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## Off

### 1NC

Next/First off is Politics

#### Two-track infrastructure will pass, PC is key, but there’s zero margin for error

Greve 9-7-2021, politics breaking news reporter for Guardian US, based in Washington (Joan, “Joe Biden to referee Democrats in brewing battle over $3.5tn budget bill,” *The Guardian*, <https://www.theguardian.com/us-news/2021/sep/07/biden-democrats-brewing-battle-budget-bill>)

Congress will return from its summer recess later this month, and some Democrats are already gearing up for a political fight – with each other. Democratic lawmakers are looking to pass their $3.5tn spending package, after the House and the Senate approved the blueprint for the budget bill last month. The ambitious legislation encompasses much of Joe Biden’s economic agenda, including proposals to expand access to affordable childcare, invest in climate-related initiatives and broaden Medicare coverage. But to get the bill passed, Democrats will first need to reach an agreement on the cost of the legislation. Centrist Democrats, including Senators Kyrsten Sinema and Joe Manchin, have expressed concern about the bill’s $3.5tn price tag, while progressives have indicated they will fiercely oppose any attempt to cut funding in the proposal. With his entire economic agenda hanging in the balance, Biden will need to convince the two fractious wings of his party to come together and pass a comprehensive spending package. And given Democrats’ extremely narrow majorities in both the House and the Senate, there is virtually no room for error. Despite warning signs of intra-party friction over the cost of the budget bill, congresswoman Suzan DelBene, who chairs the centrist New Democrat Coalition, said the House’s focus right now should still be on the content of the legislation. “I think discussion of a number is more distracting when the focus really needs to be on, what is the substance going to be of this legislation?” DelBene told the Guardian. “If we have strong legislation the people support, I think we can find the path forward.” Over in the Senate, majority leader Chuck Schumer is attempting to advance the bill using reconciliation, meaning Democrats do not need any Republican support to pass the legislation. But the 50-50 split in the upper chamber means that every single Democratic senator must be on board to get the bill approved. Schumer has been clear-eyed about the challenges ahead for the legislation. Shortly after the Senate approved the blueprint for the bill in a party-line vote last month, Schumer told reporters, “We’ve labored for months and months to reach this point, and we have no illusions – maybe the hardest work is yet to come.” Manchin proved Schumer’s point last Thursday, when he wrote a Wall Street Journal op-ed calling for a “strategic pause” in advancing the spending package. “While some have suggested this reconciliation legislation must be passed now, I believe that making budgetary decisions under artificial political deadlines never leads to good policy or sound decisions,” Manchin said in the op-ed. “I, for one, won’t support a $3.5tn bill, or anywhere near that level of additional spending, without greater clarity about why Congress chooses to ignore the serious effects inflation and debt have on existing government programs.” Bernie Sanders, the leftwing chairman of the Senate budget committee, responded to Manchin’s warning in kind, threatening to torpedo the bipartisan infrastructure bill if the spending package is not approved. “Rebuilding our crumbling physical infrastructure – roads, bridges, water systems – is important,” Sanders said on Twitter. “Rebuilding our crumbling human infrastructure – healthcare, education, climate change – is more important. No infrastructure bill without the $3.5tn reconciliation bill.” Progressive groups have echoed Sanders’s argument, insisting that every component of the $3.5tn legislation is vital. Sanders had initially called for spending $6tn on the budget bill, so progressives already view the current price tag as a concession. “We’re in a moment of crisis. Is this really the time for the Senate to press pause?” Ellen Sciales, the communications director of the climate group Sunrise Movement, said in a statement. She added: “If the Senate can’t pass an incredibly popular climate and jobs plan during a summer of unprecedented, fatal climate disasters, and an economy reeling from a global pandemic, we must abolish the Senate. $3.5tn was the compromise.” Natalia Salgado, the director of federal affairs for the Working Families Party, noted that some progressive economists have suggested the US needs to spend $10tn over 10 years to meet its obligations in the Paris Climate Agreement. “We’re going to come nowhere near that,” Salgado said. “So we can’t afford to lose a single cent in this $3.5tn. Every single penny will count.” Despite the war of words between moderates and progressives, the White House has continued to express confidence that Congress will ultimately reach an agreement on the legislation. “The president and his whole team are proud of and fighting for the substance of his Build Back Better agenda,” a White House official said in a statement. “These are complex processes, but as recent weeks have demonstrated, leaders in Congress and the President know how to move them forward.”

#### Antitrust reform trades off with other legislative priorities

Carstensen 21, JD and MA @ Yale, Former Chair of U-W Law School, Senior Fellow of the American Antitrust Institute (Peter, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>)

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities. 15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate! 16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Prevents grid collapse – immediate action is key to mitigate growing risks

Pittsburgh Post-Gazette 3-4-2021 (“Invest in Infrastructure,” <https://www.post-gazette.com/opinion/editorials/2021/03/05/Invest-in-infrastructure/stories/202102270028>)

Now is the time for a reckoning, a realization: While it’s important to study the past to avoid repeating the same mistakes, the country must also look to its future and see the obvious — that America’s infrastructure as a whole needs some serious upkeep. Democrats and Republicans alike have flirted with the idea of a sweeping infrastructure bill in recent years, and President Joe Biden’s team is working to outline such legislation. These efforts should proceed swiftly — now is the time for Congress to invest in infrastructure, not only to help prevent crises, but also to jump-start an economy mired in the coronavirus pandemic. Despite being one of the richest countries in the world, the U.S. seems constantly to hover on the edge of disaster, with news of natural forces smashing through power grids and levies and fire prevention strategies on a yearly or monthly basis. Texas is only the most recent state to have been pushed over the edge. The American Society of Civil Engineers just this week gave America’s infrastructure an overall grade of C-minus in its quadrennial report card. The last grade was D-plus and that report cited decades of underfunding and unheeded recommendations. C-minus is an improvement but deserves not just federal attention but actual intervention. The report notes “we are heading in the right direction, but a lot of work remains.” There is opportunity in the recent economic and environmental devastation that grabs headlines and breaks hearts. In the aftermath of the Great Depression, the government put millions to work improving parks and building roads and bridges and airports. President Dwight Eisenhower’s interstate highway system remains the life veins of interstate travel. A new and vigorous infrastructure package for America would fix what needs to be fixed and offer the promise of an economic boon. The purpose of the federal government is to address the needs of American society in a way that can’t be tackled by states in a piecemeal fashion. What has happened in recent days within The Lone Star State demonstrates keenly that this is the time — actually past the time — that our federal leaders must shore up the foundations of our federation. Congress should act swiftly to lead states in reversing the entropy chewing away at America’s foundations. Until this happens, society stands on shifting sands.

#### Grid collapse kills hundreds of millions and eliminates adaptation to societal stressors

Greene 19, M.S. in Nuclear Engineering from the University of Tennessee. He is a recognized subject matter expert in nuclear reactor safety, nuclear fuel cycle technologies, and advanced reactor concept development. Mr. Greene is widely acclaimed for his systems analysis, team building, innovation, knowledge organization, presentation, and technical communication skills. Mr. Greene worked at the Oak Ridge National Laboratory (ORNL) for over three decades. During his career at ORNL, he served as Director of Research Reactor Development Programs and Director of Nuclear Technology Programs (Sherrell, “Enhancing Electric Grid, Critical Infrastructure, and Societal Resilience with Resilient Nuclear Power Plants (rNPPs),” Nuclear Technology, 205.3) //strikethrough of rhetoric

Societies and nations are examples of large-scale, complex social-physical systems. Thus, societal resilience can be defined as the ability of a nation, population, or society to anticipate and prepare for major stressors or calamities and then to absorb, adapt to, recover from, and restore normal functions in the wake of such events when they occur. A nation’s dependence on its Critical Infrastructure systems, and the resilience of those systems, are therefore major components of national and societal resilience. There are a variety of events that could deal ~~crippling~~ blows to a nation’s Grid, Critical Infrastructure, and social fabric. The types of catastrophes under consideration here are “very bad day” scenarios that might result from severe GMDs induced by solar CMEs, HEMP attacks, cyber attacks, etc.5 As briefly discussed in Sec. III.C, the probability of a GMD of the magnitude of the 1859 Carrington Event is now believed to be on the order of 1%/year. The Earth narrowly missed (by only several days) intercepting a CME stream in July 2012 that would have created a GMD equal to or larger than the Carrington Event.41 Lloyd’s, in its 2013 report, “Solar Storm Risk to the North American Electric Grid,” 42 stated the following: “A Carrington-level, extreme geomagnetic storm is almost inevitable in the future…The total U.S. population at risk of extended power outage from a Carrington-level storm is between 20-40 million, with durations of 16 days to 1-2 years…The total economic cost for such a scenario is estimated at $0.6-2.6 trillion USD.” Analyses conducted subsequent to the Lloyd’s assessment indicated the geographical area impacted by the CME would be larger than that estimated in Lloyd’s analysis (extending farther northward along the New England coast of the United States and in the state of Minnesota),43 and that the actual consequences of such an event could actually be greater than estimated by Lloyd’s. Based on “Report of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack: Critical National Infrastructures” to Congress in 2008 (Ref. 39), a HEMP attack over the Central U.S. could impact virtually the entire North American continent. The consequences of such an event are difficult to quantify with confidence. Experts affiliated with the aforementioned Commission and others familiar with the details of the Commission’s work have stated in Congressional testimony that such an event could “kill up to 90 percent of the national population through starvation, disease, and societal collapse.” 44,45 Most of these consequences are either direct or indirect impacts of the predicted collapse of virtually the entire U.S. Critical Infrastructure system in the wake of the attack. Last, recent analyses by both the U.S. Department of Energy46 and the U.S. National Academies of Sciences, Engineering, and Medicine47 have concluded that cyber threats to the U.S. Grid from both state-level and substatelevel entities are likely to grow in number and sophistication in the coming years, posing a growing threat to the U.S. Grid. These three “very bad day” scenarios are not creations of overzealous science fiction writers. A variety of mitigating actions to reduce both the vulnerability and the consequences of these events has been identified, and some are being implemented. However, the fact remains that events such as those described here have the potential to change life as we know it in the United States and other developed nations in the 21st century, whether the events occur individually, or simultaneously, and with or without coordinated physical attacks on Critical Infrastructure assets.

