact is meant to provide a tool to distinguish one particular kind of risk from others. The benefit of this new concept should be assessed based on two things. First, does the category exist, and second, is the concept helpful in addressing these risks? The report has found ample evidence that there are risks with an impact that can end human civilisation and even all human life. The report further concludes that a new category of risk is not only meaningful but also timely. We live in a society where global risks with potentially infinite impacts increase in both number and probability according to multiple studies. Looking ahead, many emerging technologies which will certainly provide beneficial results, might also result in an increased probability of infinite impacts.26 Over the last few years a greater understanding of low probability or unknown probability events has helped more people to understand the importance of looking beyond the most probable scenarios. Concepts like “black swans” and “perfect storms” are now part of mainstream policy and business language.27 Greater understanding of the technology and science of complex systems has also resulted in a new understanding of potentially disruptive events. Humans now have such an impact on the planet that the term “the anthropocene” is being used, even by mainstream media like The Economist.28 The term was introduced in the 90s by the Nobel Prize winner Paul Crutzen to describe how humans are now the dominant force changing the Earth’s ecosystems.29 The idea to establish a well defined category of risks that focus on risks with a potentially infinite impact that can be used as a practical tool by policy makers is partly inspired by Nick Bostrom’s philosophical work and his introduction of a risk taxonomy that includes an academic category called “existential risks”.30 Introducing a category with risks that have a potentially infinite impact is not meant to be a mathematical definition; infinity is a thorny mathematical concept and nothing in reality can be infinite.31 It is meant to illustrate a singularity, when humanity is threatened, when many of the tools used to approach most challenges today become problematic, meaningless, or even counterproductive. The concept of an infinite impact highlights a unique situation where humanity itself is threatened and the very idea of value and price collapses from a human perspective, as the price of the last humans also can be seen to be infinite. This is not to say that those traditional tools cannot still be useful, but with infinite impacts we need to add an additional set of analytical tools. Life Value The following estimates have been applied to the value of life in the US. The estimates are either for one year of additional life or for the statistical value of a single life. – $50,000 per year of quality life (international standard most private and government-run health insurance plans worldwide use to determine whether to cover a new medical procedure) – $129,000 per year of quality life (based on analysis of kidney dialysis procedures by Stefanos Zenios and colleagues at Stanford Graduate School of Business) – $7.4 million (Environmental Protection Agency) – $7.9 million (Food and Drug Administration) – $6 million (Transportation Department) – $28 million (Richard Posner based on the willingness to pay for avoiding a plane crash) Source: Wikipedia: Value of life http://en.wikipedia.org/wiki/Value\_of\_life US EPA: Frequently Asked Questions on Mortality Risk Valuation http://yosemite.epa.gov/EE%5Cepa%5Ceed.nsf/webpages/MortalityRiskValuation.html Posner, Richard A. Catastrophe: risk and response. Oxford University Press, 2004 Some of the risks, including nuclear war, climate change and pandemics, are often included in current risk overviews, but in many cases their possible infinite impacts are excluded. The impacts which are included are in most cases still very serious, but only the more probable parts of the probability distributions are included, and the last part of the long tail – where the infinite impact is found – is excluded.32 Most risk reports do not differentiate between challenges with a limited impact and those with a potential for infinite impact. This is dangerous, as it can mean resources are spent in ways that increase the probability of an infinite impact. Ethical aspects of infinite impact The basic ethical aspect of infinite impact is this: a very small group alive today can take decisions that will fundamentally affect all future generations. “All future generations” is not a concept that is often discussed, and for good reason. All through human history we have had no tools with a measurable global impact for more than a few generations. Only in the last few decades has our potential impact reached a level where all future generations can be affected, for the simple reason that we now have the technological capacity to end human civilisation. If we count human history from the time when we began to practice settled agriculture, that gives us about 12,000 years.33 If we make a moderate assumption that humanity will live for at least 50 million more years34 our 12,000-year history so far represents 1/4200, or 0.024%, of our potential history. So our generation has the option of risking everything and annulling 99.976% of our potential history. Comparing 0.024% with the days of a person living to 100 years from the day of conception, this would equal less than nine days and is the first stage of human embryogenesis, the germinal stage.35 Two additional arguments to treat potentially infinite impacts as a separate category are: 36 1. An approach to infinite impacts cannot be one of trial-and-error, because there is no opportunity to learn from errors. The reactive approach – see what happens, limit damage, and learn from experience – is unworkable. Instead society must be proactive. This requires foresight to foresee new types of threat and willingness to take decisive preventative action and to bear the costs (moral and economic) of such actions. 2. We cannot necessarily rely on the institutions, morality, social attitudes or national security policies that developed from our experience of other sorts of risk. Infinite impacts are in a different category. Institutions and individuals may find it hard to take these risks seriously simply because they lie outside our experience. Our collective fear-response will probably be ill-calibrated to the magnitude of threat. Economic aspects of infinite impact and discounting In today’s society a monetary value is sometimes ascribed to human life. Some experts use this method to estimate risk by assigning a monetary value to human extinction.37 We have to remember that the monetary values placed on a human life in most cases are not meant to suggest that we have actually assigned a specific value to a life. Assigning a value to a human life is a tool used in a society with a limited supply of resources or infrastructure (ambulances, perhaps) or skills. In such a society it is impossible to save every life, so some trade-off must be made.38 The US Environmental Protection Agency explains its use like this: “The EPA does not place a dollar value on individual lives. Rather, when conducting a benefit-cost analysis of new environmental policies, the Agency uses estimates of how much people are willing to pay for small reductions in their risks of dying from adverse health conditions that may be caused by environmental pollution.” 39 The fact that monetary values for human lives can help to define priorities when it comes to smaller risks does not mean that they are suitable for quite different uses. Applying a monetary value to the whole human race makes little sense to most people, and from an economic perspective it makes no sense. Money helps us to prioritise, but with no humans there would be no economy and no need for priorities. Ignoring, or discounting, future generations is actually the only way to avoid astronomical numbers for impacts that may seriously affect every generation to come. In Catastrophe: Risk and Response, Richard Posner provides a cost estimate, based on the assumption that a human life is worth $50,000, resulting in a $300 tn cost for the whole of humanity, assuming a population of six billion. He then doubles the population number to include the value of all future generations, ending up with $600 tn, while acknowledging that “without discounting, the present value of the benefits of risk-avoidance measures would often approach infinity for the type of catastrophic risk with which this book is concerned.” 40 Discounting for risks that include the possibility of an infinite impact differs from risk discounting for less serious impacts. For example the Stern Review41 prompted a discussion between its chief author, Nicholas Stern, and William Nordhaus,42 each of whom argued for different discount levels using different arguments. But neither discussed a possible infinite climate impact. An overview of the discussion by David Evans of Oxford Brookes University highlighted some of the differing assumptions.43 Two things make infinite impacts special from a discounting perspective. First, there is no way that future generations can compensate for the impact, as they will not exist. Second, the impact is something that is beyond an individual preference, as society will no longer exist. Discounting is undertaken to allocate resources in the most productive way. In cases that do not include infinite impacts, discounting “reflects the fact that there are many high-yield investments that would improve the quality of life for future generations. The discount rate should be set so that our investable funds are devoted to the most productive uses.” 44 When there is a potentially infinite impact, the focus is no longer on what investments have the best rate of return, it is about avoiding the ultimate end. While many economists shy away from infinite impacts, those exploring the potentially extreme impacts of global challenges often assume infinite numbers to make their point. Nordhaus for example writes that “the sum of undiscounted anxieties would be infinite (i.e. equal to 1 + 1 +1 + … = ∞). In this situation, most of us would dissolve in a sea of anxiety about all the things that could go wrong for distant generations from asteroids, wars, out-of-control robots, fat tails, smart dust and other disasters.” 45 It is interesting that Nordhaus himself provides very good graphs that show why the most important factor when determining actions is a possible threshold (see below Figure 4 and 5). Nordhaus was discussing climate change, but the role of thresholds is similar for most infinite impacts. The first figure is based on traditional economic approaches which assume that Nature has no thresholds; the second graph illustrates what happens with the curve when a threshold exists. As Nordhaus also notes, it is hard to establish thresholds, but if they are significant all other assumptions become secondary. The challenge that Nordhaus does not address, and which is important especially with climate change, is that thresholds become invisible in economic calculations if they occur far into the future, even if it is current actions that unbalance the system and eventually push it over the threshold.46 Note that these dramatic illustrations rest on assumptions that the thresholds are still relatively benign, not moving us beyond tipping points which result in an accelerated release of methane that could result in a temperature increase of more than 8 °C, possibly producing infinite impacts.47 Calculating illustrative numbers By including the welfare of future generations, something that is important when their very existence is threatened, economic discounting becomes difficult. In this chapter, some illustrative numbers are provided to indicate the order of magnitude of the values that calculations provide when traditional calculations also include future generations. These illustrative calculations are only illustrative as the timespans that must be used make all traditional assumptions questionable to say the least. Still, as an indicator for why infinite impact might be a good approximation they might help. As a species that can manipulate our environment it could be argued that the time the human race will be around, if we do not kill ourselves, can be estimated to be between 1-10 million years – the typical time period for the biological evolution of a successful species48 – and one billion years, the inhabitable time of Earth.49 [FIGURE 4 OMITTED] [FIGURE 5 OMITTED] If we assume – 50 million years for the future of humanity as our reference, – an average life expectancy of 100 years50, and – a global population of 6 billion people51 – all conservative estimate – , we have half a million generations ahead of us with a total of 3 quadrillion individuals. Assuming a value of $50,000 per life, the cost of losing them would then be $1.5 ×1020, or $150 quintillion. This is a very low estimate, and Posner suggests that maybe the cost of a life should be “written up $28 million” for catastrophic risks52. Posner’s calculations where only one future generation is included result in a cost of $336 quadrillion. If we include all future generations with the same value, $28 million, the result is a total cost of $86 sextillion, or $86 × 1021. This $86 sextillion is obviously a very rough number (using one billion years instead of 50 million would for example require us to multiply the results by 20), but again it is the magnitude that is interesting. As a reference there are about 1011 to 1012 stars in our galaxy, and perhaps something like the same number of galaxies. With this simple calculation you get 1022 to 1024, or 10 to 1,000 sextillion, stars in the universe to put the cost of infinite impacts when including future generations in perspective.53 These numbers can be multiplied many times if a more philosophical and technology-optimistic scenario is assumed for how many lives we should include in future generations. The following quote is from an article by Nick Bostrom in Global Policy Journal: “However, the relevant figure is not how many people could live on Earth but how many descendants we could have in total. One lower bound of the number of biological human life-years in the future accessible universe (based on current cosmological estimates) is 1034 years. Another estimate, which assumes that future minds will be mainly implemented in computational hardware instead of biological neuronal wetware, produces a lower bound of 1054 human-brain-emulation subjective life-years.” 54 Likewise the value of a life, $28 million, a value that is based on an assessment of how individuals chose when it comes to flying, can be seen as much too small. This value is based on how much we value our own lives on the margin, and it is reasonable to assume that the value would be higher than only a multiplication of our own value if we also considered the risk of losing our family, everyone we know, as well as everyone else on the planet. In the same way as the cost increases when a certain product is in short supply, the cost of the last humans could be assumed to be very high, if not infinite. Obviously, the very idea to put a price on the survival of humanity can be questioned for good reasons, but if we still want to use a number, $28 million per life should at least be considered as a significant underestimation. For those that are reluctant or unable to use infinity in calculations and are in need of a number for their formulas, $86 sextillion could be a good initial start for the cost of infinite impacts. But it is important to note that this number might be orders of magnitude smaller than an estimate which actually took into account a more correct estimation of the number of people that should be included in future generations as well as the price that should be assigned to the loss of the last humans. 2.3.3 Infinite impact threshold (IIT) As we address very complex systems, such as human civilisation and global ecosystems, a concept as important as infinite impact in this report is that of infinity impact threshold. This is the impact level that can trigger a chain of events that results in the end of human civilisation. The infinite impact threshold (IIT) concept represents the idea that long before an actual infinite impact is reached there is a tipping point where it (with some probability) is no longer possible to reverse events. So instead of focusing only on the ultimate impact it is important to estimate what level of impact the infinity threshold entails. The IIT is defined as an impact that can trigger a chain of events that could result first in a civilisation collapse, and then later result in an infinite impact. Such thresholds are especially important to recognise in a complex and interconnected society where resilience is decreasing. Social and ecological systems are complex, and in most complex systems there are thresholds where positive feedback loops become self-reinforcing. In a system where resilience is too low, feedback loops can result in a total system collapse. These thresholds are very difficult to estimate and in most cases it is possible only to estimate their order of magnitude. As David Orrell and Patrick McSharry wrote in A Systems Approach to Forecasting: “Complex systems have emergent properties, qualities that cannot be predicted in advance from knowledge of systems components alone”. According to complexity scientist Stephen Wolfram’s principle of computational irreducibility, the only way to predict the evolution of such a system is to run the system itself: “There is no simple set of equations that can look into its future.” 55 Orrell and McSharry also noted that “in orthodox economics, the reductionist approach means that the economy is seen as consisting of individual, independent agents who act to maximise their own utility. It assumes that prices are driven to a state of near-equilibrium by the ‘invisible hand’ of the economy. Deviations from this state are assumed to be random and independent, so the price fluctuations are often modelled using the normal distribution or other distributions with thin tails and finite variance.” The drawbacks of an approach using the normal distribution, or other distributions with thin tails and finite variance, become obvious when the unexpected happens as in the recent credit crunch, when existing models totally failed to capture the true risks of the economy. As an employee of Lehman Brothers put it on August 11, 2007: “Events that models predicted would happen only once in 10,000 years happened every day for three days.” 56 [FIGURE 6 OMITTED] The exact level for an infinite impact threshold should not be the focus, but rather the fact that such thresholds exists and that an order of magnitude should be estimated.57 During the process of writing the report, experts suggested that a relatively quick death of two billion people could be used as a tentative number until more research is available.58 With current trends undermining ecological and social resilience it should be noted that the threshold level is likely to become lower as time progress. 