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First/Next off is T Prohibition

#### “Prohibition” requires a declaration of per se illegality

Loevinger 61 (Honorable Lee Loevinger- Assistant Attorney General in charge of the Antitrust Division. “THE RULE OF REASON IN ANTITRUST LAW” , *Section of Antitrust Law* , 1961, Vol. 19, PROCEEDINGS AT THE ANNUAL MEETING, ST. LOUIS, MISSOURI, AUGUST 7 THROUGH 11, 1961 (1961), pp. 245-251, JSTOR accessed online via KU libraries, date accessed 9/13/21)

Running through the history of antitrust law are two contrapuntal themes: A prohibition of restraint of trade and a principle lately called the "rule of reason" which limits the prohibition. The legal rule against restraint of trade began in the 15th century in cases holding that a contract by which a man agreed not to practice his trade or profession was illegal.1 However, in the course of development of the common law, it became established that agreements which were ancillary to the sale or transfer of a trade or business and which were limited so as to impose a restriction no greater than reasonably necessary to protect the purchaser's interest.2

Thus, when the Sherman Act incorporated the common-law principles on this subject into federal statutory law 3 by adopting the concept of restraint of trade, it presumably imported both the principle that restrictions on competition are illegal and also the principle that in some circumstances a showing of reasonableness will legalize restrictions on competition. Nevertheless, when the question was first presented to the United States Supreme Court under the Sherman Act, it was clearly held (despite later disavowals4 ) that the justification of reasonableness was not available as a defense to a combination which had the effect of restraining trade.' Indeed, it was intimated that the question of reasonableness was not open to the courts in these actions at common law.6 However, when the Court reviewed this matter in Standard Oil Co. v. United States,7 it said in fairly explicit terms both that the Sherman Act prohibited only contracts or acts which unreasonably restrained competition and that the standard of reasonableness had been applied to all restraints of trade at the common law. The Court's assertion is somewhat weakened by the fact that it construed the rule of reason not as applying a standard for judging the character or consequences of the challenged conduct, but as a technique involving the application of human intelligence, or reason, to the problem of making a judgment about whether the conduct does restrain trade.'

#### The aff violates—they create a new legal standard for courts to decide whether a practice is “unreasonable” based on weighing evidence—not a declaration of illegality without inquiry

#### VOTE NEG

#### FIRST---Ground---balancing tests devastate core links, because they allow the practice when it’s beneficial. AND, creates a moving target, because the disallowed behavior is context-dependent.

#### “Per se” is the only shot at unique links—topical affs impose rules not 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

In recent years, there has been a marked transition away from rules and toward standards in collaborative conduct cases. This occurred in an obvious way beginning in the 1970s as the Burger and then Rehnquist courts overruled Warren court precedents that had condemned a variety of business agreements as per se illegal. As common business practices such as vertical territorial allocations, 37 maximum resale price setting, 38 expulsions of members from industry associations, 39 and manufacturer acquiescence in a retailer's demand to terminate a competing retailer that was deviating from the manufacturer's MSRP40 went from the per se rule to the rule of reason, the domain of rules shrunk and the domain of standards grew. Significantly, the Court declined the Chicago School's call to move vertical restraints from per se illegality to per se legality. In State Oil, Justice O'Connor-who is also fond of balancing tests in constitutional law 4 -went out of her way to make clear that the Court was not holding "that all vertical maximum price fixing is per se lawful.' 42 Vertical restraints would still require scrutiny, but under the multi-factored rule of reason. The transition from rules to standards did not take place solely due to a juridical shift of particular business practices from one category to another. Instead, the entire judicial rhetoric of antitrust has moved in a more nuanced, standard-based direction over the past few decades. With few exceptions, 43 the courts have stopped creating new categories of per se illegal conduct, even though commercial circumstances and practices evolve over time and litigation frequently explores new areas of commercial behavior. Since the mid-1970s, the Supreme Court seems to have frozen the canon of per se illegal practices, without necessarily pushing all other behavior into rule of reason. Instead, arguably beginning with National Society of Professional Engineers v. FTC'4 in 1978, the Court adopted what later became known as the "quick look" approach. In subsequent cases like NCAA v. Board ofRegents45 and California 46 Dental Ass'n v. FTC, the Court described the quick look approach as involving an initial court determination, based on a "rudimentary understanding of economics, ' , 47 that the practice at issue has obvious anticompetitive effects, which puts the defendant to the burden of immediately putting forth a 48 procompetitive justification for the practice.

#### SECOND---Bidirectionality---rule of reason creates legally protected practices

Graglia 8 (Lino A. Graglia is the A. Dalton Cross Professor of Law at the University of Texas. “The Antitrust Revolution”, *Engage* Vol. 9, Issue 3, <https://fedsoc-cms-public.s3.amazonaws.com/update/pdf/HfSHUKp1jnxxov80FkGORMCD5eojoela0HkiRejm.pdf> , October 2008, date accessed 9/14/21)

Although Section 1 of the Sherman Act prohibits “every contract, combination…, or conspiracy, in restraint of trade,”7 it was early and necessarily—since the purpose of every contract is to restrain—decided that it prohibited only “unreasonable” restraints on trade.8 Under the resulting “Rule of Reason,” only business practices found to be net anticompetitive and without efficiency justification were (and are) illegal. Some practices, however, have been declared to be always or almost always anticompetitive and without justification—and therefore are said to be illegal per se. Because a challenged practice’s anticompetitive effects and lack of justification are typically very difficult to show—largely because they characterize few business practices—the Rule of Reason tends to become a rule of legal per se.9 The Rule of Reason means that antitrust plaintiff s will rarely win and, therefore, that few antitrust suits will be brought. Th e liberal justices of the Warren Court dealt with the “problem” by tending to declare nearly all challenged practices illegal per se.

### 1NC

First/Next off is the Reg CP

#### The United States federal government should substantially increase prohibitions on anticompetitive business practices by the private sector by expanding regulatory constraints on Standard Setting Organizations failures to adopt and enforce rules that are effective to prevent SEP owners from exploiting the ex post monopoly power created by the standard

#### The counterplan solves and competes

Shelanski 18, Professor of Law @ Georgetown (Howard, “Antitrust and Deregulation,” Yale Law Journal)

A. Antitrust and Regulation as Policy Alternatives

A variety of institutions can govern economic competition. Decentralized, capitalist economies generally rely on markets themselves to provide the incen- tives and discipline necessary to keep prices low, output high, and innovation moving forward.8 But sometimes market forces alone cannot ensure efficiency and economic welfare—for example, when the market structure has changed due to mergers or the rise of a dominant firm, or when the market is an oligopoly susceptible to parallel conduct or collusion. In such cases, governance of competition by a nonmarket institution might be warranted. Because concentrated markets or even monopolies can arise for good reasons related to efficiency, in- novation, and consumer preference, the governance of competition more often involves vigilance than liability or injunctions. Then-Judge Stephen Breyer, long a leading scholar of antitrust and regulation, described the best situation as being an unregulated, competitive market in which “antitrust may help maintain com- petition.”9 Antitrust law aims to prevent the improper creation and exploitation of market power on a case-by-case basis while avoiding the punishment of commercial success justly earned through “skill, foresight and industry.”10 Thus, competition authorities like the FTC and the DOJ’s Antitrust Division review mergers, inves- tigate single-firm conduct, and prosecute collusion.11 Private plaintiffs can pur- sue civil antitrust liability through suits in the federal courts.12 To win their claims, enforcement agencies and private plaintiffs bear the burden of showing that the effect of a firm’s activity is “substantially to lessen competition, or to tend to create a monopoly,”13 or to constitute a “contract, combination, . . . or conspir- acy” in restraint of trade,14 or to “monopolize, or attempt to monopolize” any line of business.15 Antitrust is not, however, the only institution through which government addresses competition concerns and market failures. Congress can give regulatory agencies authority to intervene where they see the need to address competition and market structure—and Congress has often done so. With such statutory authority, “[i]n effect, the agency becomes a limited-jurisdiction enforcer of antitrust principles.”16 For example, the Department of Transportation (DOT) has jurisdiction to approve transfers of routes between airlines carriers, giving it a role in reviewing airline mergers.17 The 1992 Cable Act gave the FCC authority to limit the share of the national cable market that a single operator could serve, thereby giving the agency some control over the industry’s market structure.18 The FCC has long regulated market entry and, through its control over license transfers, reviewed mergers and acquisitions in several sectors of the telecom- munications industry. More recently, the FCC issued,19 and then repealed, 20 “network neutrality” regulations intended to preserve ease of entry and a level playing field for digital services. The Food and Drug Administration (FDA), Securities and Exchange Commission (SEC), Department of Energy, and numerous other federal agencies have various powers that directly affect competition.21 State regulation can be important as well in governing competition, particularly in the insurance and healthcare industries.22 In contrast to the case-by-case approach of antitrust, regulation typically im- poses ex ante prohibitions or requirements on business conduct. The Telecommunications Act of 1996, for example, required incumbent local telephone com- panies to grant new competitors access to parts of their networks and prohibited incumbents from refusing to interconnect calls from their customers to custom- ers of competing networks.23 With the rule in place, the FCC bore no burden of proving that a specific instance of network access was necessary for competition, or that a specific denial of interconnection would harm competition. In contrast to antitrust, where the burden of proving liability is on the agency, under a regulatory regime the burden of seeking a waiver from regulation or challenging an agency’s enforcement decision is usually on the regulated party. Antitrust and regulation therefore present alternative approaches to governing competition and addressing market failures.24 The government can review individual mergers under the antitrust laws, as it does in most markets, or it can set rules that impose clear, ex ante limits on the extent of concentration, as the FCC did for media ownership under the Communications Act.25 Government can investigate under the antitrust laws whether a firm has monopoly power that it has “willful[ly]” acquired or maintained other than “as a consequence of a su- perior product, business acumen, or historic accident.”26 Alternatively, with au- thority from Congress an agency can regulate how much of a market a single firm can serve, as the FCC tried to do with cable companies,27 or require firms to dispose of key assets in order to promote competition in a relevant market, as the DOT has done with airline slots.28

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First/Next off is the Trade off DA

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

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

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

#### Resources are finite and are drawn from under-the-radar M and A priorities

McCabe 18, covers technology policy from The Times' Washington bureau, formerly of Axios (David, “Mergers are spiking, but antitrust cop funding isn't,” Axios, https://www.axios.com/antitrust-doj-ftc-funding-2f69ed8c-b486-4a08-ab57-d3535ae43b52.html)

The number of corporate mergers has jumped in recent years, but funding has stagnated for the federal agencies that are supposed to make sure the deals won’t harm consumers. Why it matters: A wave of mega-mergers touching many facets of daily life, from T-Mobile’s merger with Sprint to CVS’s purchase of Aetna, will test the Justice Department's and Federal Trade Commission’s ability to examine smaller or more novel cases, antitrust experts say. What they’re saying: “You have finite resources in terms of people power, so if you are spending all of your time litigating big mergers … there might be some investigations where decisions might have to be made about which investigations you can pursue,” said Caroline Holland, who was a senior staffer in DOJ’s Antitrust Division under President Obama and is now a Mozilla fellow. What's happening: More mergers are underway now than at any point since the recession. The total number of transactions reported to the federal government in fiscal year 2017, and not including cases given expedited approval or where the agencies couldn't legally pursue an investigation, is 82% higher than the number reported in 2010 and 55% higher than the number reported in 2012. Funding for antitrust officials who weigh the deals hasn’t kept pace. The funding for the Department of Justice’s antitrust division has fallen 10% since 2010, when adjusted for inflation. That's in line with the broader picture: not adjusting for inflation, the Department's overall budget increased just slightly in 2016 and 2017. Funding for the FTC has fallen 5% since 2010 (adjusted for inflation). An FTC spokesperson declined to comment on funding levels and Antitrust Division officials didn't provide a comment. Driving the news: Merger and acquisition activity is up 36% in the United States compared to the same time last year, according to Thomson Reuters data from April. Several deals under government review have gotten national attention, including Sinclair’s purchase of Tribune's TV stations or T-Mobile’s deal with Sprint, which stands to reduce the number of national wireless providers from four to three. Meanwhile, the Justice Department is awaiting the ruling on its lengthy legal effort to block AT&T’s proposed $85 billion purchase of Time Warner. Yes, but: It’s not the attention-grabbing mega-mergers that advocates worry will get less of a close look thanks to a shortage of funds. Instead, some say budget limitations are likely to matter when officials are deciding which smaller or "borderline" deals to investigate further. “Sometimes there’s nothing there,” said Holland of the agency's early investigations. “Other times, it might be, ‘This is kind of a close call, and we’ve got three or four close calls and we need to pick one of them.’" "It could mean settlements get accepted that otherwise wouldn’t, or deals that should be challenged aren’t," said Michael Kades of the Washington Center for Equitable Growth, an antitrust-enforcement-friendly think tank that has done extensive research on the topic, in an email.

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

Numerof 20, PhD @ Bryn Mawr, internationally recognized consultant and author with over 25 years of experience in the field of strategy development and execution, business model design, and market analysis (Rita, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” *Forbes*, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/?sh=692d6fc94da0>)

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

#### Rural care is key to US ag exports

Lichtenwald 16, CEO of Medsphere Systems Corporation (Irv, “Is CMS Efforts Enough to Transform Rural Healthcare?,” <http://hitconsultant.net/2016/02/22/32016/>)

The scenario is far from unrealistic. For the most part, non-urban healthcare organizations are not doing well. In fact, almost every rural hospital in the country is operating near the margin or in the red. According to iVantage Health Analytics Senior Vice President Michal Topchik, speaking to Health Data Management, 67 rural hospitals have closed since 2010, and 283 were vulnerable to closure last year. Already in 2016 iVantage has identified 673 vulnerable rural hospitals, with 210 at very high risk. While only about 15 percent of the American population, roughly 46 million people, live in rural areas, they do some of the nation’s most essential work. Mostly, they grow food, produce energy or provide services to the people that grow food and produce energy. Obviously, the rural healthcare situation matters in terms of food and energy security at home, but also in terms of economics—the United States is by far the largest global exporter of food, with roughly $40 billion separating America from number two, and is on the cusp of ending energy imports for the first time since 1950. In reality, rural healthcare is transitioning, not disappearing, mostly because doing nothing is just bad economics. People in rural areas need care. If they can’t get it locally, they have to be flown to the nearest facility, which ends up being more expensive over the long term than funding a local hospital. To their credit, the Centers for Medicare and Medicaid Services (CMS) are already aware of the situation in rural America and have been taking steps toward fixing it. Speaking recently to the National Rural Health Association, CMS Acting Administrator Andy Slavitt explained that the agency is “establishing a CMS Rural Health Council to work across the entire agency to oversee our work in three strategic priority areas– first, improving access to care to all Americans in rural settings; second, supporting the unique economics of providing health care in rural America; and third making sure the health care innovation agenda appropriately fits rural health care markets.” As Slavitt points out, rural Americans tend to be older, earn less money and they generally lack health insurance—more than 60 percent of citizens without health insurance live in rural areas in states that have not expanded Medicaid through the Affordable Care Act. Nearly 75 percent of government health insurance exchange users make less than 250 percent of the federal poverty level—currently a bit less than $12,000 a year for an individual and slightly more than $24,000 for a family of four. So, if the argument could be made that rural America is home to the greatest number of healthcare challenges, then it also represents the greatest opportunity. If we can make affordable healthcare work outside urban areas, we may have a template applicable to other scenarios. On Slavitt’s first two points—access and economics—CMS is working to sign rural Americans up for health insurance and adjusting requirements and payment models for rural care. Which brings us to the “innovation agenda,” Slavitt’s term for the digitization of healthcare and the all-in bet the federal government has made on the benefits of health IT. The goal here is to transform rural hospitals and clinics into efficient, wired, lean operations that can absorb the realities of rural care and still operate in the black. With 35 percent of rural hospitals losing money and almost two-thirds running a negative operating margin, there’s simply no way rural facilities can invest in health IT without help. From CMS, that help takes the form of several planned or in-process programs: – Medicaid State Innovation Model grants for technical support in smaller rural hospitals – Aggregation of services in rural communities creating benefits from population health – The Frontier Community Health Integration Project (summer 2016), developing and testing new models in isolated areas using telemedicine and integration approaches – The ACO investment model for hospitals that can’t invest in ACO infrastructure; the model now serves 350,000 rural beneficiaries through 1,100 rural providers – Incorporating telemedicine where appropriate; CMS is publishing a Medicaid final rule that for the first time allows for face-to-face encounters using telehealth It’s clear that CMS understands we can’t leave rural hospitals to fend for themselves. But it also seems clear that a lot of hospitals invested in electronic health records (EHRs) they could ill afford to qualify for Meaningful Use funds—dollars that seldom covered implementation costs for solutions that didn’t yield significant cost savings and required additional technical personnel. By and large, that MU money has been dispensed. The carrot has been eaten. What Medicare- and Medicaid-heavy hospitals can expect next is two sticks: more stringent reporting requirements necessitating EHR use and direct penalties (for now) related to Meaningful Use non-compliance. “The high capital and operating costs associated with health IT, specifically EHRs, have put some hospitals in a difficult position,” wrote Becker’s Hospital CFO in a prescient January 2014 article. “Do they absorb the financial hit now, even if they know they can’t afford it? Most organizations are doing so …” Yes, CMS is trying to help lessen the impact of that metaphorical beating, but these rural hospitals also have to make decisions to help themselves. Too many are paying for systems they can’t afford to maintain. Moreover, they are unable to invest in necessary security, leaving them increasingly open to data breaches. Many are also still handicapped by the costs of ICD-10 transition, for which there was no federal reimbursement. Rural hospitals need a comprehensive EHR platform that integrates with a revenue cycle system so they can properly capture charges and manage the billing process, and effectively collect on previously lost billing. These systems need to be available as a subscription service so that rural hospitals don’t have to come up with huge money down. And they can’t require the hiring of an additional 50 application specialists to make the new systems work. “The benefits of IT are still to come,” Standard and Poor’s Marin Arrick told Becker’s Hospital CFO more than two years ago. Still the economic crisis in rural care rages on, certainly lessening access to care for millions of Americans and arguably impacting the labor force that produces food, energy, etc.

#### US ag exports prevent hotspot escalation

Castellaw 17

Lieutenant General John Castellaw is the Founder and CEO of Farmspace Systems LLC, a provider of precision agricultural aerial services and equipment. He is a highly decorated 36-year veteran of the United States Marine Corp where he participated in and led several humanitarian operations in Africa, Asia and Europe. He is also the former President of the non-profit Crockett Policy Institute where he created the “SOLDIER 2 CIVILIAN” program to help veterans find jobs in precession agriculture. He graduated from the University of Tennessee, Martin (UTM) with a degree in Agriculture. He currently operates his family farm in Tennessee. “Opinion: Food Security Strategy Is Essential to Our National Security.” Agri-Pulse. May 1st, 2017. https://www.agri-pulse.com/articles/9203-opinion-food-security-strategy-is-essential-to-our-national-security

The United States faces many threats to our National Security. These threats include continuing wars with extremist elements such as ISIS and potential wars with rogue state North Korea or regional nuclear power Iran. The heated economic and diplomatic competition with Russia and a surging China could spiral out of control. Concurrently, we face threats to our future security posed by growing civil strife, famine, and refugee and migration challenges which create incubators for extremist and anti-American government factions. Our response cannot be one dimensional but instead must be a nuanced and comprehensive National Security Strategy combining all elements of National Power including a Food Security Strategy. An American Food Security Strategy is an imperative factor in reducing the multiple threats impacting our National wellbeing. Recent history has shown that reliable food supplies and stable prices produce more stable and secure countries. Conversely, food insecurity, particularly in poorer countries, can lead to instability, unrest, and violence. Food insecurity drives mass migration around the world from the Middle East, to Africa, to Southeast Asia, destabilizing neighboring populations, generating conflicts, and threatening our own security by disrupting our economic, military, and diplomatic relationships. Food system shocks from extreme food-price volatility can be correlated with protests and riots. Food price related protests toppled governments in Haiti and Madagascar in 2007 and 2008. In 2010 and in 2011, food prices and grievances related to food policy were one of the major drivers of the Arab Spring uprisings. Repeatedly, history has taught us that a strong agricultural sector is an unquestionable requirement for inclusive and sustainable growth, broad-based development progress, and long-term stability. The impact can be remarkable and far reaching. Rising income, in addition to reducing the opportunities for an upsurge in extremism, leads to changes in diet, producing demand for more diverse and nutritious foods provided, in many cases, from American farmers and ranchers. Emerging markets currently purchase 20 percent of U.S. agriculture exports and that figure is expected to grow as populations boom. Moving early to ensure stability in strategically significant regions requires long term planning and a disciplined, thoughtful strategy. To combat current threats and work to prevent future ones, our national leadership must employ the entire spectrum of our power including diplomatic, economic, and cultural elements. The best means to prevent future chaos and the resulting instability is positive engagement addressing the causes of instability before it occurs. This is not rocket science. We know where the instability is most likely to occur. The world population will grow by 2.5 billion people by 2050. Unfortunately, this massive population boom is projected to occur primarily in the most fragile and food insecure countries. This alarming math is not just about total numbers. Projections show that the greatest increase is in the age groups most vulnerable to extremism. There are currently 200 million people in Africa between the ages of 15 and 24, with that number expected to double in the next 30 years. Already, 60% of the unemployed in Africa are young people. Too often these situations deteriorate into shooting wars requiring the deployment of our military forces. We should be continually mindful that the price we pay for committing military forces is measured in our most precious national resource, the blood of those who serve. For those who live in rural America, this has a disproportionate impact. Fully 40% of those who serve in our military come from the farms, ranches, and non-urban communities that make up only 16% of our population. Actions taken now to increase agricultural sector jobs can provide economic opportunity and stability for those unemployed youths while helping to feed people. A recent report by the Chicago Council on Global Affairs identifies agriculture development as the core essential for providing greater food security, economic growth, and population well-being. Our active support for food security, including agriculture development, has helped stabilize key regions over the past 60 years. A robust food security strategy, as a part of our overall security strategy, can mitigate the growth of terrorism, build important relationships, and support continued American economic and agricultural prosperity while materially contributing to our Nation’s and the world’s security.