2.3.4 Global F-N curves and ALARP In the context of global risks with potentially infinite impact, the possibility of establishing global F-N curves is worth exploring. One of the most common and flexible frameworks used for risk criteria divides risks into three bands: 59 1. Upper: an unacceptable/ intolerable region, where risks are intolerable except in extraordinary circumstances and risk reduction measures are essential. 2. Middle: an ALARP (“as low as reasonably practicable”) region, where risk reduction measures are desirable but may not be implemented if their cost is disproportionate to the benefit achieved. 3. Lower: a broadly acceptable/ negligible region, where no further risk reduction measures are needed. The bands are expressed by F-N curves. When the frequency of events which cause at least N fatalities is plotted against the number N on log–log scales, the result is called an F-N curve.60 If the frequency scale is replaced by annual probability, then the resultant curve is called an f-N curve. The concept for the middle band when using F-N curves is ALARP. It is a term often used in the area of safety-critical and safety-involved systems.62 The ALARP principle is that the residual risk should be as low as reasonably practicable. The upper band, the unacceptable/ intolerable region, is usually the area above the ALARP area (see figure 8) By using F-N curves it is also possible to establish absolute impact levels that are never acceptable, regardless of probability (Figure 7. Based on an actual F-n Curve showing an absolute impact level that is defined as unacceptable). This has been done in some cases for local projects. The infinite threshold could be used to create an impact limit on global F-N curves used for global challenges in the future. Such an approach would help governments, companies and researchers when they develop new technical solutions and when investing in resilience. Instead of reducing risk, such an approach encourages the building of systems which cannot have negative impacts above a certain level. Pros – Clearly shows relationship between frequency and size of accident – Allows judgement on relative importance of different sizes of accident – Slope steeper than -1 provides explicit consideration of multiple fatality aversion and favours concepts with lower potential for large fatality events – Allows company to manage overall risk exposure from portfolio of all existing and future facilities Cons – Cumulative expression makes it difficult to interpret, especially by non-risk specialists – Can be awkard to derive – May be difficult to use if criterion is exceeded in one area but otherwise is well below – Much debate about criterion lines Figure 7: Example of F-n curve showing different levels of risk 61 Figure 9: Pros and cons of F-N curves 63 46 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 2.3 Global challenges and infinite impact practical guidance that can provide defined group of risks 2.3.5 A name for a clearly 10 100 1000 10000 10 10 10 10 10 10 10 10-2 -3 -4 -5 -6 -7 -8 -9 Number of Fatalities (N) Frequency (F) of Accidents with N or More Fatalities (Per Year) ALARP region Unacceptable Acceptable Today no established methodology exists that provides a constantly updated list of risks that threaten human civilisation, or even all human life. Given that such a category can help society to better understand and act to avoid such risks, and better understand the relation between these risks, it can be argued that a name for this category would be helpful.65 To name something that refers to the end of humanity is in itself a challenge, as the very idea is so far from our usual references and to many the intuitive feeling will be to dismiss any such thing. The concept used in this report is “infinity”. The reson for this is that many of the challenges relate to discussed. In one way the name is not very important so long as people understand the impacts and risks associated with it. Still, a name is symbolic and can either help or make it more difficult to get support to establish the new category. The work to establish a list of risks with infinite impact evolved from “existential risk”, the philosophical concept that inspired much of the work to establish a clearly defined group of risks. The reason for not using the concept “existential risk and impact” for this category, beside the fact that existential impact is also used in academic contexts to refer to a personal impact, is that the infinite category is a smaller subset of “existential risk” and this new category is meant to be used as a tool, not a scientific concept. Not only should the impacts in the category potentially result in the end of all human life, it should be possible to affect the probability and/or impact of that risk. There must also exist an agreed methodology, such as the one suggested in this report, that decides what risks belong and not belong on the list. Another concept that the category relates to is “global catastrophic risk” as it is one of the most used concepts among academics interested in infinite impacts. However it is vague enough to be used to refer to impacts from a few thousand deaths to the end of human civilisation. Already in use but not clearly defined, it includes both the academic concept existential risks and the category of risks with infinite impacts. macroeconomics and its challenges in relation to the kind of impacts that the risks in this report focus on. Further, the name clearly highlights the unique nature without any normative judgements. Still, infinity is an abstract concept and it might not be best communicate the unique group of risks that it covers to all stakeholders. In the same way as it can be hard to use singularity to describe a black hole, it can be difficult to use infinity to describe a certain risk. If people can accept that it is only from a specific perspective that the infinity concept is relevant it could be used beyond the areas of macroeconomics. Two other concepts that also have been considered during the process of writing this report are “xrisks” and “human risk of ruin”. Xrisk has the advantage, and disadvantage, of not really saying anything at all about the risk. The positive aspect is that the name can be associated with the general concept of extinction and the philosophical concept of existential risk as both have the letter x in them. The disadvantage is the x often represents the unknown and can therefore relate to any risk. There is nothing in the name that directly relates to the kind of impacts that the category covers, so it is easy to interpret the term as just unknown risks. Human risk of ruin has the advantage of having a direct link to a concept, risk of ruin, that relates to a very specific state where all is lost. Risk of ruin is a concept in use in gambling, insurance, and finance that can all give very important contributions to the work with this new category of risk. The resemblance to an existing concept that is well established could be both a strength and a liability. Below is an overview of the process when different names were Figure 8: Example of F-n curve showing an absolute impact level that is defined as unacceptable/ infinite. i.e no level of probability is acceptable above a certain level of impact, in this case 1000 dead 64 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 47 2.3 Global challenges and infinite impact 3. 2. 1. 9. Unacceptable risks in different combinations, e.g. unacceptable global risks – This is probably not appropriate for two main reasons. First, it is a normative statement and the category aims to be scientific; whether these risks are unacceptable or not is up to the citizens of the world to decide. Second, the idea of risk is that it is a combination of probability times impact. If a risk is unacceptable is therefore also usually related to how easy it is to avoid. Even if a risk is small, due to relatively low probability and relatively low impact, but is very easy to address, it can be seen as unacceptable, in the same way a large risk can be seen as acceptable if it would require significant resources to reduce. There will not be a perfect concept and the question is what concept can find the best balance between being easy to understand, acceptable where policy decisions needs to be made and also acceptable for all key groups that are relevant for work in these area. During the process to find a name for this category inspiration has been found in the process when new concepts have been introduced; from irrational numbers and genocide to sustainable development and the Human Development Index. So far “infinite risk” can be seen as the least bad concept in some areas and “xrisks” and “human risk of ruin” the least bad in others. The purpose of this report is to establish a methodology to identify a very specific group of risks as well as continue to a process where these risks will be addressed in a systematic and appropriate way. The issue of naming this group of risks will be left to others. The important is that the category gets the attention it deserves. The three concepts are very different. Global catastrophic risk is possibly the most used concept in contexts where infinite impacts are included, but it is without any clear definition. Existential risk is an academic concept used by a much smaller group and with particular focus on future technologies. The category in this report is a tool to help decision makers develop strategies that help reduce the probability that humanity will end when it can be avoided. The relation between the three concepts can be illustrated with three circles. The large circle (1) represents global catastrophic risks, the middle one (2) existential risks and the small circle (3) the list of twelve risks in this report, i.e. risks where there are peer reviewed academic studies that estimate the probability of an infinite impact and where there are known ways to reduce the risk. A list that could be called infinite risks, xrisks, or human risk of ruin. Other concepts that are related to infinite impacts that could potentially be used to describe the same category if the above suggestions are not seen as acceptable concepts are presented below, together with the main reason why these concepts were not chosen for this report. 1. Risk of ruin – is a concept in gambling, insurance and finance relating to the likelihood of losing all one’s capital or affecting one’s bankroll beyond the point of recovery. It is used to describe individual companies rather than systems.66 2. Extinction risk – is used in biology for any species that is threatened. The concept is also used in memory/cognition research. It is a very dramatic term, to be used with care. These factors make it probably unsuitable for use by stakeholders accustomed to traditional risk assessment. 3. Astronomical risk – is seldom used scientifically, but when it is used it is often used for asteroids and is probably best reserved for them.67 4. Apocalyptic risk – could have been suitable, as the original meaning is apocálypsis, from the Greek ἀπό and καλύπτω meaning ‘un-covering’. It is sometime used, but in a more general sense, to mean significant risks.68 But through history and today it is mainly used for a religious end of time scenario. Its strong links to unscientific doom-mongers make it probably unsuitable for a scientific concept. 5. End-of-the-world risk - belongs to the irrational doomsday narratives and so is probably unsuitable for scientific risk assessments. 6. Extreme risk – is vague enough to describe anything beyond the normal, so it is probably unsuitable for risk assessments of this magnitude. 7. Unique risk – is even vaguer, as every risk is unique in some way. Probably best avoided in risk assessments. 8. Collapse risk – is based on Jared Diamond’s thinking.69 There are many different kinds of collapse and only a few result in infinite impact. 48 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 2.3 Global challenges and infinite impact Estimations of impact Only literature where there is some estimation of impact that indicates the possibility of an infinite impact is included. Leading organisations’ priorities In order to increase the probability of covering all relevant risks an overview of leading organisations' work was conducted. This list was then compared with the initial list and subjected to the same filter regarding the possibility to affect the probability or impact. Possibility of addressing the risk Possibility of addressing the risk: From the risks gathered from literature and organisations, only those where the probability or impact can be affected by human actions are included. Expert review Qualitative assessment: Expert review in order to increase the probability of covering all relevant global risks. List of risks Result: List of risks with potentially infinite impacts. Relevant literature Identification of credible sources: search relevant literature in academic literature included in World of Knowledge and Google Scholar. 1 2 3 4 5 6 This chapter presents the methodology used to identify global risks with potentially infinite impact. Methodology overview In order to establish a list of global risks with potentially infinite impact a methodological triangulation was used, consisting of: – A quantitative assessment of relevant literature. – A strategic selection of relevant organisations and their priorities. – A qualitative assessment with the help of expert workshops. 2.4 Methodology 70 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 49 2.4 Methodology The scientific review of literature was led by Seth Baum, Executive Director of the Global Catastrophic Risk Institute72 and research scientist at the Center for Research on Environmental Decisions, Columbia University.73 The methodology for including global risks with a potentially infinite impact is based on a scientific review of key literature, with focus on peer-reviewed academic journals, using keyword search of both World of Knowledge74 and Google Scholar75 combined with existing literature overviews in the area of global challenges. This also included a snowball methodology where references in the leading studies and books were used to identify other scientific studies and books. In order to select words for a literature search to identify infinite impacts, a process was established to identify words in the scientific literature connected to global challenges with potentially infinite impacts. Some words generate a lot of misses, i.e. publications that use the term but are not the focus of this report. For example “existential risk” is used in business; “human extinction” is used in memory/cognition. Some search terms produced relatively few hits. For example “global catastrophic risk” is not used much. Other words are only used by people within a specific research community: few use “existential risk” in our sense unless they are using Nick Bostrom’s work. The term “global catastrophe” was identified as a phrase that referred almost exclusively to extremely negative impacts on humans, by a diversity of researchers, not just people in one research community. A list of 178 relevant books and reports was established based on what other studies have referred to, and/or which are seen as landmark studies by groups interviewed during the process. They were selected for a closer examination regarding the challenges they include.76 The full bibliography, even with its focus on publications of general interest, is still rather long. So it is helpful to have a shorter list focused on the highlights; the most important publications based on how often they are quoted, how wellspread the content (methodology, lists, etc.) is and how often key organisations use them. The publications included must meet at least one of the following criteria: – Historical significance. This includes being the first publication to introduce certain key concepts, or other early discussions of global challenges. Publications of historical significance are important for showing the intellectual history of global challenges. Understanding how the state of the art research got to where it is today can also help us understand where it might go in the future. – Influential in developing the field. This includes publications that are highly cited77 and those that have motivated significant additional research. They are not necessarily the first publications to introduce the concepts they discuss, but for whatever reason they will have proved important in advancing research. – State of the art. This includes publications developing new concepts at the forefront of global challenges research as well as those providing the best discussions of important established concepts. Reading these publications would bring a researcher up to speed with current research on global challenges. So they are important for the quality of their ideas. – Covers multiple global challenges (at least two). Publications that discuss a variety of global challenges are of particular importance because they aid in identifying and comparing the various challenges. This process is essential for research on global risks to identify boundaries and research priorities. In order to identify which global challenges are most commonly discussed, key surveys were identified and coded. First, a list of publications that survey at least three global challenges was compiled, and they were then scanned to find which challenges they discussed. The publications that survey many global challenges were identified from the full bibliography. Publications from both the academic and popular literature were considered. Emphasis was placed on publications of repute or other significance.78 To qualify as a survey of global challenges, the publication had to provide an explicit list of challenges or to be of sufficient length and breadth for it to discuss a variety of challenges. Many of the publications are books or book-length collections of articles published in book form or as special issues of scholarly journals. Some individual articles were also included because they discussed a significant breadth of challenges. A total of 40 global challenge survey publications were identified. For authors with multiple entries (Bostrom with three and WEF with ten) each challenge was counted only once to avoid bias. review of key literature 71 2.4.1 A scientific 50 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 2.4 Methodology 0 5 10 15 20 25 Climate Change Nuclear War Pandemic Biodiversity loss Asteroid / Comet / Meteor Volcano Genetic Engineering High Energy Physics Nanotech Resource Depletion Artificial Intelligence Chemical Pollution Ecological Catastrophe Biogeochem Government Failure Poverty System Failure Astronomic Explosion LULCC Biological Weapons Chemical Weapons Extraterrestrial Reject Procreation Computer Failure EM Pulse New Technology Ozone Depletion Dysgenics Ocean Acidification Interstellar Cloud Atmosphere Aerosols Phase Transition Simulation Unknown 21 18 17 15 14 14 13 13 13 13 11 11 11 8 8 8 8 7 7 5 5 5 5 4 4 4 4 3 3 2 1 1 1 1 In terms of authorship and audience, there are 17 academic publications, 9 popular publications, 1 government report, 3 publications written by academics for popular audiences. In terms of format, there are 15 books, 5 edited collections, 7 articles, 3 of miscellaneous format. Of the 40 publications identified, 22 were available at the time of coding. In addition, 10 Global Risks Reports from the World Economic Forum were coded and then gathered under one heading: “WEF Global Risk Report 2005-2014”. A list of 34 global challenges was developed based on the challenges mentioned in the publications. A spreadsheet containing the challenges and the publications was created to record mentions of specific challenges in each publication to be coded. Then each publication was scanned in its entirety for mentions of global challenges. Scanning by this method was necessary because many of the publications did not contain explicit lists of global challenges, and the ones that did often mentioned additional challenges separately from their lists. So it was not required that a global challenge be mentioned in a list for it to be counted – it only had to be mentioned somewhere in the publication as a challenge. Assessing whether a particular portion of text counts as a global challenge and which category it fits in sometimes requires some interpretation. This is inevitable for most types of textual analysis, or, more generally, for the coding of qualitative data. The need for interpretation in this coding was heightened by the fact that the publications often were not written with the purpose of surveying the breadth of global challenges, and even the publications that were intended as surveys did not use consistent definitions of global challenges. The coding presented here erred on the side of greater inclusivity: if a portion of text was in the vicinity of a global challenge, then it was coded as one. For example, some publications discussed risks associated with nuclear weapons in a general sense without specifically mentioning the possibility of large-scale nuclear war. These discussions were coded as mentions of nuclear war, even though they could also refer to single usages of nuclear weapons that would not rate as a global challenge. This more inclusive approach is warranted because many of the publications were not focused exclusively on global challenges. If they were focused on them, it is likely that they would have included these risks in their global challenge form (e.g., nuclear war), given that they were already discussing something related (e.g., nuclear weapons). Below are the results from the overview of the surveys. Figure 9: Number of times global challenges are included in surveys of global challenges Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 51 2.4 Methodology Climate Change Nuclear War Pandemic Biodiversity loss Asteroid / Comet / Meteor Volcano Genetic Engineering High Energy Physics Nanotech Resource Depletion Artificial Intelligence Chemical Pollution Ecological Catastrophe 21 18 17 15 14 14 13 13 13 13 11 11 11 0 25 20 15 10 5 dung beetle star trek zinc oxalate human extinction 0 200 400 600 800 1000 It should be noted that the literature that includes multiple global challenges with potentially infinite impact is very small, given the fact that it is about the survival of the human race. Experts in the field of global challenges, like Nick Bostrom, have urged policymakers and donors to focus more on the global challenges with infinite impacts and have used dramatic rhetoric to illustrate how little research is being done on them compared with other areas. However, it is important to note that many more studies exist that focus on individual global risks, but often without including low-probability high-impact outcomes.80 How much work actually exists on human extinction infinite impact is therefore difficult to assess. The list of risks found in the scientific literature was checked against a review of what challenges key organisations working on global challenges include in their material and on their webpages. This was done to ensure that no important risk was excluded from the list. The coding of key organisations paralleled the coding of key survey publications. Organisations were identified via the global catastrophic risk organisation directory published by the Global Catastrophic Risk Institute.82 They were selected from the directory if they worked on a variety of global challenges – at least three, and ideally more. The reason for focusing on those that work on multiple challenges is to understand which challenges they consider important and why. In contrast, organisations that focus on only one or two challenges may not Figure 10: The global challenges included ten times or more in surveys of global challenges on global challenges 81 organisations working 2.4.2 A review of Figure 11: Number of academic papers on various topics (listed in Scopus, August 2012) From the paper “Existential Risk Prevention as Global Priority” 79 52 Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 2.4 Methodology Climate Change Nuclear War Pandemic Resource Depletion Biological Weapons Computer Failure Government Failure Nanotech Chemical Weapons Artificial Intelligence Genetic Engineering System Failure Biodiversity loss Ecological Failure Poverty Volcano Asteroid / Comet / Meteor Astronomic Explosion Biogeochem Chemical Pollution Extraterrestrial High Energy Physics New Technology Ozone Depletion Atmospheric Aerosols Dysgenics EM Pulse Interstellar Cloud LULCC Ocean Acidification Phase Transition Reject Procreation Simulation Unknown 13 13 12 9 8 7 7 7 6 5 4 4 2 2 2 2 1 1 1 1 1 1 1 1 1 0 0 0 0 0 0 0 0 0 0 4 8 12 2 6 10 14 be able to adjust their focus according to which challenges they consider the most important. The organisation coding used the same coding scheme developed for coding survey publications. References to specific global challenges were obtained from organisations’ websites. Many have web pages which list the topics they work on. Where possible, references to global challenges were pulled from these pages. Additional references to these challenges were identified by browsing other web pages, including recent publications. While it is possible that some of these organisations have worked on global challenges not mentioned on the web pages that were examined, overall the main challenges that they have worked on have probably been identified and coded. So the results should give a reasonably accurate picture of what global challenges these organisations are working on. Organisations working with global challenges were initially selected on the basis of the literature overview. A snowball sampling was conducted based on the list of organisations identified, according to whether they claimed to work on global challenges and/or their web page contained information about “existential risk”, “global catastrophic risk”,“human extinction” or “greatest global challenges”. Cross-references between organisations and input during the workshops were also used to identify organisations. An initial list of 180 organisations which work with global challenges was established. Based on the production of relevant literature, which other organisations referred to the organisation, and/or are seen as influential by groups interviewed during the process, a short-list of organisations were selected for a closer examination regarding the challenges they work with. Then those working with multiple challenges were selected, resulting in a list of 19 organisations.83 Below is the overview of the results from the overview of key organisations working with multiple global challenges. The organisations working on global challenges vary widely in: 1. What they count as a global challenge 2. How systematically they identify global challenges; and 3. Their emphasis on the most important global challenges For most organisations working with global challenges there are no explanations for the methodology used to select the challenges. Only a few thought leaders, like Tower Watson and their Extreme Risk Report 2013, have a framework for the challenges and estimates of possible impacts. Figure 12: Global challenges that key organisations work with Global Challenges – Twelve risks that threaten human civilisation – The case for a new category of risks 53 2.4 Methodology Climate Change Nuclear War Pandemic Resource Depletion Biological Weapons Computer Failure Government Failure Nanotech Chemical Weapons Artificial Intelligence Genetic Engeneering System Failure Atmospheric Aerosols 13 13 12 9 8 7 7 7 6 5 4 4 0 4 8 12 2 6 10 14 In most cases there is neither a definition of the impact, nor a definition of the probability. The report that focuses on global risk which is probably best known is the WEF Global Risk Report. The WEF’s risk work, with many other groups’, is probably best described as belonging to the category of risk perception rather than risk assessment, where experts are asked to estimate risks, but without any clear definition of probability or impact. The more serious organisations, like the WEF, also clearly define what they do as discussing perception of risk, not a scientific assessment of the actual risk. The WEF describes its perception methodology as follows: “This approach can highlight areas that are of most concern to different stakeholders, and potentially galvanise shared efforts to address them.” 85 The question which people are asked to answer is: “What occurrence causes significant negative impact for several countries and industries?” 86 The respondents are then asked to provide a number on two scales from 1-4, one for impact and another for likelihood (within 10 years).87 It is then up to the respondent to define what 1-4 means, so the major value of the report is to track the changes in perception over the years. Such perception approaches are obviously very interesting and, as the WEF states, can influence actual probability as the readers’ decisions will be influenced by how different challenges are perceived. Still, it is important to remember that the report does not provide an assessment of the actual probability (0-100%) or an assessment of the impact (and not the impact on human suffering, as many respondents likely define risk in monetary terms for their own company or country). An overview of WEF reports from the last ten years indicates that the challenges that likely could happen when applying a five year horizon, like the first signs of climate change, governmental failure and traditional pandemic, are identified. On the other hand, challenges which have very big impacts but lower probability, like extreme climate change, nanotechnology, major volcanoes, AI, and asteroids, tend to get less, or no, attention. An important question to explore is whether a focus on the smaller but still serious impacts of global challenges can result in an increased probability of infinite impacts. For example, there are reasons to believe that a focus on incremental adaptation instead of significant mitigation could be a problem for climate change as it could result in high-carbon lock-in.88 Other research indicates that focus on commercially relevant smaller pandemics could result in actions that make a major pandemic more likely. It is argued that this could happen, for example, by encouraging increased trade of goods while investing in equipment that scans for the type of pandemics that are known. Such a system can reduce the probability for known pandemics while at the same time resulting in an increased probability for new and more serious pandemics.89 Figure 13: The top 12 global challenges that key organisations work with 2.4.3 Workshops global risks 2.5 The list of Two workshops were arranged where the selection of challenges was discussed, one with risk experts in Oxford at the Future of Humanity Institute and the other in London with experts from the financial sector. See Appendix 2 for agenda and participants. In both workshops the list of global challenges was discussed to see if any additional challenges should be included, or if there were reasons to exclude some from the list. No challenge was excluded at the workshops, but one was added. Although little research exists yet that is able to verify the potential impacts, the participants agreed to include Global System Collapse as a risk with possible infinite impact. There was agreement that further research is needed to clarify exactly what parts of the economic and political system could collapse and result in a potentially infinite outcome. The conclusion was that enough research exists to include such a collapse on the list. Based on the risks identified in the literature review and in the review of organisations and applying the criteria for potentially infinite impact, these risks were identified: 1. Extreme Climate Change 2. Nuclear War 3. Global Pandemic 4. Ecological Catastrophe 5. Global System Collapse 6. Major Asteroid Impact 7. Supervolcano 8. Synthetic Biology 9. Nanotechnology 10. Artificial Intelligence (AI) 11. Unknown Consequences 12. Future Bad Global Governance This is an initial list. Additional risks will be added as new scientific studies become available, and some will be removed if steps are taken to reduce their probability90 and/or impact so that they no longer meet the criteria. Four categories of global challenges The challenges included in this report belong to four categories. The first, current challenges, includes those where decisions today can result directly in infinite impacts. They are included even if the time between action and impact might be decades, as with climate change. The second category is exogenous challenges, those where decisions do not – currently – influence probability, but can influence impact. The third category is emerging challenges, those where technology and science are not advanced enough to pose a severe threat today, but where the challenges will probably soon be able to have an infinite impact. The technologies included in emerging challenges, including synthetic biology, nanotechnology and artificial intelligence (AI), will be critical to finding solutions to infinite impacts. Including these technologies should not be seen as an attempt to arrest them. If anything, the development of sustainable solutions should be accelerated. But it is equally important to create guidelines and frameworks to avoid their misuse, whether intentional or accidental. The fourth category, future global policy challenges, is of a different kind. It includes challenges related to the consequences of an inferior or destructive global governance system. This is especially important as well-intended actions to reduce global challenges could lead to future global governance systems with destructive impact. The first category, current challenges, includes: 1. Extreme Climate Change 2. Nuclear War 3. Global Pandemic 4. Ecological Catastrophe 5. Global System Collapse The second category, exogenous challenges, covers: 6. Major Asteroid Impact 7. Supervolcano Those in the third category, emerging challenges, are: 8. Synthetic Biology 9. Nanotechnology 10. Artificial Intelligence (AI) 11. Unknown Consequences The fourth category, global policy challenges, is: 12. Future Bad Global Governance not included 2.5.1 Risks Many risks could severely damage humanity but have not been included in this report. They were excluded for one or more of three reasons: 1. Limited impact. Many challenges can have significant local negative effects, without approaching the “2 billion negatively affected” criterion - tsunamis, for example, and chemical pollution. 2. No effective countermeasures. The report focuses on promoting effective interventions and so ignores challenges where nothing useful can be done to prevent or mitigate the impact, as with nearby gamma-ray bursts. 3. Included in other challenges. Many challenges are already covered by others, or have a damage profile so similar that there seemed no need to have a separate category. Population growth, for one, is an underlying driver significant for climate change and eco-system catastrophe, but without direct large-scale impacts. The challenges mentioned in the reviewed literature and organisations which are not included in this report often refer to economic damage such as “fiscal crises” or “unemployment”. While such impacts could have far-reaching consequences they are obviously of another magnitude than those included here. Some of the risks that were suggested and/or which exist in books and reports about global risks were rejected according to the criteria above. They include: 91 1. Astronomical explosion/nearby gamma-ray burst or supernova.92 These seem to be events of extremely low probability and which are unlikely to be survivable. Milder versions of them (where the source is sufficiently far away) may be considered in a subsequent report. ͢ Not included due to: No effective countermeasures 2. False vacuum collapse. If our universe is in a false vacuum and it collapses at any point, the collapse would expand at the speed of light destroying all organised structures in the universe.93 This would not be survivable. ͢ Not included due to: No effective countermeasures 3. Chemical pollution. Increasingly, there is particular concern about three types of chemicals: those that persist in the environment and accumulate in the bodies of wildlife and people, endocrine disruptors that can interfere with hormones, and chemicals that cause cancer or damage DNA. ͢ Not included due to: Limited impact 4. Dangerous physics experiments creating black holes/strangelets including high energy physics. These risks are of low probability94 and have been subsumed under “Uncertain Risks”. ͢ Not included due to: Included in other challenges 5. Destructive solar flares. Though solar flares or coronal mass ejections could cause great economic damage to our technological civilisation,95 they would not lead directly to mass casualties unless the system lacks basic resilience. They have been subsumed in the Global System Collapse category. ͢ Not included due to: Limited impact/included in other challenges 6. Moral collapse of humanity. Humanity may develop along a path that we would currently find morally repellent. The consequences of this are not clear-cut, and depend on value judgements that would be contentious and unshared.96 Some of these risks (such as global totalitarianism or enduring poverty) were included in the Governance Disasters category. ͢ Not included due to: included in other challenges 7. Resource depletion/LULCC/ Biodiversity loss. It has often been argued that declining resources will cause increased conflict.97 Nevertheless such conflicts would not be sufficient in themselves to threaten humanity on a large scale, without a “ System Collapse” or “Governance Disasters”. ͢ Not included due to: included in other challenge