### 1NC

First/Next off is the Advantage counterplan

#### The United States Federal Government should

#### ---establish a universal basic minimum income pegged to inflation in the United States via deficit spending

#### ---fully fund the deployment of Carbon Capture and Storage facilities

#### ---Facilitate the development of innovative captured carbon recycling

#### ---Use revenue from captured carbon sales to fund further development

#### ---Create a carbon tax credit for $70 dollars for every ton of carbon safely stored underground

#### ---implement and fully fund solar geoengineering.

#### ---cooperate with other countries to implement solar geoengineering

#### First plank solves econ

**Jones** 11/27/**17** “Experts Say a Universal Basic Income Would Boost US Economy by Staggering $2.5 Trillion” Published by Brad Jones in Future Society <https://futurism.com/experts-universal-basic-income-boost-us-economy-staggering-2-5-trillion/amp/> /DPF

In recent months, everyone from Elon Musk to Sir Richard Branson has come out in favor of universal basic income (UBI), a system in which every person receives a regular payment simply for being alive. Now, a study carried out by the Roosevelt Institute has concluded that implementing a UBI in the U.S. could have a positive effect on the nation’s economy. The study looked at three separate proposals: a “basic income” of $1,000 per month given to every adult, a “base income” of $500 per month given to every adult, and a “child allowance” of $250 per month for every child. The researchers concluded that the larger the sum, the more significant the positive economic impact. They projected that the $1,000 basic income would grow the economy by 12.56 percent over the course of eight years, after which point its effect would diminish. That would translate to an increase in the country’s gross domestic product of $2.48 trillion. For the purposes of their study, the researchers assumed that the UBI in the U.S. would be funded by increasing the federal deficit. They also investigated the potential effect of funding it by increasing taxation on households, but found that route to be less effective. “When paying for the policy by increasing taxes on households rather than paying for the policy with debt, the policy is not expansionary,” they wrote. “In effect, it is giving to households with one hand what it is taking away with the other. There is no net effect.”

#### Planks 2-4 solve climate change

**C2ES 18** (Center for Climate and Energy Solutions, 2018, “Carbon Capture”, The Center for Climate and Energy Solutions is an environmental nonprofit organization based in Arlington, Virginia. Launched in 2011, C2ES is the successor to the Pew Center on Global Climate Change, <https://www.c2es.org/content/carbon-capture/>) MKIM

Carbon capture, use, and storage technologies can capture more than 90 percent of carbon dioxide (CO2) emissions from power plants and industrial facilities. **Captured carbon** dioxide **can be put to productive use in** enhanced **oil recovery** and the manufacture of **fuels, building materials,** and more, or be stored in underground geologic formations. Almost two dozen commercial-scale carbon capture projects are operating around the world with 22 more in development. Carbon capture can achieve 14 percent of the global greenhouse gas emissions reductions needed by 2050 and is viewed as **the only practical way to achieve deep decarbonization** in the industrial sector. Even as nations diversify their energy portfolios, fossil fuels are expected to meet a majority of the world’s energy demand for several decades. Accelerating deployment of carbon capture technology is essential to reduce emissions from these power plants, and from industrial plants like cement and steel manufacturing. More than half of the models cited in the Intergovernmental Panel on Climate Change’s Fifth Assessment Report required carbon capture for a goal of staying within 2 degrees Celsius of warming from pre-industrial days. For models without carbon capture, emissions reduction costs rose 138 percent. For nearly a half century, in a practice called enhanced oil recovery (EOR), carbon dioxide has been used to extract additional oil from developed oil fields in the United States. U.S. companies are also investing in new technologies to re-use captured carbon emissions in innovative ways, including jet fuel and automobile seats. Spurred by the NRG COSIA Carbon XPRIZE, researchers are exploring even more uses, such as transforming carbon emissions into algae biofuels and building materials. Policy Support for Carbon Capture **There is strong bipartisan support** to accelerate carbon capture deployment. In February 2018, Congress extended and expanded key financial incentives for investment in several advanced low-carbon technologies. The two-year budget package included the FUTURE Act, sponsored by Senators Heidi Heitkamp (D-N.D.), Shelley Moore Capito (R-W.Va.), Sheldon Whitehouse (D-R.I.), and John Barrasso (R-Wyo.). The legislation reforms and extends a federal tax credit to boost carbon capture, known as Section 45Q. The FUTURE Act also allows for the first time use of the tax credit for capture of carbon monoxide from industrial facilities like steel mills, direct air capture of CO2 from the atmosphere, and for the conversion of captured carbon into useful products. C2ES and the Great Plains Institute co-convene a diverse coalition of industry, labor, and environmental groups that support expanding deployment of carbon capture. Other supporters of incentivizing carbon capture include the Western Governors Association, Southern States Energy Board, and National Association of Regulatory Utility Commissioner Carbon Capture in Action As of 2017, at least 21 commercial-scale carbon capture projects are operating around the world with 22 more in development. Industrial processes where large-scale carbon capture has been demonstrated and is in commercial operation include coal gasification, ethanol production, fertilizer production, natural gas processing, refinery hydrogen production and, most recently, coal-fired power generation. Carbon Capture Milestones 1972: Terrell gas processing plant in Texas. A natural gas processing facility (along with several others) began supplying CO2 in West Texas through the first large-scale, long-distance CO2 pipeline to an oilfield. 1982: Koch Nitrogen Company Enid Fertilizer plant in Oklahoma. This fertilizer production plant supplies CO2 to oil fields in southern Oklahoma. 1986: Exxon Shute Creek Gas Processing Facility in Wyoming. This natural gas processing plant serves ExxonMobil, Chevron, and Anadarko Petroleum CO2 pipeline systems to oil fields in Wyoming and Colorado and is the largest commercial carbon capture facility in the world at 7 million tons of capacity annually. 1996: Sleipner CO2 Storage Facility offshore of Norway. This project captures CO2 from gas development for storage in an offshore sandstone reservoir. It was the world’s first geologic storage project. Roughly 0.85 million tonnes of CO2 is injected annually for a cumulative total of over 16.5 million tonnes as of January 2017. 2000: Dakota Gasification’s Great Plains Synfuels Plant in North Dakota. This coal gasification plant produces synthetic natural gas, fertilizer, and other byproducts. It has supplied over 30 million tons of CO2 to Cenovus and Apache-operated EOR fields in southern Saskatchewan as of 2015. 2003: Core Energy/South Chester Gas Processing Plant in Michigan. CO2 is captured by Core Energy from natural gas processing for EOR in northern Michigan with over 2 million MT captured to date. 2008: Snøhvit CO2 Storage offshore of Norway. CO2 is captured from an LNG facility on an island in the Barents Sea. The captured CO2 is stored in an offshore subsurface reservoir. To date, more than 4 million tonnes of CO2 have been stored. 2009: Chaparral/Conestoga Energy Partners’ Arkalon Bioethanol plant in Kansas. The first ethanol plant to deploy carbon capture, it supplies 170,000 tons of CO2 per year to Chaparral Energy, which uses it for EOR in Texas oil fields. 2010: Occidental Petroleum’s Century Plant in Texas. The CO2 stream from this natural gas processing facility is compressed and transported for use in the Permian Basin. 2012: Air Products Port Arthur Steam Methane Reformer Project in Texas. Two hydrogen production units at this refinery produce a million tons of CO2 annually for use in Texas oilfields. 2012: Conestoga Energy Partners/PetroSantander Bonanza Bioethanol plant in Kansas. This ethanol plant captures and supplies roughly 100,000 tons of CO2 per year to a Kansas EOR field. 2013: ConocoPhillips Lost Cabin plant in Wyoming. The CO2 stream from this natural gas processing facility is compressed and transported to the Bell Creek oil field in Montana via Denbury Resources’ Greencore pipeline. 2013: Chaparral/CVR Energy Coffeyville Gasification Plant in Kansas. The CO2 stream (approximately 850,000 tons per year) from a nitrogen fertilizer production process based on gasification of petroleum coke is captured, compressed and transported to a Chaparral-operated oil field in northeastern Oklahoma. 2013: Antrim Gas Plant in Michigan. CO2 from a gas processing plant owned by DTE Energy is captured at a rate of approximately 1,000 tons per day and injected into a nearby oil field operated by Core Energy in the Northern Reef Trend of the Michigan Basin. 2013: Petrobras Santos Basin Pre-Salt Oil Field CCS offshore of Brazil. This project involves capturing CO2 from natural gas processing for use in enhanced oil recovery in the Lula and Sapinhoá oil fields. 2014: SaskPower Boundary Dam project in Saskatchewan, Canada. SaskPower completed the first commercial-scale retrofit of an existing coal-fired power plant with carbon capture technology, selling CO2 locally for EOR in Saskatchewan. 2015: Shell Quest project in Alberta, Canada. Shell began operations on a bitumen upgrader complex that captures approximately one million tons of CO2 annually from hydrogen production units and injects it into a deep saline formation. 2015: Uthmaniyah CO2-EOR Demonstration in Saudi Arabia. This project captures CO2 from the Hawiyah natural gas liquids recovery plant. The captured CO2 is used for enhanced oil recovery in the Ghawar oil field. 2016: Abu Dhabi CCS Project Phase 1: Emirates Steel Industries. Carbon capture technology was deployed for the first time on an operating iron and steel plant. The captured CO2 is used for enhanced oil recovery by the Abu Dhabi National Oil Company. 2017: NRG Petra Nova project in Texas. NRG completed on time and on budget a project to capture 90 percent of the CO2 from a 240 MW slipstream of flue gas of its existing WA Parish plant, or roughly 1.6 million tons of CO2 per year. The CO2 is transported to an oil field nearby. 2017: ADM Illinois Industrial Carbon Capture & Storage Project. Archer Daniels Midland began capturing CO2 from an ethanol production facility and sequestering it in a nearby deep saline formation. The project can capture up to 1.1 million tons of CO2 per year. How Carbon Capture Works How Carbon Capture Works Carbon capture technology has been deployed at several industrial projects in North America dating back to the 1970s but its application to power generation is relatively recent. CO2 Capture Early commercial applications of carbon capture focused on certain industrial processes that remove CO2 in concentrated streams as part of normal operations. For other industrial processes and electricity generation, current systems must be redesigned to capture and concentrate CO2, usually using one of these methods: Pre-Combustion Carbon Capture: Fuel is gasified (rather than combusted) to produce a synthesis gas, or syngas, consisting mainly of carbon monoxide (CO) and hydrogen (H2). A subsequent shift reaction converts the CO to CO2, and then a physical solvent typically separates the CO2 from H2. For power generation, pre-combustion carbon capture can be combined with an integrated gasification combined cycle (IGCC) power plant that burns the H2 in a combustion turbine and uses the exhaust heat to power a steam turbine. Post-Combustion Carbon Capture: Post-combustion capture typically uses chemical solvents to separate CO2 out of the flue gas from fossil fuel combustion. Retrofits of existing power plants for carbon capture are likely to use this method. Oxyfuel Carbon Capture: Oxyfuel capture requires fossil fuel combustion in pure oxygen (rather than air) so that the exhaust gas is CO2-rich, which facilitates capture. CO2 Transportation Once captured, CO2 must be transported from its source to a storage site. There are over 4,500 miles of pipelines for transporting CO2 in the United States for use in enhanced oil recovery, but more will be needed. CO2 Storage CO2 can be injected into geological formations and stored deep underground. U.S. geological formations could store CO2 emissions from centuries of continued fossil fuel use. Options for CO2 geologic storage include: Oil and Gas Reservoirs (Enhanced Oil Recovery with Carbon Dioxide, CO2-EOR). Oil and gas reservoirs offer geologic storage potential as well as economic opportunity by injecting CO2 to extract additional oil from developed sites. Oil and gas reservoirs are thought to be suitable candidates for the geologic storage of CO2 given that they have held oil and gas resources in place for millions of years, and previous fossil fuel exploration has yielded valuable data on subsurface areas that could help to ensure permanent CO2 geologic storage. CO2-EOR operations have been operating in West Texas for over 30 years. Moreover, **revenue from selling captured CO2** to EOR operators **could** **help defray the cost of capture technology** at power plants and industrial facilities. Deep Saline Formations. These porous rock formations infused with brine are located across the United States but have not been examined as extensively as oil and gas reservoirs. Coal Beds. Coal beds that are too deep or too thin to be economically mined could offer CO2 storage potential. Captured CO2 can also be used in enhanced coalbed methane recovery (ECBM) to extract methane gas. Basalt formations and shale basins. These are also considered potential future geologic storage locations. Carbon Storage Regulation **U.S. federal** and state **regulations cover CO2 storage site selection and injection.** In addition, systems for measurement, monitoring, verification, accounting, and risk assessment can minimize or mitigate the potential of stored CO2 to pose risks to humans and the environment. CO2 injection in EOR wells is commercially proven and has a history of safely storing CO2 underground. For example, research by the University of Texas Bureau of Economic Geology found no evidence of leakage from the SACROC oil field where CO2-EOR has been performed since the 1970s. In the United States, the Safe Drinking Water Act and the U.S. Environmental Protection Agency’s (EPA) Underground Injection Control Program impose safety requirements on CO2 injection. In addition, the Clean Air Act and the EPA’s Greenhouse Gas Emissions Program require project operators to report data on CO2 injections and submit monitoring, reporting, and verification (MRV) plans if CO2 is injected for geologic storage. In addition, the Underground Injection Control Program requires previous seismic history to be considered when selecting geologic CO2 sequestration sites. The risk of small earthquakes causing CO2 leakage to the surface is mitigated by multiple layers of rock that prevent CO2 from reaching the surface even if it migrates from an injection zone.