### 2AC---AT Warming

#### Capitalism is good and sustainable---technological progress has successfully dematerialized economic growth.

McAfee 19, \*Andrew Paul McAfee, a principal research scientist at MIT, is cofounder and codirector of the MIT Initiative on the Digital Economy at the MIT Sloan School of Management; (2019, “More from Less: The Surprising Story of How We Learned to Prosper Using Fewer Resources and What Happens Next”, https://b-ok.cc/book/5327561/8acdbe)

Capitalism and technological progress are the first pair of forces driving dematerialization. This statement will come as a surprise to many, and for good reason. After all, it’s exactly this combination that caused us to massively increase our resource consumption throughout the Industrial Era. As we saw in chapter 3, the ideas of William Jevons and Alfred Marshall point to the distressing conclusion that capitalism and tech progress always lead to more from more: more economic growth, but also more resource consumption. So what changed? How are capitalism and tech progress now get ting us more from less ? To get answers to these important questions, let’s start by looking at a few recent examples of dematerialization. Fertile Farms America has long been an agricultural juggernaut. In 1982, after more than a decade of steady expansion due in part to rising grain prices, total cropland in the country stood at approximately 380 million acres. Over the next ten years, however, almost all of this increase was reversed. So much acreage was abandoned by farmers and given back to nature that cropland in 1992 was almost back to where it had been almost twenty-five years before. This decline had several causes, including falling grain prices, a severe recession, over-indebted farmers, and increased international competition. A final factor, though, was the ability to get ever-more corn, wheat, soybeans, and other crops from the same acre of land, pound of fertilizer and pesticide, and gallon of water. The material productivity of agriculture in the United States has improved dramatically in recent decades, as we saw in chapter 5. Between 1982 and 2015 over 45 million acres—an amount of cropland equal in size to the state of Washington—was returned to nature. Over the same time potassium, phosphate, and nitrogen (the three main fertilizers) all saw declines in absolute use. Meanwhile, the total tonnage of crops produced in the country increased by more than 35 percent. As impressive as this is, it’s dwarfed by the productivity improvements of American dairy cows. In 1950 we got 117 billion pounds of milk from 22 million cows. In 2015 we got 209 billion pounds from just 9 million animals. The average milk cow’s productivity thus improved by over 330 percent during that time. Thin Cans Tin cans are actually made of steel coated with a thin layer of tin to improve corrosion resistance. They’ve been used since the nineteenth century to store food. Starting in the 1930s, they began also to be used to hold beer and soft drinks. In 1959 Coors pioneered beer cans made of aluminum, which is much lighter and more corrosion resistant than steel. Royal Crown Cola followed suit for soda five years later. As Vaclav Smil relates, “A decade later steel cans were on the way out, and none of them have been used for beer since 1994 and for soft drinks since 1996.… At 85 g the first aluminum cans were surprisingly heavy; by 1972 the weight of a two-piece can dropped to just below 21 g, by 1988 it was less than 16 g, a decade later it averaged 13.6 g, and by 2011 it was reduced to 12.75 g.” Manufacturers accomplished these reductions by making aluminum cans’ walls thinner, and by making the sides and bottom from a single sheet of metal so that only one comparatively heavy seam was needed (to join the top to the rest of the can). Smil points out that if all beverage cans used in 2010 weighed what they did in 1980, they would have required an extra 580,000 tons of aluminum. And aluminum cans kept getting lighter. In 2012 Ball packaging introduced into the European market a 330 ml can that held 7.5 percent less than the US standard, yet at 9.5 g weighed 25 percent less. Gone Gizmos In 2014 Steve Cichon, a “writer, historian, and retired radio newsman in Buffalo, NY,” paid $3 for a large stack of front sections of the Buffalo News newspaper from the early months of 1991. On the back page of the Saturday, February 16, issue was an ad from the electronics retailer Radio Shack. Cichon noticed something striking about the ad: “There are 15 electronic gimzo type items on this page.… 13 of the 15 you now always have in your pocket.” The “gizmo type items” that had vanished into the iPhone Cichon kept in his pocket included a calculator, camcorder, clock radio, mobile telephone, and tape recorder. While the ad didn’t include a compass, camera, barometer, altimeter, accelerometer, or GPS device, these, too, have vanished into the iPhone and other smartphones, as have countless atlases and compact discs. The success of the iPhone was almost totally unanticipated. A November 2007 cover story in Forbes magazine touted that the Finnish mobile phone maker Nokia had over a billion customers around the world and asked, “Can anyone catch the cell phone king?” Yes. Apple sold more than a billion iPhones within a decade of its June 2007 launch and became the most valuable publicly traded company in history. Nokia, meanwhile, sold its mobile phone business to Microsoft in 2013 for $7.2 billion to get “more combined muscle to truly break through with consumers,” as the Finnish company’s CEO Stephen Elop said at the time of the deal. It didn’t work. Microsoft sold what remained of Nokia’s mobile phone business and brand to a subsidiary of the Taiwanese electronics manufacturer Foxconn for $350 million in May of 2016. Radio Shack filed for bankruptcy in 2015, and again in 2017. From Peak Oil to… Peak Oil In 2007 US coal consumption reached a new high of 1,128 million short tons, over 90 percent of which was burned to generate electricity. Total coal use had increased by more than 35 percent since 1990, and the US Energy Information Administration (the official energy statisticians of the US government) forecast further growth of up to 65 percent by 2030. Also in 2007 the US Government Accountability Office (GAO), a federal agency known as “the congressional watchdog,” published a report with an admirably explanatory title: “Crude Oil: Uncertainty about Future Oil Supply Makes It Important to Develop a Strategy for Addressing a Peak and Decline in Oil Production.” It took seriously the idea of “peak oil,” a phrase coined in 1956 by M. King Hubbert, a geologist working for Shell Oil. As originally conceived, peak oil referred to the maximum amount of oil that we could annually produce for all of humanity’s needs. The first oil wells pumped out the crude oil that was closest to the earth’s surface or otherwise easiest to access. As those wells dried up, we had to drill deeper ones, both on land and at sea. As the world’s economies kept growing, so did total demand for oil, which kept getting harder and harder to obtain. Peak oil captured the idea that despite our best efforts and ample incentive, we would come to a time after which we would only be able to extract less and less oil year after year from the earth. Most of the estimates summarized in the GAO report found that peak oil would occur no later than 2040. The report did not mention fracking, which in retrospect looks like a serious omission. Fracking is short for “hydraulic fracturing” and is a means of obtaining oil and natural gas from rock formations lying deep underground. It uses a high-pressure fluid to cause fractures in the rock, through which oil and gas can flow and be extracted. The United States and other countries have long been known to have huge reserves of hydrocarbons in deep rock formations, which are often called shales. Companies had been experimenting with fracking to get at them since the middle of the twentieth century, but had made little progress. In 2000 fracking accounted for just 2 percent of US oil production. That figure began to increase quickly right around the time of the GAO report. Not because of any single breakthrough, but instead because the suite of tools and techniques needed for profitable fracking had all improved enough. A gusher of shale oil and gas ensued. Thanks to fracking, US crude oil production almost doubled between 2007 and 2017, when it approached the benchmark of 10 million barrels per day. By September of 2018 America had surpassed Saudi Arabia to become the world’s largest producer of oil. American natural gas production, which had been essentially flat since the mid-1970s, jumped by nearly 43 percent between 2007 and 2017. As a result of the fracking boom the United States has experienced peak coal rather than peak oil. And the peak in coal is not in total annual supply, but instead in demand. Fracking made natural gas cheap enough that it became preferred over coal for much electricity generation. By 2017 total US coal consumption was down 36 percent from its 2007 high point. The phrase peak oil is still around, but, as is the case with coal, it usually no longer refers to supply. As a 2017 Bloomberg headline put it, “Remember Peak Oil? Demand May Top Out Before Supply Does.” Even though the extra supply from fracking has helped push down oil and gas prices, many observers now believe that energy from other sources—the sun, wind, and the nuclei of uranium atoms—is getting cheaper faster and becoming much more widely available. So much so that, as a 2018 article in Fortune about the future of oil hypothesized, “This wouldn’t be just another oil-price cycle, a familiar roller coaster in which every down is followed by an up. It would be the start of a decades-long decline of the Oil Age itself—an uncharted world in which… oil prices might be ‘lower forever.’ ” Analysts at Shell, the company from which the phrase peak oil originated, now estimate that global peak oil demand might come as soon as 2028. Taking Stock of Rolling Stock My friend Bo Cutter started his career in 1968 working for Northwest Industries, a conglomerate that owned the Chicago and North Western Railway. One of his first assignments was to help a team tasked with solving a problem that sounds odd to modern ears: figuring out where CNW’s railcars were. These cars are massive metal assemblies, each weighing thirty tons or more. In the late 1960s CNW owned thousands of them, representing a huge commitment of both material and money. Across the railroad industry, the rule of thumb then was that about 5 percent of a company’s railcars moved on any given day. This was not because the other 95 percent needed to rest. It was because their owners didn’t know where they were. CNW owned thousands of miles of track in places as far from Chicago as North Dakota and Wyoming. Its rolling stock (as locomotives and railcars are called) could also travel outside the company’s network on tracks owned by other railroads. So these assets could be almost anywhere in the country. When the railcars weren’t moving, they sat in freight yards. At the time Cutter started his job, freight yards didn’t keep up-to-date records of the idle rolling stock they contained because, in the days before widespread digital computers, sensors, and networks, there was no way to cost-effectively know or communicate the location of each car. So it was impossible for CNW or any other railroad to systematically track its most important inventory, even though doing so would be hugely beneficial to the company’s bottom line. For example, Cutter’s team knew that if they could increase the percentage of cars moving each day from 5 percent to 10 percent, they would need only half as many of them. Even a single percentage point increase in freight-car use would yield major financial benefits. When Cutter started his assignment, CNW and all other railroads employed spotters, who visited yards and watched trains pass, then telegraphed their findings to the head office. Other railroads passed on similar information to collect the demurrage charges they were owed for each CNW car on their tracks and in their yards. Cutter’s team improved on these methods by making them more systematic and efficient. They put in place a better baseline audit of where railcars were, employed more spotters, painted CNW cars differently so they were easier to see, and explored how to make more use of a new tool for businesses: the digital computer. That tool and its kin are now pervasive in the railroad industry. In the early 1990s, for example, companies started putting radio-frequency identification tags on each piece of rolling stock. These tags would be read by trackside sensors, thus automating the work of spotting. At present over 5 million messages about railcar status and location are generated and sent throughout the American railway system every day, and the country’s more than 450 railroads have nearly real-time visibility over all their rolling stock. The Rare Earth Scare In September of 2010 the Japanese government took into custody the captain of a Chinese fishing boat that had collided with Japanese patrol vessels near a group of uninhabited islands in the East China Sea claimed by both countries. China responded by imposing an embargo on shipments of rare earth elements (REE) to the Land of the Rising Sun. Even though Japan relented almost immediately and released the captain, a global panic began. This is because rare earths are “vitamins of chemistry,” as USGS scientist Daniel Cordier puts it. “They help everything perform better, and they have their own unique characteristics, particularly in terms of magnetism, temperature resistance, and resistance to corrosion.” By 2010 China produced well over 90 percent of the world’s REE. Its actions in the wake of the maritime incident convinced many that it could and would take unilateral action to control the flow of these important materials, and panicked buying soon followed (along with its close cousin rampant speculation). A bundle of REE that would have sold for less than $10,000 in early 2010 soared to more than $42,000 by April of 2011. In September of that year the US House of Representatives held a hearing called “China’s Monopoly on Rare Earths: Implications for US Foreign and Security Policy.” China didn’t attain its near monopoly because it possessed anything close to 90 percent of global reserves of REE. In fact, rare earths aren’t rare at all (one, cerium, is about as common in the earth’s crust as copper). However, they’re difficult to extract from ore. Obtaining them requires a great deal of acid and generates tons of salt and crushed rock as by-products. Most other countries didn’t want to bear the environmental burden of this heavy processing and so left the market to China. In the wake of the embargo, this seemed like a bad idea. As Representative Brad Sherman put it during the congressional hearing, “Chinese control over rare earth elements gives them one more argument as to why we should kowtow to China.” But there was never much kowtowing. By the time of the hearing, prices for REE were already in free fall. Why? What happened to the apparently tight Chinese stranglehold over REE? Several factors caused it to ease, including the availability of other supply sources and incomplete maintenance of the embargo. But as public affairs professor Eugene Gholz noted in a 2014 report on the “crisis,” many users of REE simply innovated their way out of the problem. “Companies such as Hitachi Metals [and its subsidiary in North Carolina] that make rare earth magnets found ways to make equivalent magnets using smaller amounts of rare earths in the alloys.… Meanwhile, some users remembered that they did not need the high performance of specialized rare earth magnets; they were merely using them because, at least until the 2010 episode, they were relatively inexpensive and convenient.” Overall, the companies using REE found many inexpensive and convenient alternatives. By the end of 2017 the same bundle of rare earths that had been trading above $42,000 in 2011 was available for about $1,000. What’s Going On? There is no shortage of examples of dematerialization

. I chose the ones in this chapter because they illustrate a set of fundamental principles at the intersection of business, economics, innovation, and our impact on our planet. They are: We do want more all the time, but not more resources. Alfred Marshall was right, but William Jevons was wrong. Our wants and desires keep growing, evidently without end, and therefore so do our economies. But our use of the earth’s resources does not. We do want more beverage options, but we don’t want to keep using more aluminum in drink cans. We want to communicate and compute and listen to music, but we don’t want an arsenal of gadgets; we’re happy with a single smartphone. As our population increases, we want more food, but we don’t have any desire to consume more fertilizer or use more land for crops. Jevons was correct at the time he wrote that total British demand for coal was increasing even though steam engines were becoming much more efficient. He was right, in other words, that the price elasticity of demand for coal-supplied power was greater than one in the 1860s. But he was wrong to conclude that this would be permanent. Elasticities of demand can change over time for several reasons, the most fundamental of which is technological change. Coal provides a clear example of this. When fracking made natural gas much cheaper, total demand for coal in the United States went down even though its price decreased. With the help of innovation and new technologies, economic growth in America and other rich countries—growth in all of the wants and needs that we spend money on—has become decoupled from resource consumption. This is a recent development and a profound one. Materials cost money that companies locked in competition would rather not spend. The root of Jevons’s mistake is simple and boring: resources cost money. He realized this, of course. What he didn’t sufficiently realize was how strong the incentive is for a company in a contested market to reduce its spending on resources (or anything else) and so eke out a bit more profit. After all, a penny saved is a penny earned. Monopolists can just pass costs on to their customers, but companies with a lot of competitors can’t. So American farmers who battle with each other (and increasingly with tough rivals in other countries) are eager to cut their spending on land, water, and fertilizer. Beer and soda companies want to minimize their aluminum purchases. Producers of magnets and high-tech gear run away from REE as soon as prices start to spike. In the United States, the 1980 Staggers Act removed government subsidies for freight-hauling railroads, forcing them into competition and cost cutting and making them all the more eager to not have expensive railcars sit idle. Again and again, we see that competition spurs dematerialization. There are multiple paths to dematerialization. As profit-hungry companies seek to use fewer resources, they can go down four main paths. First, they can simply find ways to use less of a given material. This is what happened as beverage companies and the companies that supply them with cans teamed up to use less aluminum. It’s also the story with American farmers, who keep getting bigger harvests while using less land, water, and fertilizer. Magnet makers found ways to use fewer rare earth metals when it looked as if China might cut off their supply. Second, it often becomes possible to substitute one resource for another. Total US coal consumption started to decrease after 2007 because fracking made natural gas more attractive to electricity generators. If nuclear power becomes more popular in the United States (a topic we’ll take up in chapter 15), we could use both less coal and less gas and generate our electricity from a small amount of material indeed. A kilogram of uranium-235 fuel contains approximately 2–3 million times as much energy as the same mass of coal or oil. According to one estimate, the total amount of energy that humans consume each year could be supplied by just seven thousand tons of uranium fuel. Third, companies can use fewer molecules overall by making better use of the materials they already own. Improving CNW’s railcar utilization from 5 percent to 10 percent would mean that the company could cut its stock of these thirty-ton behemoths in half. Companies that own expensive physical assets tend to be fanatics about getting as much use as possible out of them, for clear and compelling financial reasons. For example, the world’s commercial airlines have improved their load factors—essentially the percentage of seats occupied on flights—from 56 percent in 1971 to more than 81 percent in 2018. Finally, some materials get replaced by nothing at all. When a telephone, camcorder, and tape recorder are separate devices, three total microphones are needed. When they all collapse into a smartphone, only one microphone is necessary. That smartphone also uses no audiotapes, videotapes, compact discs, or camera film. The iPhone and its descendants are among the world champions of dematerialization. They use vastly less metal, plastic, glass, and silicon than did the devices they have replaced and don’t need media such as paper, discs, tape, or film. If we use more renewable energy, we’ll be replacing coal, gas, oil, and uranium with photons from the sun (solar power) and the movement of air (wind power) and water (hydroelectric power) on the earth. All three of these types of power are also among dematerialization’s champions, since they use up essentially no resources once they’re up and running. I call these four paths to dematerialization slim, swap, optimize, and evaporate. They’re not mutually exclusive. Companies can and do pursue all four at the same time, and all four are going on all the time in ways both obvious and subtle. Innovation is hard to foresee. Neither the fracking revolution nor the world-changing impact of the iPhone’s introduction were well understood in advance. Both continued to be underestimated even after they occurred. The iPhone was introduced in June of 2007, with no shortage of fanfare from Apple and Steve Jobs. Yet several months later the cover of Forbes was still asking if anyone could catch Nokia. Innovation is not steady and predictable like the orbit of the Moon or the accumulation of interest on a certificate of deposit. It’s instead inherently jumpy, uneven, and random. It’s also combinatorial, as Erik Brynjolfsson and I discussed in our book The Second Machine Age. Most new technologies and other innovations, we argued, are combinations or recombinations of preexisting elements. The iPhone was “just” a cellular telephone plus a bunch of sensors plus a touch screen plus an operating system and population of programs, or apps. All these elements had been around for a while before 2007. It took the vision of Steve Jobs to see what they could become when combined. Fracking was the combination of multiple abilities: to “see” where hydrocarbons were to be found in rock formations deep underground; to pump down pressurized liquid to fracture the rock; to pump up the oil and gas once they were released by the fracturing; and so on. Again, none of these was new. Their effective combination was what changed the world’s energy situation. Erik and I described the set of innovations and technologies available at any time as building blocks that ingenious people could combine and recombine into useful new configurations. These new configurations then serve as more blocks that later innovators can use. Combinatorial innovation is exciting because it’s unpredictable. It’s not easy to foresee when or where powerful new combinations are going to appear, or who’s going to come up with them. But as the number of both building blocks and innovators increases, we should have confidence that more breakthroughs such as fracking and smartphones are ahead. Innovation is highly decentralized and largely uncoordinated, occurring as the result of interactions among complex and interlocking social, technological, and economic systems. So it’s going to keep surprising us. As the Second Machine Age progresses, dematerialization accelerates. Erik and I coined the phrase Second Machine Age to draw a contrast with the Industrial Era, which as we’ve seen transformed the planet by allowing us to overcome the limitations of muscle power. Our current time of great progress with all things related to computing is allowing us to overcome the limitations of our mental power and is transformative in a different way: it’s allowing us to reverse the Industrial Era’s bad habit of taking more and more from the earth every year. Computer-aided design tools help engineers at packaging companies design generations of aluminum cans that keep getting lighter. Fracking took off in part because oil and gas exploration companies learned how to build accurate computer models of the rock formations that lay deep underground—models that predicted where hydrocarbons were to be found. Smartphones took the place of many separate pieces of gear. Because they serve as GPS devices, they’ve also led us to print out many fewer maps and so contributed to our current trend of using less paper. It’s easy to look at generations of computer paper, from 1960s punch cards to the eleven-by-seventeen-inch fanfold paper of the 1980s, and conclude that the Second Machine Age has caused us to chop down ever more trees. The year of peak paper consumption in the United States, however, was 1990. As our devices have become more capable and interconnected, always on and always with us, we’ve sharply turned away from paper. Humanity as a whole probably hit peak paper in 2013. As these examples indicate, computers and their kin help us with all four paths to dematerialization. Hardware, software, and networks let us slim, swap, optimize, and evaporate. I contend that they’re the best tools we’ve ever invented for letting us tread more lightly on our planet. All of these principles are about the combination of technological progress and capitalism, which are the first of the two pairs of forces causing dematerialization.