#### 5 and 6 solve warming independently

**Lund 16**. (Nicholas Lund – JD from the University of Maine, former Ocean and Coastal Law Fellow @ the National Sea Grant Law Center, freelance nature writer, including for Slate and National Geographic. Citing David Keith – Gordon McKay Professor of Applied Physics for Harvard University's Paulson School of Engineering and Applied Sciences and Professor of Public Policy for the Harvard Kennedy School at Harvard University. He is also executive chairman of Carbon Engineering. <KEN> "A Massive Volcano Cooled the Planet 200 Years Ago. Can We Try that Again?," Slate Magazine. August 23, 2016. DOA: 4/13/19. https://slate.com/technology/2016/08/can-we-use-volcanoes-to-cool-the-earth-off.html)

“One of the reasons no one made the link to the volcano was that you couldn’t see the cloud,” says Nicholas Klingaman. “The eruption kicked more than 55 million tons of sulfur dioxide through the atmosphere and into the stratosphere, where there wasn’t enough moisture to stick to the particles and carry them to the ground.” More than 18 miles above the surface of the Earth, well above the eruption’s ash cloud, the sulfur dioxide condensed into aerosols and drifted around the globe in an imperceptible haze. Unlike greenhouse gases, which trap heat radiating off the Earth and contain it in the atmosphere, aerosols reflect sunlight before it can reach Earth, resulting in a cooler surface. Though the aerosol haze produced by the Tambora eruption reflected less than 1 percent of sunlight, that was enough to drop global temperatures by 2 to 3 degrees Fahrenheit by the summer of 1816, causing a catastrophic weather chain reaction. According to Klingaman, the cooling effect of the sulfuric aerosol was stronger at the tropics than the poles—the closer to the equator you go, the more direct the sunlight. These imbalanced temperatures altered wind patterns, including the jet stream winds that usually bring warm air up the U.S. East Coast from the Gulf of Mexico in a typical winter. So, cold Arctic air replaced the missing jet stream over New England and northern Europe, resulting in the warped climate that killed thousands and uprooted the lives of millions. The amount of global cooling that occurred during The Year Without Summer is just a bit more than the amount of warming we’ve already experiencing from increased greenhouse gas emissions. The difference is that while the gas from Mt. Tambora had dissipated by 1817, we’re emitting carbon dioxide continuously. Even if we stopped entirely right now, our existing emissions would continue to warm the planet for years. Klingaman says that if there’s a lesson we’ve learned from the Year Without Summer, it’s that small changes to the Earth’s climate can dramatically disrupt human civilization. The eruption of a single volcano not only killed thousands of nearby inhabitants, but also caused the inversions of weather patterns on two continents a full year later. The Year Without Summer is definitely a warning. Could it also be part of a solution: Could humans add sulfur dioxide to the stratosphere to combat global warming? Actually, maybe. We can’t control volcanic eruptions, of course, but scientists who advocate for the study of solar geoengineering say that we could potentially use airplanes to add diamond dust or sulfuric acid into the stratosphere, increasing the amount of sunlight reflected from Earth. Proponents like Harvard University’s David Keith assert that solar geoengineering could stabilize world climate while we work to reduce greenhouse gas emissions, or, more optimistically, create technologies that remove carbon dioxide from the atmosphere to eventually return to a preindustrial climate.

### 1NC

First/Next off is T private sector

#### Private sector means all non-governmental persons or entities, including non-profits

Senate Report 95 (Senate Report. 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” <https://www.congress.gov/congressional-report/104th-congress/senate-report/1> , date accessed 9/10/21)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### Violation: the aff applies exclusively to conduct in a specific segment of the private sector.

#### Vote neg:

#### FIRST---limits and ground---the number of potential subsets is infinite---any industry, product, single companies, individuals---undermines clash. Only big affs have link uniqueness.

#### SECOND----precision---our interp has intent to define, exclude and is in legislative context.

## Case

## Case- Adv 1

### !D---AT: LIO

#### Liberal order resilient---assumes the internal link.

Mousseau 19, PhD, Professor @ the University of Central Florida. (Michael, 7/29/19, “The End of War: How a Robust Marketplace and Liberal Hegemony Are Leading to Perpetual World Peace”, *International Security*, Volume 44, Issue 1, <https://www.mitpressjournals.org/doi/full/10.1162/isec_a_00352?mobileUi=0&amp>) \*Contractualist societies = system in which individuals normally obtain securities, including incomes and financial securities, through contracts with strangers in a market; i.e. liberalism