### 2AC---War

#### Capitalist peace theory is true.

**Gartzke 7** (Eric, associate professor of political science @ Columbia and a member of the Saltzman Institute of War and Peace Studies, Jan. 2007, "The Capitalist Peace," Midwest Political Science Association, http://www.jstor.org/stable/pdf/4122913.pdf?refreqid=excelsior%3A6da465ba14ba238f87e23e8cf4f9b5fa)//KEN

The discovery that democracies seldom fight each other has led, quite reasonably, to the conclusion that democ- racy causes peace, at least within the community of liberal polities. Explanations abound, but a consensus account of the dyadic democratic peace has been surprisingly slow to materialize. I offer a theory of liberal peace based on capitalism and common interstate interests. Economic development, capital market integration, and the compatibility of foreign policy preferences supplant the effect of democ- racy in standard statistical tests of the democratic peace. In fact, after controlling for regional heterogeneity, any one of these three variables is sufficient to account for effects previously attributed to regime type in standard samples of wars, militarized interstate disputes (MIDs), and fatal disputes.' If war is a product of incompatible interests and failed or abortive bargaining, peace ensues when states lack dif- ferences worthy of costly conflict, or when circumstances favor successful diplomacy. Realists and others argue that state interests are inherently incompatible, but this need be so only if state interests are narrowly defined or when conquest promises tangible benefits. Peace can result from at least three attributes of mature capitalist economies. First, the historic impetus to territorial expansion is tempered by the rising importance of intellectual and financial capital, factors that are more expediently enticed than conquered. Land does little to increase the worth of the advanced economies while resource competition is more cheaply pursued through markets than by means of military occupation. At the same time, development actually increases the ability of states to project power when incompatible policy objectives exist. Development affects who states fight (and what they fight over) more than the overall frequency of warfare. Second, substantial overlap in the foreign policy goals of developed nations in the post-World War II period further limits the scope and scale of conflict. Lacking territorial tensions, consensus about how to order the international system has allowed liberal states to cooperate and to accommodate minor differences. Whether this affinity among liberal states will persist in the next century is a question open to debate. Finally, the rise of global capital markets creates a new mechanism for competition and communication for states that might otherwise be forced to fight. Separately, these processes influence patterns of warfare in the modern world. Together, they explain the absence of war among states in the developed world and account for the dyadic observation of the democratic peace.

### 2AC---Alternative

#### A solvent alternative would require pragmatism, base building, and accountability---don’t let them fiat away solvency deficits and problematics.

Escalante 18 (Alyson, Marxist-Leninist, Materialist Feminist and Anti-Imperialist activist, “Party Organizing In The 21st Century,” 21 September 2021, <https://theforgenews.org/2018/09/21/party-organizing-in-the-21st-century/>, DOA: 11-14-2021) //Snowball

My goal in this essay is to argue that base building and dual power strategy can be best forwarded through party organizing, and that party organizing can allow this emerging movement to solidify into a powerful revolutionary socialist tendency in the United States.

One of the crucial insights of the base building movement is that the current state of the left in the United States is one in which revolution is not currently possible. There exists very little popular support for socialist politics. A century of anticommunist propaganda has been extremely effective in convincing even the most oppressed and marginalized that communism has nothing to offer them.

The base building emphasis on dual power responds directly to this insight. By building institutions which can meet people’s needs, we are able to concretely demonstrate that communists can offer the oppressed relief from the horrific conditions of capitalism. Base building strategy recognizes that actually doing the work to serve the people does infinitely more to create a socialist base of popular support than electing democratic socialist candidates or holding endless political education classes can ever hope to do. Dual power is about proving that we have something to offer the oppressed.

The question, of course, remains: once we have built a base of popular support, what do we do next? If it turns out that establishing socialist institutions to meet people’s needs does in fact create sympathy towards the cause of communism, how can we mobilize that base?

Put simply: in order to mobilize the base which base builders hope to create, we need to have already done the work of building a communist party. It is not enough to simply meet peoples needs. Rather, we must build the institutions of dual power in the name of communism. We must refuse covert front organizing and instead have a public face as a communist party. When we build tenants unions, serve the people programs, and other dual power projects, we must make it clear that we are organizing as communists, unified around a party, and are not content simply with establishing endless dual power organizations. We must be clear that our strategy is revolutionary and in order to make this clear we must adopt party organizing.

By “party organizing” I mean an organizational strategy which adopts the party model. Such organizing focuses on building a party whose membership is formally unified around a party line determined by democratic centralist decision making. The party model creates internal methods for holding party members accountable, unifying party member action around democratically determined goals, and for educating party members in communist theory and praxis. A communist organization utilizing the party model works to build dual power institutions while simultaneously educating the communities they hope to serve. Organizations which adopt the party model focus on propagandizing around the need for revolutionary socialism. They function as the forefront of political organizing, empowering local communities to theorize their liberation through communist theory while organizing communities to literally fight for their liberation. A party is not simply a group of individuals doing work together, but is a formal organization unified in its fight against capitalism.

Party organizing has much to offer the base building movement. By working in a unified party, base builders can ensure that local struggles are tied to and informed by a unified national and international strategy. While the most horrific manifestations of capitalism take on particular and unique form at the local level, we need to remember that our struggle is against a material base which functions not only at the national but at the international level. The formal structures provided by a democratic centralist party model allow individual locals to have a voice in open debate, but also allow for a unified strategy to emerge from democratic consensus.

Furthermore, party organizing allows for local organizations and individual organizers to be held accountable for their actions. It allows criticism to function not as one independent group criticizing another independent group, but rather as comrades with a formal organizational unity working together to sharpen each others strategies and to help correct chauvinist ideas and actions. In the context of the socialist movement within the United States, such accountability is crucial. As a movement which operates within a settler colonial society, imperialist and colonial ideal frequently infect leftist organizing. Creating formal unity and party procedure for dealing with and correcting these ideas allows us to address these consistent problems within American socialist organizing.

# 1AR

## K

### 1AR- AT: Turchin/Green

#### Disease, tsunamis, aggressors, hurricanes, and volcanoes doom the Island people

**Their author Turchin and Green 18** (Alexey Turchin – Scientist for the Foundation Science for Life Extension in Moscow, Russia, Founder of Digital Immortality Now, author of several books and articles on the topics of existential risks and life extension. Brian Patrick Green – Director of technology ethics at the Markkula Center for Applied Ethics, teaches AI ethics in the Graduate School of Engineering at Santa Clara University. <MKIM+KEN> “Islands as refuges for surviving global catastrophes” September 2018. DOA: 7/20/19. https://www.emerald.com/insight/content/doi/10.1108/FS-04-2018-0031/full/html?fullSc=1&mbSc=1&fullSc=1)

Islands are vulnerable for several reasons, and planning should take these possible vulnerabilities into account and seek ways to mitigate and adapt to them:

Tsunamis. Oceans are good at transmitting energy over long distances via waves, and some tsunamis can be extremely large. For example, bolide impactors have been implicated in several tsunamis: the east coast of Australia has remnants of a large possible tsunami as high as 80 meters in last 1000 years (Bryant and Nott, 2001), connected with hypothetical asteroid impact or volcanic explosion near New Zealand. The Eltanin impact 2.5 millions years ago may have generated a wave of up to 200 meters, which affected southern South America (Ward and Asphaug, 2002). Other sources of tsunamis include volcanos, earthquakes, and landslides (McMurtry et al., 2004). Many islands are located near other islands which are volcanic and could produce very high tsunamis. Asteroid impacts and undersea nuclear bombs like Russian Status-6 (Porter, 2018) could also create very high waves, but their height diminishes quickly (in reverse proportion to the distance): so, kilometer size tsunamis can’t travel far.

Birds and their infections. Migratory birds often land on islands, and most remote islands have large bird populations. Unfortunately, birds might carry bird flu, a serious pandemic risk, as well as some parasitic insects, which could carry other diseases. However, not all islands are like this; for example, Guam has few birds because their eggs are eaten by invasive snakes (Amand, 2000).

Aggressors, both intentional and unintentional. Islanders may be attacked by human or robotic aggressors (intentional attackers) or may encounter ships with dangerous infected people on them (unintentional aggressors). At any particular time, there are thousands of ships on the world’s oceans, and many may move around the sea for months after a global catastrophe, possibly carrying infected people. Pirates are also a possible risk in the post-catastrophic world.

Hurricanes. Many tropical islands are vulnerable to extreme weather events, like the Great Hurricane of 1780, which killed about 22 000 people in the Lesser Antilles. More recently, hurricanes such as Irma and Maria have devastated islands in the Caribbean.

Cold and ice. Most poleward islands may be covered with permanent glaciation if the global temperature falls even a few degrees. However, such islands might be useful in a situation of short-term but intense global warming.

Volcanos. There are risks of volcanic events on many volcanic islands or on nearby islands. For example, a pyroclastic flow on Martinique in 1902 killed 30 000 people with only 2 survivors (Zebrowski, 2002).

Geologic instability. Many islands have had massive landslides in the past, and several have active landslide dangers today. For example, on the Big Island of Hawaii, the Hilina slump threatens to send up to 10 000–12 000 km3 of land, roughly 10% of the entire island, into the ocean (Smith, Malahoff and Shor, 1999).

#### limited nuke war kills everyone --- nuclear winter and escalation

Edwards 17 (Paul N. Edwards, CISAC’s William J. Perry Fellow in International Security at Stanford’s Freeman Spogli Institute for International Studies. Being interviewed by EarthSky. “How nuclear war would affect Earth’s climate,” September 8, 2017. earthsky.org/human-world/how-nuclear-war-would-affect-earths-climate) \*we are only reading parts of the interview that are directly from Paul Edwards

In the nuclear conversation, what are we not talking about that we should be? We are not talking enough about the climatic effects of nuclear war. The “nuclear winter” theory of the mid-1980s played a significant role in the arms reductions of that period. But with the collapse of the Soviet Union and the reduction of U.S. and Russian nuclear arsenals, this aspect of nuclear war has faded from view. That’s not good. In the mid-2000s, climate scientists such as Alan Robock (Rutgers) took another look at nuclear winter theory. This time around, they used much-improved and much more detailed climate models than those available 20 years earlier. They also tested the potential effects of smaller nuclear exchanges. The result: an exchange involving just 50 nuclear weapons — the kind of thing we might see in an India-Pakistan war, for example — could loft 5 billion kilograms of smoke, soot and dust high into the stratosphere. That’s enough to cool the entire planet by about 2 degrees Fahrenheit (1.25 degrees Celsius) — about where we were during the Little Ice Age of the 17th century. Growing seasons could be shortened enough to create really significant food shortages. So the climatic effects of even a relatively small nuclear war would be planet-wide. What about a larger-scale conflict? A U.S.-Russia war currently seems unlikely, but if it were to occur, hundreds or even thousands of nuclear weapons might be launched. The climatic consequences would be catastrophic: global average temperatures would drop as much as 12 degrees Fahrenheit (7 degrees Celsius) for up to several years — temperatures last seen during the great ice ages. Meanwhile, smoke and dust circulating in the stratosphere would darken the atmosphere enough to inhibit photosynthesis, causing disastrous crop failures, widespread famine and massive ecological disruption. The effect would be similar to that of the giant meteor believed to be responsible for the extinction of the dinosaurs. This time, we would be the dinosaurs. Many people are concerned about North Korea’s advancing missile capabilities. Is nuclear war likely in your opinion? At this writing, I think we are closer to a nuclear war than we have been since the early 1960s. In the North Korea case, both Kim Jong-un and President Trump are bullies inclined to escalate confrontations. President Trump lacks impulse control, and there are precious few checks on his ability to initiate a nuclear strike. We have to hope that our generals, both inside and outside the White House, can rein him in. North Korea would most certainly “lose” a nuclear war with the United States. But many millions would die, including hundreds of thousands of Americans currently living in South Korea and Japan (probable North Korean targets). Such vast damage would be wrought in Korea, Japan and Pacific island territories (such as Guam) that any “victory” wouldn’t deserve the name. Not only would that region be left with horrible suffering amongst the survivors; it would also immediately face famine and rampant disease. Radioactive fallout from such a war would spread around the world, including to the U.S. It has been more than 70 years since the last time a nuclear bomb was used in warfare. What would be the effects on the environment and on human health today? To my knowledge, most of the changes in nuclear weapons technology since the 1950s have focused on making them smaller and lighter, and making delivery systems more accurate, rather than on changing their effects on the environment or on human health. So-called “battlefield” weapons with lower explosive yields are part of some arsenals now — but it’s quite unlikely that any exchange between two nuclear powers would stay limited to these smaller, less destructive bombs.