Reports of the demise of the liberal order, however, are greatly exaggerated. First, Hungary and Poland are newly contractualist states. The sociological nature of economic norms theory means that contractualist values should be more firmly rooted in older contractualist societies than in newer ones. This is corroborated with the natural experiment of Germany: in 1962 West Germany embraced contractualism (see table 1), but it was only after 1991 that East Germany could have become contractualist, when massive investments from the Federal Republic caused incomes in the marketplace to become higher than incomes obtainable from status relationships. Today, Germany’s populist movement is concentrated in the eastern part of the country and is largely nonexistent in the western part,83 which corroborates the expectation that some newly contractualist societies retain some of their status values even after a generation of robust opportunity in the marketplace. Deeper changes in values may not occur until generational cohorts initially socialized into status or axial economies have passed on. Second, the electorates in most of the thirty-five contractualist states listed in table 1 in 2010 have not experienced substantial increases in populist sentiment. Italy’s Five Star movement is often called populist but largely because of its anti-immigrant stance. Although an embrace of immigrants would seem consistent with contractualist values, opposition to large numbers of immigrants is arguably a rational response to what is essentially a huge external shock that has intensified in recent years. Britons voted to leave the European Union, but largely because they believed they were being treated unfairly in it. The rejection of unfair terms of trade, whether perceived correctly or not, is consistent with contractualist values. Third, the strength of institutions far exceeds that of any one person, including the president of the United States. Liberal values and institutions are rooted in contractualist economic norms and will not disappear simply because some leaders choose not to abide by them. For instance, although Trump may want the United States to withdraw from the North Atlantic alliance, this is not a view shared by Congress and the American people. Even members of Trump’s administration have often restrained him in ways consistent with contractualist values and institutions.84 In economic norms theory, the only way the United States’ contractualist values could shift to status or axial values would be through radical economic change. As mentioned above, economics is ultimately at the mercy of politics, as an influential coalition of rent-seekers could potentially collapse a contractualist economy by failing to sustain the highly inclusive marketplace or uphold the state’s credibility in enforcing of contracts. In recent years, the U.S. economy has begun tilting toward rent-seekers, given the growing role of private money in electoral campaigns and the increasing sophistication of rent-seekers in masking their activities though the manipulation of public opinion, including through their concentrated ownership of media outlets. Such rentierism could precipitate a change in U.S. values if it results in a retraction of the market substantial enough that newer generations began to obtain higher wages in newfound status networks than in the marketplace. In this way, the Trump phenomenon may reflect a pathology in U.S. governing institutions; but at least so far, it arguably has not extended to the American people. Most of Trump’s supporters seem to be drawn to him not for his expressions of status values, but for his pledges to fight a “rigged” system and create well-paying jobs. Whether or not Trump means what he says, many of his supporters saw a vote for him as an act of protest against the increasing corruption occurring in the United States, a clear contractualist expression.85 Although a collapse of the U.S. economy and transition to an axial or a status economy is always possible, the feedback loop of popular insistence on economic growth and a highly inclusive marketplace makes this unlikely. Aside from an external shock (such as nuclear war or climate devastation), such a transition could happen only if the rentiers somehow manage to remain in power long enough to institutionalize a permanently underemployed underclass. Fourth, even if the U.S. economy were to collapse and the United States became an axial or a status power, the combined economic might of all the other contractualist countries in the world is nearly twice that of the United States. The soft power of the United States in world politics lies not in its power to persuade, but in it being the largest of the contractualist states, and in its willingness to provide the public good of global security since the collapse of the pound sterling in late 1946. If the United States withdrew from its leadership role, the remaining contractualist powers would fill the vacuum. None of them has an economy relatively large enough to enable it to act as a natural leader and principal provider of global security, but it is the temperament of these states that they can easily form an international organization to coordinate and act on their shared security interests, even if some may choose to free ride. Fifth, current events need to be viewed within a larger context. Fernand Braudel pinpoints the rise of the modern world economy as starting around the year 1450 in northwestern Europe.86 The first contractualist economy emerged more than two centuries ago. Since then, contractualist states have confronted numerous shocks and threats to their systems, including the American Civil War, the Great Depression, two world wars, and the Cold War. The present populist mini-wave and pathologies in U.S. democracy are mere trifling episodes in a larger historical frame.

### !D---AT: US Leadership

#### AND, no leadership impact.

Fettweis ’17 (Christopher J.; is Associate Professor of Political Science at Tulane University; May 8th; *Unipolarity, Hegemony, and the New Peace*; <https://www.tandfonline.com/doi/abs/10.1080/09636412.2017.1306394?journalCode=fsst20>; accessed 5/3/19; MSCOTT)

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

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

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

Conflict and US Military Spending

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

During the 1990s, the United States cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 The world grew dramatically more peaceful while the United States cut its forces, however, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same nonrelationship exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between warfare and fluctuations in US GDP, alliance commitments, and forward military presence. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there does not seem to be much correlation between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace.

## Case- Adv 2

### 1NC---5G Advantage

#### US already has 5G leadership.

Woo 21, Wall Street Journal reporter. (Stu, 5-26-2021, "The U.S. Is Back in the 5G Game", *WSJ*, <https://www.wsj.com/articles/us-5g-companies-11621870061)---language> edited, brackets

The U.S. government has upended the $35 billion-a-year cellular-equipment industry, ushering in a new era of competition and giving U.S. companies a shot at re-entering a sector they vacated years ago. In the past five years, only China’s Huawei Technologies Co., Sweden’s Ericsson ERIC +0.24% AB and Finland’s Nokia Corp. NOK +4.30% captured more than a 20% share of revenue in the wireless-equipment market, according to Dell’Oro Group, a research firm. No other competitor consistently cracked even 10%. Now that landscape is changing. Pushed by Washington’s campaign to [undermine] cripple Huawei over cybersecurity concerns, countries representing more than 60% of the world’s cellular-equipment market are considering or have already enacted restrictions against Huawei, says Dell’Oro Group. And to take advantage of that opening, the U.S. government—as well as governments in the U.K. and European Union—are considering financial support and other measures to boost domestic cellular-equipment makers trying to crack the three incumbents’ stranglehold on the market. The result is a newly competitive market that is reminiscent of the 1990s, when bygone industry giants such as Lucent, Motorola, Nortel, Siemens and Alcatel fought for a piece of a growing telecom-equipment pie. “It’s got a Wild West feel to it,” says Bill Plummer, a former Nokia and Huawei executive now working at JMA Wireless, a Syracuse, N.Y., 5G company. “We haven’t seen this since probably the eve of the dot-com bust—this dynamic and thriving competitive environment in wireless.” That new environment could benefit everyone—other than, of course, Huawei, Ericsson and Nokia. It will give a host of competitors a chance to win business that only a couple of years ago seemed out of reach. And the new competitive fervor should increase innovation and lower costs for wireless carriers, which could pass on savings—and the fruits of those innovations—to customers. American officials further say the new competitive landscape is crucial to U.S. efforts to counter China’s influence in developing 5G technology, the next generation of wireless technology that will serve as the building blocks for all sorts of future technologies—whether in robot-run factories, heart-rate monitors, or any number of industries and products. The country that dominates 5G will be well-positioned to lead the technology industry in terms of profits and talent in the years ahead.

#### No massive royalties or patent hold-ups.

Barnett 19, Torrey H. Webb Professor of Law, Gould School of Law, University of Southern California. (Jonathan M., “Antitrust Overreach: Undoing Cooperative Standardization in the Digital Economy”, *25 Mich. Telecomm. & Tech. L. Rev. 163*, pg. 207-208, Available at: <https://repository.law.umich.edu/mttlr/vol25/iss2/2>)

A. “Depropertizing” Standard-Essential Patents

Agencies and courts have devoted substantial attention to the potential risk that holders of SEPs would be able to dictate “exorbitant” pricing or impose other access constraints on device manufacturers in the wireless communications markets. The dispersion of IP ownership interests naturally gives rise to concerns that the total licensing and transaction costs involved in assembling the IP package required to deploy a standard-dependent product will be so high (the so-called “royalty stack”) that prices for end-user products will move beyond the reach of most consumers as well as discourage entry into the market by manufacturers and other intermediate users.152 However plausible in theory, these arguments have not been supported by actual market performance.

**[Footnote 152]**

152. For the most well-known statement of this assertion, see Lemley & Shapiro, supra note 118. The same authors have made similar assertions together and separately in subsequent writings. See also Mark A. Lemley & Carl Shapiro, A Simple Approach to Setting Reasonable Royalties for Standard-Essential Patents, 28 BERKLEY TECH. L.J. 1135, 1149-50 (2013) [hereinafter Lemley & Shapiro, A Simple Approach]; A. Douglas Melamed & Carl Shapiro, How Antitrust Law Can Make FRAND Commitments More Effective, 127 YALE L. J. 2110, 2116 (2018).

**[End Footnote 152]**

Two key pieces of empirical evidence suggest that these scenarios should no longer be key areas of policy concern. First, empirical evidence shows that, adjusted for quality improvements, the prices of smartphones and other IT products that are dependent on SEPs have fallen both absolutely and relative to products that are not dependent on SEPs.153 Second, empirical studies of aggregate royalty burdens in the smartphone markets have found no evidence to support widely stated claims that device manufacturers are burdened by double-digit royalty rates154; rather, the best available evidence indicates that total royalty rates are typically in the low to mid-single digits.155 These findings are broadly consistent with general tendencies in the smartphone markets, which have exhibited remarkable rates of growth in output and market adoption156 and continuous entry into the device production market.157 These well-established tendencies are inconsistent with widespread assertions of endemic “patent hold-up” and “royalty stacking” that characterize the current international regulatory consensus.

#### AVs don’t solve warming- Uknowns, no transition, increased emissions, and regulations

Fanta ‘18

(Alexander Fanta is a foreign affairs journalist and has reported from across Europe and the US, tracking elections, migration and the Eurozone debt crisis @netzpolitik. “Self-driving cars won’t save us from the climate abyss” 3/12/18. https://netzpolitik.org/2018/self-driving-cars-wont-save-us-from-the-climate-abyss/)**AB**