### 1AR- AT: Marx Law

#### No impact to boom and bust cycles---recessions are small and short.

Ormerod 10, \*Paul Ormerod is the author of The Death of Economics, Butterfly Economics and Why Most Things Fail. He studied economics at Cambridge and his career has spanned the academic and practical business worlds, including working at the Economist and as a director of the Henley Centre for Forecasting. He is a Fellow of the British Academy of Social Science and has been awarded a DSchonoris causafor his contribution to economics by the University of Durham; (February 2010, “Risk, Recessions and the Resilience of the Capitalist Economies”, https://www.jstor.org/stable/40468455)

Brief Remarks and Conclusion

The aim of this paper is to establish stylised facts on the duration and size of recessions in the capitalist economies. The track record of forecasting recessions is extremely poor, so an appreciation of the distribution of the size and length of recessions is important in assessing risks for policy-makers in both the public and private sectors.

Evidence is taken from 17 Western economies over a long period of time, from 1871 to 2007. By the former date, all these economies can be considered to be essentially industrial rather than agricultural, in other words, modern capitalist economies.

Two definitions of a recession are considered. First, the conventional one of a recession being years in which the growth rate of real GDP is less than zero. Second, years in which the level of real GDP remains below its previous peak value. The qualitative nature of the results is robust with respect to the choice of definition.

A striking feature of the data is the resilience of the economies. The clear majority recessions last for just a single year, and only a small minority persists for more than 2 years.

A plausible reason for this is that most recessions are essentially inventory cycles. During the upswing, businesses tend to become too optimistic about future prospects. As a result, production begins to run ahead of sales and inventory levels rise. Firms then cut back on production in order to restore inventories to more reasonable levels. As part of this process, fixed investment projects may be postponed. Temporary reductions in capital expenditure plus actions to reduce inventory levels are of themselves inherently of short duration. The adjustment takes place quickly.

### 1AR- Yes UQ

#### Growth has uniqueness tons of people investing

Henderson 20, John and Natty McArthur University Professor @ Harvard (Rebecca, May/June Issue, “The Unlikely Environmentalists: How the Private Sector Can Combat Climate Change,” Foreign Affairs, https://www.foreignaffairs.com/articles/world/2020-04-13/unlikely-environmentalists)

There’s a reason climate change is often described as a “wicked problem.” Fully decarbonizing the economy will require not only completely transforming the global energy infrastructure, at a cost of many trillions of dollars, but also retrofitting all of the world’s buildings, remaking the planet’s agricultural practices, and revolutionizing transportation systems. It is difficult to see how this can be accomplished without some kind of global carbon tax or regulatory regime. But putting such a system in place is proving to be enormously difficult. The 2015 Paris agreement on climate change was a good first step, but many countries show little sign of meeting the commitments they made as part of that agreement, and the United States’ withdrawal from the process has presented a significant barrier to further progress. Given the slowing global economy and the slide toward populism and nationalism in much of the world, the prospects for any kind of comprehensive global accord seem increasingly remote. So far, at least, the public sector is failing to confront the problem. But the private sector has begun to step in to fill the vacuum. In January, Larry Fink, the CEO of BlackRock, the largest asset manager in the world, declared that “climate risk is investment risk” and announced that going forward BlackRock would ask every firm in its portfolio to disclose its carbon emissions. BlackRock has roughly $7 trillion under management and is one of the largest shareholders in nearly every publicly traded firm in the world. So companies around the world paid attention when Fink went on to say that BlackRock would consider voting against boards whose firms “do not make sufficient progress” in addressing climate-related risks and would cease to invest altogether in some fossil fuel projects. Fink is not alone. Many of the world’s largest asset owners are coming to the conclusion that climate change is the most important risk to the long-term health of their portfolios. More than a third of global invested capital—about $19 trillion—is controlled by the world’s 100 largest asset owners. Nearly two-thirds of this money is in pension funds; the remaining third is in sovereign wealth funds. These funds are now so large that they are sometimes referred to as “universal owners” or “universal investors” since, in effect, they hold the entire market. For that reason, they cannot diversify away from the risk of climate change—a risk that Mark Carney, who until earlier this year was the governor of the Bank of England, suggested could result in an abrupt financial collapse, potentially wiping out as much as $20 trillion of assets. To avert that kind of calamity, major asset owners are starting to push the companies in their portfolios to address climate change. This trend is not driven by altruism or a deep commitment to the environment: it’s a function of economic interests. For the world’s largest asset owners, climate change is not an externality—it is a profound threat to their long-term returns. It will, after all, be significantly harder to make money in a world where most of the major ports are underwater, harvests are failing on a routine basis, and hundreds of millions of people are on the move. As more and more major asset owners come to this realization, it is creating increasingly strong incentives for them to cooperate with one another in support of large-scale decarbonization. Together, they are pressing the firms in their portfolios to set concrete targets for emission reductions and to make progress toward meeting those targets, potentially solving the problem posed by firms’ unwillingness to cut their emissions unless they can be assured that their competitors will follow suit. Someone, however, will need to monitor that progress and sanction firms that lag behind—a role that would be best filled by government regulators. The need for such public-sector involvement will likely increase private-sector support for the policy changes required to drastically reduce carbon emissions. In this way, private-sector pressure may serve as the force that finally breaks the political logjam that has long blocked the public action needed to solve the climate crisis. MONEY TALKS One of the most promising examples of what this might look like in practice is Climate Action 100+, a nonprofit affiliation of more than 300 investors who collectively control nearly half of the world’s invested capital. The group was founded in 2017 with the goal of persuading the world’s 100 largest private-sector carbon emitters to “cut the financial risk associated with catastrophe” by putting in place board-level processes to assess their climate-related risks and oversee plans for dealing with them, pledging to clearly disclose those risks, and taking action to reduce greenhouse gas emissions across their value chains rapidly enough to help meet the Paris agreement’s goal of limiting the increase in the global average temperature to well below two degrees Celsius. In December 2018, a group of investors belonging to Climate Action 100+ published a letter in the Financial Times listing some specific steps they were demanding of companies in which they invest, including “the rapid elimination of coal use by utilities in EU and OECD [Organization for Economic Cooperation and Development] countries by no later than 2030.” Six months later, investors from the consortium pushed the oil giant Shell to announce short-term targets for limiting its greenhouse gas emissions and persuaded BP to support a shareholder resolution that binds the oil company to disclose the carbon intensity of its products, the methodology it uses to consider the climate impact of new investments, and its plans for setting and measuring emission targets. More than half of the 40 oil and gas companies with which the group has engaged have set long-term quantitative targets for reducing their emissions. And the group has helped persuade the shipping giant Maersk and two of the world’s largest mining companies, ArcelorMittal and Thyssenkrupp, to commit to becoming carbon neutral by 2050. These kinds of commitments are sometimes dismissed as mere greenwashing: public relations stunts designed to buy time. And sometimes they are. But they might also help catalyze an economic transformation that could play a major role in arresting climate change. Of course, large asset holders are not the only players who shape a company’s incentives: employees and consumers do, as well, and they are increasingly insisting that firms go green—and rewarding them when they do. For example, after the consumer goods giant Unilever announced that it planned to cut its carbon footprint in half and double its revenue at the same time—and then followed through by transforming its operations, brand by brand—the firm joined Facebook, Google, and Microsoft on LinkedIn’s list of the ten most desirable employers in the world. Sales of Unilever’s “sustainable living” brands—which include Ben & Jerry’s, Dove, and Vaseline and which Unilever claims “contribute to achieving the company’s ambition of halving its environmental footprint”—are growing 69 percent faster than the rest of the business and providing 75 percent of the company’s growth. Shifting public attitudes about climate change and public policies intended to combat it have also created clear business opportunities. Solar and wind energy are both multibillion-dollar businesses. The market for plant-based alternatives to meat is exploding. And global recycling could generate close to $400 billion in the next five years. RISKY BUSINESS But embracing the innovation that is required to exploit new opportunities is often risky and expensive. The venture capital industry lost at least $10 billion between 2005 and 2011 investing in clean energy technology. An electric utility that commits to phasing out coal plants might reap the benefits of declining solar and wind energy costs, but it could also misjudge the market and significantly increase its costs. An automobile company that invests in developing electric vehicles might leap ahead of its competitors, but it could also risk losing out to more cautious rivals. Universal investors can help mitigate those risks by funneling capital to firms that are willing to make the first move. This can be transformational in itself, since companies that decide to embrace new opportunities can often persuade an entire industry to follow them. Walmart’s massive investments in energy saving and waste reduction, for example, have helped persuade many other companies to take similar steps. Since 2010, the price of battery storage has fallen by at least 73 percent, a change driven largely by the electric vehicle company Tesla’s significant investments in the technology, which spurred the company’s competitors to invest more than $90 billion in the development of electric vehicles. Major asset holders can also push companies to commit to aggressive targets for decarbonizing their business models and insist that they report on their progress. In this way, universal investors may be able to force every firm in an industry to act, solving the collective action problem inherent in tackling climate change. Firms don’t naturally act collectively—for all kinds of reasons, including antitrust law. But when there exists a clear business case for doing so and cooperation can be credibly enforced, voluntary cooperation can be an effective means of creating or preserving public goods. Nearly half of the world’s inshore fisheries are managed through some form of cooperative agreement. Most of the rules governing international trade are designed and enforced by the International Chamber of Commerce, a voluntary association founded in 1919. Some of the world’s largest firms are increasingly exploring whether these kinds of voluntary agreements might be an effective way to reduce emissions. For example, after Unilever came under pressure from activists to stop using palm oil, the cultivation of which contributes to deforestation, Paul Polman, who was then the company’s CEO, was able to persuade many of his fellow consumer goods CEOs that continuing to purchase conventionally produced palm oil presented a significant threat to their own brands. Partly as a result, more than 60 percent of the world’s traded palm oil is now covered by sustainability commitments. Similar agreements with respect to soy and beef have greatly slowed rates of deforestation in the Amazon River basin. And companies in industries as diverse as airlines, food, retail, apparel, travel, hospitality, construction, health care, and high technology have begun to coordinate to reduce carbon emissions across supply chains, so that no single firm is placed at a disadvantage by going green. Such arrangements produce a wealth of knowledge about what effective decarbonization might look like on the ground. As one might expect, however, they are often unstable and difficult to enforce, since no mechanism exists through which to punish firms that drag their feet or refuse to conform. Here, universal investors might be able to make a significant difference by acting as enforcers. If BlackRock, for example, follows through on its threat to vote against the boards of companies that do not adequately disclose their climate emissions, every major firm in every industry will be forced to report—in an auditable, replicable way—the degree to which it is meeting its commitments. And if the world’s major investors then vote against the boards of those companies that are falling behind, investors could catalyze the transformation of entire industries. THE EARTH LOBBY Arresting climate change will still require government action, of course, and the changes afoot in finance and the corporate world could ease the path. As firms commit to reducing their carbon emissions, they are increasingly recognizing that the most effective way to ensure that they are not undercut by lagging companies is to press for regulation. Together, they are creating a constituency for effective climate policy. In 2017, for example, when U.S. President Donald Trump declared that he was going to withdraw the United States from the Paris agreement, the CEOs of more than 50 U.S. companies, including Apple, Gap, Google, HP, and Levi Strauss, published an open letter urging him to rethink the decision. When Trump stuck to his plan, Elon Musk, the CEO of Tesla, and Bob Iger, then the CEO of Disney, resigned from some of the president’s advisory councils in protest. More than 2,000 companies have joined a collaborative effort called “We Are Still In,” a group working to ensure that the United States meets its commitments under the agreement despite the administration’s withdrawal. The group includes not only businesses but also states, cities, religious organizations, and universities. Together, they represent 68 percent of U.S. GDP, 65 percent of the U.S. population, and the source of more than half of all U.S. carbon emissions. Such action independent of the federal government could make a big difference. According to America’s Pledge, a nongovernmental organization that tracks local progress toward emission reductions, the “full achievement of already on-the-books policies from state and local actors—paired with rapidly shifting economics in the power sector—would reduce emissions 19 percent below 2005 levels by 2025 and 25 percent below 2005 levels by 2030.” This would be a significant step toward the approximately 50 percent reduction in emissions that the UN’s Intergovernmental Panel on Climate Change estimates is necessary to avoid the most dangerous potential outcomes of climate change. These efforts and others like them also have the potential to change the nature of the political conversation around climate change. In an increasingly partisan world, firms occupy a unique position. According to the 2019 Edelman Trust Barometer, an annual survey measuring credibility and trust, business is now the world’s most trusted institution, and 71 percent of employees around the world agree that “it is critically important” for the CEOs of their companies “to respond to challenging times.” A broad-based movement among the world’s biggest companies to tackle climate change could help legitimate the idea that climate change is a real danger, that acting to avert it could be a major driver of innovation and economic growth, and that appropriate public policy could be enormously helpful. Such a movement could also put increasing pressure on companies that resist decarbonizing. One of the reasons that climate regulation has stalled in the United States is that a small minority of firms have invested billions of dollars in actively lobbying against it. If their peers start to push for regulation and highlight the dangers inherent in continuing with business as usual, those laggards will be compelled to change their behavior. One day soon, flooding the political process with money to defend the burning of fossil fuels could be seen as an unacceptable reputational risk—or even as morally indefensible. For many years, experts have assumed that the fastest and most efficient route to global decarbonization is coordinated state action. But as the world’s political institutions have come under pressure, such action has become increasingly elusive. Against this background, the growing understanding that climate change presents a profound threat to the long-term returns of the world’s largest asset owners provides some reason for hope. As investors push for change and the realization dawns in more and more boardrooms that the benefits of climate action will outweigh the costs, it is possible that leading-edge firms could trigger a cascade of reinforcing reforms, transforming the economics of individual industries and creating a significant constituency for political action. For decades, when it came to addressing climate change, large asset holders and big companies acted more as obstacles than as catalysts. Those days may soon be over.