Calculation with many unknowns The companies swat away ecological concerns: Autonomous driving is safe, clean and inexpensive for the consumer, they insist. In their correspondence with the Commission, representatives of Uber refer to a calculation done by US researchers. Their study assumes that the use of vehicles will be mostly shared. Bundled with other positive effects of autonomous cars, such as driving at a fuel-optimal speed, the technology is set to dramatically reduce energy consumption. However, there are many unknowns. It is still unclear how quickly electric cars become dominant and how clean they really are. As environmentalists note, electric cars are not climate-neutral considering their CO2 emissions from production and power generation. An electric vehicle of the Tesla Model S type with a 100 kWh battery has a CO2 footprint comparable to that of a small petrol car, says traffic expert Le Petit in Brussels. Car companies switch to stubborn It is also still uncertain whose vision of autonomous driving will prevail. There are two completely different concepts among would-be market leaders. Driving services such as Uber and Google’s Waymo bet on fully autonomous taxis and shared mobility. Traditional car companies don’t think much of that. „Ford’s not planning on a future where it doesn’t sell more cars“, CEO Jim Hackett recently said. Although Ford might offer ride-sharing in cities, it wants to continue to sell cars for personal use. However, only shared mobility will be sustainable in the long run. Researchers believe that autonomous taxi services can reduce the demand for cars in the future. But how long will the transition period be? According to forecasts, we have at best one or two decades to take effective measures against catastrophic global warming. The NGO Transport Environment states in a recent report that emissions from transport in Europe must be reduced by at least 60 percent by 2030 if the Paris climate targets are to be met. So time is of the essence. Meanwhile, companies sell cars. Driving in circles Some studies suggest self-driving cars could actually increase traffic in the medium term. A Boston-based study concluded that autonomous taxis in cities are likely to hurt public transport and worsen congestion. A German researcher has similar concerns. „Old people, for example, will again dare to travel long distances by car,“ says Tilman Bracher of the German Institute of Urban Affairs. In the future, drivers will no longer have to be able to drive, whereas today at least one third of the population is too young to drive or does not have a driving license. The spread of autonomous cars could hurt transport infrastructure. „If autonomous cars are allowed to drive without a quota, public transport will certainly be cannibalised“, says Bracher. Individual journeys must therefore be limited by tolls and other means. Meanwhile, autonomous driving raises urban planning challenges. In test runs, the technology works well where cars are separated from the rest of traffic. This may be easy in US suburbs, but how does it work in the maze of alleys in European city centres? It is possible that autonomous cars will push to convert our cities along American lines – cities made for cars. The struggle for regulation Legislators already have set their sights on self-driving technology. In Brussels, the issue has been on the political agenda since 2015. The Commission has since supported research into autonomous driving and digitalisation of transport. Many questions remain unanswered, but the EU Commission plans to set the first technical standards by summer 2019. Further steps are in preparation. The EU Parliament plans to adopt a report on autonomous driving in January. The paper has no legislative weight, but it sets the direction for the coming years. It states that the EU must „encourage and develop autonomous mobility“. Environmental issues are mentioned only in passing, the word climate not at all. The paper only touches on other big questions: road safety of autonomous vehicles, data protection and IT security, but also the social impact of radical change. After all, autonomous cars could make thousands of taxi drivers and professional drivers in Europe redundant.

#### No climate impact

**Cass 17**. (Oren Cass – B.A. in political economy from Williams College and a J.D. from Harvard Law School, senior fellow at the Manhattan Institute. “How to Worry about Climate Change,” National Affairs. Winter 2017. DOA: 4/22/19. <http://www.nationalaffairs.com/publications/detail/how-to-worry-about-climate-change>)

Even focusing within that range, estimates for the expected environmental impacts of warming vary widely. The IPCC represents the gold standard for synthesizing scientific estimates, and, crucially, its best guesses bear little resemblance to the apocalyptic predictions often repeated by activists and politicians. For instance, the IPCC estimates that sea levels have risen by half a foot over the past century and will rise by another two feet over the current century. At the high end of the 3-to-4-degree range, it reports the impact on ecosystems will be no worse than that of the land-use changes to which human civilization already subjects the natural world. The responsibility for translating these and other disruptions into economic costs falls to Integrated Assessment Models (IAMs). To create its "Social Cost of Carbon," the Obama administration surveyed this economic literature and focused specifically on three models whose forecasts themselves vary widely, even starting from a common level of warming. For warming of 3 to 4 degrees Celsius by 2100, the middle of the three models estimates an annual cost of 1% to 3% of GDP. The low case estimates 0 to 1%. The high case estimates 2% to 4%. While 4% is a large dollar amount, arriving at that impact over nearly 100 years implies almost imperceptibly small changes in economic growth. The specifics of this high-case model are informative: The Dynamic Integrated model of Climate and the Economy (known as the DICE model) developed by William Nordhaus at Yale University estimates 3.8 degrees Celsius of warming by 2100 costing an associated 3.9% of GDP in that year. But over time, this cost is the equivalent of slowing economic growth by less than one-tenth of one percentage point annually. By 2100, regardless of climate change, the world is more than six times wealthier than in 2015 under this model; global GDP is $500 trillion. The effect of climate change is to reduce that gain from a multiple of 6.7 to a multiple of 6.5. The economy also continues to grow, so that the climate-change-afflicted world of 2105 is already much wealthier than a world of 2100 facing no climate change at all. Such estimates might seem counterintuitively low, especially given the rhetoric often employed. Part of the explanation lies in the almost incomprehensible economic progress that human civilization is capable of making over the course of a century. The annual cost identified by Nordhaus in 2100 is $20 trillion — massive by the standards of 2015, manageable by the standards of 2100. Further, that cost repeats every year even as the impacts are spread over many years. Thus, over the 2090 to 2110 time period, Nordhaus envisions the world spending a stunning $350 trillion to cope with climate change. One might despair over what else such resources might accomplish over that time period. But one must also recognize that the economy of 2100 will likely be able to allocate those resources toward climate change while also allocating to every other facet of society far more resources than are available today. Corroborating these models, the IPCC concludes that "for most economic sectors, the impacts of drivers such as changes in population, age structure, income, technology, relative prices, lifestyle, regulation, and governance are projected to be large relative to the impacts of climate change." In other words, other worrying problems have a far greater capacity to influence progress. None of this means the dislocations from climate change would be painless or the disruptions cheap. It is merely to observe that the impacts expected from climate change over the next hundred years look similar to those through which both civilization and our planet have successfully muddled over the past hundred and continue to struggle with today. Other worrying problems have their own anticipated but less-severe analogs, too. Whether a global pandemic strikes, epidemics will inevitably occur like the 2014 Ebola outbreak in West Africa that claimed more than 10,000 lives and cost the three countries at its center more than a tenth of their GDP. Whether artificial intelligence makes humans superfluous, self-driving vehicles could throw millions out of work in the years to come. Some countries will default on their debt; some business cycles will spawn deep global recessions. These challenges are not existential threats or even ones that require analysis outside the standard policy process — that is, they are not really worrying problems at all. EXTREME CASES If expected climate change represents the most likely outcome, extreme climate change represents the worst case: Models could be underestimating the warming that emissions will cause; feedback loops could send a 3-degree increase suddenly careening higher; or even at the expected level the climate could hit a tripwire that collapses global ecosystems or ocean currents or ice sheets or some other prerequisite of modern civilization. Any of these things may be true — as is the nature of genuinely forecasted challenges, they are mostly non-falsifiable. But while extreme climate change is a quintessentially worrying problem, it is also one that has no guarantee or even likelihood of occurring. Certainly, the "scientific consensus" or even the "scientific mainstream" on climate change does not extend to confidence in such scenarios. To compare extreme climate change with other worrying problems, it is helpful to consider the dimensions that make a problem "worrying": that it is forecasted, irreversible, and pervasive. On all three, climate change appears less worrying than most. Consider, first, the magnitude of the forecasted impact. Many worrying problems feature the credible prospect of killing a significant share of the human population or erasing modern civilization. Not extreme climate change. For instance, even considering higher temperature increases, the IPCC concludes that: Global climate change risks are high to very high with global mean temperature increase of 4°C or more above preindustrial levels in all reasons for concern, and include severe and widespread impacts on unique and threatened systems, substantial species extinction, large risks to global and regional food security, and the combination of high temperature and humidity compromising normal human activities, including growing food or working outdoors in some areas for parts of the year. Obviously, each of those effects would entail enormous economic costs, carry severe consequences for entire nations, and wreak havoc with the natural environment. But as a worst case, it nevertheless pales in comparison to catastrophes that might kill a significant share of the human population or erase the basic physical and economic infrastructure of modern civilization. Serious efforts to quantify existential threats concur. A 2016 report by the Global Priorities Project at Oxford offered as its example of a worst case that climate change could "render most of the tropics substantially less habitable than at present," as compared to hundreds of millions or billions of deaths associated with other challenges. Another Oxford study from 2008 asked conference participants to estimate the probability of various global catastrophes leading to human extinction in the coming century, and did not even see fit to include climate change as an option, while respondents gave molecular nanotechnology, super-intelligent artificial intelligence, and an engineered pandemic each at least a 2% chance of erasing humanity by 2100. Some analysts nonetheless place climate change among humanity's genuinely existential threats on the basis of its "fat tail," arguing that some unknowable but non-zero chance exists at the far-right end of the probability distribution for an outcome with essentially infinite cost. But this is true of all worrying problems — indeed, the characteristics of worrying problems might be viewed as those that generate such unknowable non-zero probabilities. Climate change cannot be distinguished from other worrying problems on that basis. Rather, the argument begs the question: What characteristics of climate change make its tail relatively fatter or thinner? The weight accorded to a worrying problem's forecasted effects depends greatly on the number of causal steps between the underlying phenomena and worst-case outcomes. Where fewer steps are necessary, or where steps are relatively more likely to occur, the probability of the worst case arising should increase. For instance, whether an engineered pandemic devastates humanity depends on development of the necessary technology (highly likely), its use by a malicious actor (indeterminate), and its spread defying efforts at containment (indeterminate). Generally speaking, technological threats will have the shortest chains while sociological threats will have the longest ones. Climate change would appear to sit somewhere in between. It has a very short chain to some impact — indeed, higher atmospheric concentrations of carbon dioxide are already having effects. But the connection from warmer temperatures to civilizational catastrophe is highly attenuated. The initial warming must cross thresholds that produce feedback loops. The ensuing warmth must produce environmental effects that cause unprecedented crises across societies. Those crises must in turn overwhelm the coping capacity of the entire global community, which must in turn produce wide-scale breakdowns in social order or trigger military conflict, which must in turn metastasize into...what? Certainly, one can invent a scenario. But the specifics quickly become hazy, and a worst case entirely outside of human experience difficult to articulate.

# 2NC

## Topicality

### 2NC OV

#### It’s the only shot at unique link

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

In recent years, there has been a marked transition away from rules and toward standards in collaborative conduct cases. This occurred in an obvious way beginning in the 1970s as the Burger and then Rehnquist courts overruled Warren court precedents that had condemned a variety of business agreements as per se illegal. As common business practices such as vertical territorial allocations, 37 maximum resale price setting, 38 expulsions of members from industry associations, 39 and manufacturer acquiescence in a retailer's demand to terminate a competing retailer that was deviating from the manufacturer's MSRP40 went from the per se rule to the rule of reason, the domain of rules shrunk and the domain of standards grew. Significantly, the Court declined the Chicago School's call to move vertical restraints from per se illegality to per se legality. In State Oil, Justice O'Connor-who is also fond of balancing tests in constitutional law 4 -went out of her way to make clear that the Court was not holding "that all vertical maximum price fixing is per se lawful.' 42 Vertical restraints would still require scrutiny, but under the multi-factored rule of reason. The transition from rules to standards did not take place solely due to a juridical shift of particular business practices from one category to another. Instead, the entire judicial rhetoric of antitrust has moved in a more nuanced, standard-based direction over the past few decades. With few exceptions, 43 the courts have stopped creating new categories of per se illegal conduct, even though commercial circumstances and practices evolve over time and litigation frequently explores new areas of commercial behavior. Since the mid-1970s, the Supreme Court seems to have frozen the canon of per se illegal practices, without necessarily pushing all other behavior into rule of reason. Instead, arguably beginning with National Society of Professional Engineers v. FTC'4 in 1978, the Court adopted what later became known as the "quick look" approach. In subsequent cases like NCAA v. Board ofRegents45 and California 46 Dental Ass'n v. FTC, the Court described the quick look approach as involving an initial court determination, based on a "rudimentary understanding of economics, ' , 47 that the practice at issue has obvious anticompetitive effects, which puts the defendant to the burden of immediately putting forth a 48 procompetitive justification for the practice.