### 1AR- Warming

#### Yes decoupling – study

Pao 18 (Hsiao-Tien Pao, PhD, Department of Management Science, National Chiao Tung University; Chun-Chih Chen, PhD, Department of Management Science, National Chiao Tung University; “Decoupling strategies: CO emissions, energy resources, and economic growth in 2 the Group of Twenty”, Journal of Cleaner Production, September 2018, DOI: 10.1016/j.jclepro.2018.09.190) \*Brackets added which provide the full version of each of these abbreviations: Hydro = hydropower; CKC = carbon kuznets curve; Ren = new renewable energy consumption; FF = fossil fuels energy consumption; 3Es = environment, energy, and economy, Nuc = nuclear energy consumption, TCE = total clean energy consumption, EG = economic growth

This study selects the G20 as a representative sample of global economic development to assess the CKC [carbon Kuznets curve], the 3Es dynamics, substitutability between Ren [new renewable energy consumption]/Hydro [hydropower] /Nuc [nuclear energy consumption] and FF [fossil fuels energy consumption], and thus to propose decoupling strategies for sustainable development. We extend the literature on the emission-growth nexus in the case of G20 to the 3Es dynamics by examining the rule of Ren [new renewable energy consumption]/Hydro [hydropower] /Nuc [nuclear energy consumption] and FF [fossil fuels energy consumption]. The descriptive statistical analysis suggests the absolute decoupling effect seems to have occurred with the drop in related environmental pressure and the continuation of economic growth. Within a panel EEO model framework, the per capita TCE [total clean energy consumption] /FF [fossil fuels energy consumption] elasticity of demand for carbon emissions is -0.021/1.04. The existence of the CKC [carbon kuznets curve] is consistent with the results of the descriptive statistical analysis. The results of panel VECM models support the Hydroled and Nuc-led growth hypotheses and the feedback hypothesis between EG [economic growth] and Ren [new renewable energy consumption]/FF and suggest the potential substitutability/symbiosis between Ren/Hydro and FF as evidenced by the negative/positive bidirectional causal relationship between them. Also, note that the use of nuclear energy is a key means of dealing with carbon emissions as evidenced by the positive unidirectional causal relationship running from emissions to Nuc [nuclear energy consumption].

Based on the growing global awareness of environmental protection, these interdependencies between 3Es are not surprising. That provides the main directions of each in the design of energy and energy conservation policies to ensure a diversified, sustainable energy consumption mix and a decoupling of environmental pressure from EG [economic growth]. Policymakers can introduce a wide range of complementary strategies for renewable energy and nuclear energy to improve energy efficiency and safety, reduce CO2 intensity, maintain stable economic growth, and implement the 2030 sustainable development agenda, thus lead the world to absolute decoupling. Absolute decoupling is the only way to achieve a truly sustainable future.

#### CCS solves

Namita Vikas and Sourajit Aiyer 21 (Namita Vikas, Founder and Managing Partner, AuctusESG, Sourajit Aiyer, Vice President, Sustainable Finance & ESG, AuctusESG, 3-3-2021, "Why private capital is the key to unleashing carbon capture", World Economic Forum, https://www.weforum.org/agenda/2021/03/financial-disclosures-on-climate-can-help-scale-up-carbon-capture/, accessed: 6-28-2021)//yeed

Fossil fuels will still account for two-thirds of the global energy mix by 2030.

Clean energy strategies must take this into account - which is why carbon capture and storage must play a major role.

To achieve the necessary scale, we need to mobilise private investment. Here's how.

The UK has recently mandated all its companies to disclose the financial risks associated with their climate risks, impact and strategies – as per the framework set out by the Taskforce on Climate-related Financial Disclosures (TCFD) – by 2025. Not only will this help understand how a given company’s activities are contributing to climate change, but the transparency of reported data will also help unlock the investment required by the more complicated carbon emission-management technologies.

Ground realities for carbon management

While the transition to greener forms of energy features on most corporate agendas, two realities must be appreciated. First, despite the push towards renewables, fossil fuels could still account for around two-thirds of the global energy mix by 2030. That means the world’s strategies to move towards a net-zero carbon future cannot ignore fossil fuels. Second, emissions are yet to dip substantially despite the traction in renewables. Estimates suggest they must decline by over 7% each year until 2030 if the world is to meet the 1.5°C goal set out in the Paris Agreement. Thus, the world need strategies to reduce fossil fuel emissions at scale.

These realities bring the discourse on carbon management technologies like carbon capture, utilization and storage (CCUS). Simply put, CCUS captures emitted CO2 and stores it in soil or beneath the seabed so that it does not escape into the atmosphere. The 'utilization' aspect refers to recycling and reusing that stored CO2 to produce goods of economic value such as oil recovery, fuels, construction material and plastics. The cost of capture and storage can be partially offset by this utilization, thus creating an economic incentive. This technology answers the realities outlined previously because it is focused on fossil fuels and reduces their emissions through its circular carbon-management model.

This strategy can be particularly effective in managing emissions in hard-to-decarbonize sectors, such as carbonate aggregates, fuels, concrete, methanol and polymers. CCUS technology will reduce the emissions generated by these industries, whether in new or existing facilities. In cement, a sector fuelled by demand from high-growth emerging economies, CCUS may be only technology capable of delivering the necessary scale of emission reduction. CCUS-based fuels could also power the electrolysers used to produce low-carbon hydrogen, a product being spoken about increasingly in energy transition discourses.

Further, an Ellen MacArthur Foundation report finds that only around 55% of emissions can be managed with renewables or energy efficiency. Achieving the remainder will require circular models that delink business activity from resource extraction. While a few nations have launched CCUS projects, Norway stands out since it is also a major fossil fuel exporter. Its Longship project transports the captured CO2 to a storage facility below the North Sea, while its Sleipner offshore gas project’s CO2 storage is now two decades old. Global CCUS capacity is climbing steadily

### 1AR – War

#### 3 --- increased costs deter war --- robust data confirms interdependence

**Dafoe and Kelsey 14** (Allan Dafoe – Assistant Professor of Political Science at Yale, and Nina Kelsey – Research Associate in International Economics at Berkeley, “Observing the capitalist peace: Examining market-mediated signaling and other mechanisms,” Journal of Peace Research 51(5):619-633)

Countries with liberal political and economic systems rarely use military force against each other. This anomalous peace has been most prominently attributed to the ‘democratic peace’ – the apparent tendency for democratic countries to avoid militarized conflict with each other (Maoz & Russett, 1993; Ray, 1995; Dafoe, Oneal & Russett, 2013).More recently, however, scholars have proposed that the liberal peace could be partly (Russett & Oneal, 2001) or primarily (Gartzke, 2007; but see Dafoe, 2011) attributed to liberal economic factors, such as commercial and financial interdependence. In particular, Erik Gartzke, Quan Li & Charles Boehmer (2001), henceforth referred to as GLB, have demonstrated that measures of capital openness have a substantial and statistically significant association with peaceful dyadic relations. Gartzke (2007) confirms that this association is robust to a large variety of model specifications. To explain this correlation, GLB propose that countries with open capital markets are more able to credibly signal their resolve through the bearing of greater economic costs prior to the outbreak of militarized conflict. This explanation is novel and plausible, and resonates with the rationalist view of asymmetric information as a cause of conflict (Fearon, 1995). Moreover, it implies clear testable predictions on evidential domains different from those examined by GLB. In this article we exploit this opportunity by constructing a confirmatory test of GLB’s theory of market-mediated signaling. We first develop an innovative quantitative case selection technique to identify crucial cases where the mechanism of market-mediated signaling should be most easily observed. Specifically, we employ quantitative data and the statistical models used to support the theory we are probing to create an impartial and transparentmeans of selecting cases in which the theory – as specified by the theory’s creators –makes its most confident predictions. We implement three different case selection rules to select cases that optimize on two criteria: (1) maximizing the inferential leverage of our cases, and (2) minimizing selection bias. We examine these cases for a necessary implication of market-mediated signaling: that key participants drew a connection between conflictual events and adverse market movements. Such an inference is a necessary step in the process by which market-mediated costs can signal resolve. For evidence of this we examine news media, government documents, memoirs, historical works, and other sources. We additionally examine other sources, such as market data, for evidence that economic costs were caused by escalatory events. Based on this analysis, we assess the evidence for GLB’s theory of market mediated costly signaling. Our article then considers a more complex heterogeneous effects version of market-mediated signaling in which unspecified scope conditions are required for the mechanism to operate. Our design has the feature of selecting cases in which scope conditions are most likely to be absent. This allows us to perform an exploratory analysis of these cases, looking for possible scope conditions. We also consider alternative potential mechanisms. Our cases are reviewed in more detail in the online appendix.1 To summarize our results, our confirmatory test finds that while market-mediated signaling may be operative in the most serious disputes, it was largely absent in the less serious disputes that characterize most of the sample of militarized interstate disputes (MIDs). This suggests either that other mechanisms account for the correlation between capital openness and peace, or that the scope conditions for market-mediated signaling are restrictive. Of the signals that we observed, strategic market-mediated signals were relatively more important than automatic market-mediated signals in the most serious conflicts. We identify a number of potential scope conditions, such as that (1) the conflict must be driven by bargaining failure arising from uncertainty and (2) the economic costs need to escalate gradually and need to be substantial, but less than the expected military costs of conflict. Finally, there were a number of other explanations that seemed present in the cases we examined and could account for the capitalist peace: capital openness is associated with greater anticipated economic costs of conflict; capital openness leads third parties to have a greater stake in the conflict and therefore be more willing to intervene; a dyadic acceptance of the status quo could promote both peace and capital openness; and countries seeking to institutionalize a regional peace might instrumentally harness the pacifying effects of liberal markets.

### 1AR- Commie Innovation

#### Socialism not innovative- all of all our cards says multiple profit drivers key but

Guo et al. 20, \*Di Guo, Business School, Brunel University London; \*Haizhou Huang, China International Capital Corporation; \*Kun Jiang, Business School, University of Nottingham; \*Cheung Kong, Graduate School of Business, Oriental Plaza; (September 14th, 2020, “Disruptive innovation and R&D ownership structures”, https://doi.org/10.1007/s11127-020-00850-1)

However, history shows that socialism is not good at disruptive innovation (Kornai 2013). Compared with capitalist economies, why are socialist economies unable to invent revolutionary products? In addressing that question, Kornai examines the characteristics of the innovation process in capitalist and socialist economies (Table 1). Factors (A), (C), (D) and (E) in Table 1 are related to competition and conflicts between winners and losers in that process, which are substantially different when they have hard budget constraints (HBCs) in capitalism and SBCs in socialism. An HBC is a critical factor in fostering disruptive innovations, and this factor is the foundation of the Schumpeterian creatively destructive process. As Kornai (2013, p. 34) notes, “[T]he Schumpeterian process of innovation ... has inevitably two sides: many projects are needed for the few great successes, and at the same time, we get too many of them”. The upside is the creation of new products. The downside is that destruction implies the bankruptcy of old firms (HBC) and the “extinction” of old products. That disadvantage is an essential part of the Schumpeterian process and necessary for innovation and vibrant market mechanisms. However, only capitalism supports HBCs (Kornai et al. 2003), which provide conditions for investing in promising projects and rewarding successful entrepreneurs (Kornai 2013, p. 15). By contrast, in socialism with SBCs, loss-making firms are protected from going bankrupt, and innovation proceeds through a bureaucratic planning mechanism. Consequently, investment in R&D is confined to a small number of politically favored projects, and the rewards for success are inadequate (Kornai 2013, p. 15).