Here’s ev

Graglia 8 (Lino A. Graglia is the A. Dalton Cross Professor of Law at the University of Texas. “The Antitrust Revolution”, *Engage* Vol. 9, Issue 3, <https://fedsoc-cms-public.s3.amazonaws.com/update/pdf/HfSHUKp1jnxxov80FkGORMCD5eojoela0HkiRejm.pdf> , October 2008, date accessed 9/14/21)

Although Section 1 of the Sherman Act prohibits “every contract, combination…, or conspiracy, in restraint of trade,”7 it was early and necessarily—since the purpose of every contract is to restrain—decided that it prohibited only “unreasonable” restraints on trade.8 Under the resulting “Rule of Reason,” only business practices found to be net anticompetitive and without efficiency justification were (and are) illegal. Some practices, however, have been declared to be always or almost always anticompetitive and without justification—and therefore are said to be illegal per se. Because a challenged practice’s anticompetitive effects and lack of justification are typically very difficult to show—largely because they characterize few business practices—the Rule of Reason tends to become a rule of legal per se.9 The Rule of Reason means that antitrust plaintiff s will rarely win and, therefore, that few antitrust suits will be brought. Th e liberal justices of the Warren Court dealt with the “problem” by tending to declare nearly all challenged practices illegal per se.

### AT: W/M—TL

#### Proof of violation

McKibben 85 (Michael D. McKibben-Vanderbilt University Law School, J.D., 1985, Vanderbilt Law Review, Associate Editor; Patrick Wilson Scholar. The Resale Price Maintenance Compromise: A Presumption of Illegality, 38 Vanderbilt Law Review 163 (1985), Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol38/iss1/3> , date accessed 9/13/21)

In United States v. Colgate & Co." the Court developed a major exception to Dr. Miles. The Colgate doctrine allows a weak form of RPM by manufacturers or wholesalers that have attempted unilaterally to set prices.6 Although the Colgate doctrine has lost much of its vitality due to years of restrictive interpretation, in Russell Stover Candies, Inc. v. FTC7 the United States Court of Appeals for the Eighth Circuit upheld Colgate against a challenge by the Federal Trade Commission. In addition, the Supreme Court, in Monsanto Co. v. Spray-Rite Service Corp.," recently intimated new-found support for the Colgate doctrine and a possible willingness to reconsider the Dr. Miles per se prohibition against RPM.9 The outcome of vertical pricing cases under section 1 has depended upon the perceived effects of RPM on competition. Current RPM decisions, however, rest on the principles of stare decisis and, therefore, do not depend upon political and economic theories that have developed since Dr. Miles.10 Early courts denounced vertical restraints as analogous to horizontal price fixing, which courts have assumed the drafters of the Sherman Act intended to prohibit per se. 11 Later cases, however, illustrate that the analogy between vertical and horizontal trade restrictions is not analytically sound, and the Supreme Court's attempt to maintain the per se approach to RPM has led to serious theoretical and practical problems. 12 This Note explores several problems with recent RPM decisions: (1) the effect of the per se rule on producers' rights to control their marketing strategies; (2) inconsistent use of the plural action requirement as a foil for avoiding or invoking the per se rule; (3) the suppression of benign or procompetitive activities because of the rule; (4) the difficulties with free rider marketing; and (5) the obstacles to advice and planning that recent decisions have created. This Note contends that a new standard, a rebuttable presumption13 against legality, would alleviate most, if not all, problems that the inflexible per se rule causes. A rebuttable presumption, followed by rule of reason analysis 14 [[BEGIN FOOTNOTE 14]] 14. 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." Sylvania, 433 U.S. at 49. [[END FOOTNOTE 14]] in cases in which the defendant satisfies the threshold inquiry,15 would restore certainty and intellectual honesty to RPM cases. The rebuttable presumption would eliminate the need to reconcile contrary cases and the need to consider issues that parties now must address under the rule of reason. While the rebuttable presumption does not require that courts maintain or reject the Colgate doctrine,16 this Note argues that the Court could retain Colgate but primarily rely upon the guidelines and safeguards of the rebuttable presumption. This new line of inquiry would retain the benefits of the per se rule-efficiency and certainty-and would remain flexible enough to accommodate special cases in which RPM may be beneficial to the market. In many cases, the rebuttable presumption also would save society, courts, and litigants the protracted costs of rule of reason analysis. Part II of this Note considers major RPM cases since the early 1900s, with special focus on Russell Stover and Filco v. Amana Refrigeration, Inc.,'17 cases which protect the defendant under the Colgate doctrine. Part III analyzes the weaknesses of the per se rule and the benefits that could inure to manufacturers and the marketplace under the rebuttable presumption. Part IV examines the strengths and weaknesses of the rule of reason and offers an improved rule of reason approach as the second part of the rebuttable presumption standard. Finally, Part V outlines a suggested analysis for RPM disputes using a rebuttable presumption of illegality. Part V also considers the effects of the presumption on federal antitrust laws. II. THE CURRENT CONTROVERSY A. Minimum Price Restrictions in the Supreme Court Vertical price restrictions are written or oral directives setting a price above or below which a manufacturer wishes its distributors to sell. If the manufacturer establishes a price below which a distributor should not resell a product, the manufacturer is imposing minimum price RPM. Maximum price RPM-the setting of price ceilings- and minimum RPM are per se violations of section 1 of the Sherman Act."' Nonprice vertical restrictions, however, which include primarily territorial distributorship limitations, generally are reviewed under the rule of reason. 19 1. Dr. Miles: The Per Se Rule Dr. Miles Medical Co. v. John D. Park & Sons Co.20 is the basis of much of the current academic criticism of the Supreme Court's RPM approach.2 ' The plaintiff Dr. Miles, a medicine manufacturer, required its wholesalers and retailers to adhere to a minimum resale price schedule. The plaintiff also required its wholesalers to maintain control over the retailers' subsequent resale prices. The defendant Park & Sons, a wholesaler that refused to purchase from Dr. Miles under the minimum price contract, bought Dr. Miles' medicines from third parties and resold them below the plaintiff's price schedule. The plaintiff charged the defendant with inducing the plaintiff's distributors to breach their contracts by reselling to a price cutter.22 The Court denied the plaintiff's request for relief and held that the plaintiff's contract provision was void under common law and the Sherman Act. 3 After determining that the agreement between Dr. Miles and its vendees fulfilled the duality requirement of the Sherman Act,24 the Court found that the plaintiff's resale price schedule eliminated competition by controlling the price at which all purchasers received the product.25 The Court refused to accept the defendant's argument that producers of patented products have a right ordinary sellers do not have-the right to dictate the destiny of their products.26 The Court inquired whether the plaintiff had a right to restrain trade. The Court held that generally a right to control alienation does not exist without an agreement.2 7 Applying the common-law rule that contractual restraints on alienation must be reasonable and limited to the necessity of the circumstances, 2 the Court found that Dr. Miles' agreement did not fit any of the common forms of acceptable restraints.29 The Court's final inquiry was whether the benefits that the plaintiff gained from its pricing restrictions were entitled to more protection than the property rights that the defendants had in the medicine.30 The Court's response to this issue forms the heart of the per se rule.31 [[BEGIN FOOTNOTE 31]] 31. Per se rules prohibit certain conduct without inquiry into possible justifications for the conduct. Courts impose per se rules when the interests of judicial economy outweigh other interests. See Note, Fixing the Price Fixing Confusion: A Rule of Reason Approach, 92 YALE L.J. 706, 708 (1983). [[END FOOTNOTE 31]] Although the Court never explicitly condemned all vertical price fixing agreements, it found that the effects of the Dr. Miles scheme were the same as the effects that could result from horizontal price fixing at the dealer level. The Court, therefore, held that both kinds of price fixing were illegal.3 2 The Supreme Court's focus on the effects of the alleged violative activity, without regard to its purposes or benefits, is characteristic of other Supreme Court per se decisions. 3 The breadth of the Dr. Miles decision is still unclear.3 4 A narrow interpretation of the holding is that express contractual provisions restraining resale prices violate the Sherman Act. The decision left open many further questions, the first of which the Court answered by creating the Colgate exception. 2. The Colgate Exception The Court's 1919 decision in United States v. Colgate & Co.35 is still difficult for courts and commentators to harmonize with the Dr. Miles rule of per se illegality.3 6 In Colgate the prosecution charged the defendant under the Sherman Act 37 with forming an illegal combination to fix resale prices among the wholesalers and retailers of the defendant's soap and toilet products.3 8 Colgate circulated price lists, along with provisions for penalties to distributors that did not adhere to the defendant's price lists. Colgate also engaged in policing activities, such as obtaining information from other distributors concerning noncomplying dealers, and requesting assurances from nonuniform pricers that they would comply with the defendant's guidelines. 39 The trial court sustained the defendant's demurrer 40 and the Supreme Court affirmed on direct appeal. The Court permitted the defendant's pricing structure based on the trial court's finding that Colgate reserved no contractual rights in the goods after their sale to dealers. Colgate could enforce the price restrictions only by later refusing to deal with wholesalers and retailers that breached their contracts.41 According to the Court, because the contracts in Dr. Miles "undertook to prevent dealers from freely exercising the right to sell," Dr. Miles was distinguishable from Colgate.42 The Court then laid out the Colgate doctrine: "In the absence of any purpose to create or maintain a monopoly, the [Sherman Act] does not restrict the long recognized right of a trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal. 43 If the Court had employed the "effects only" logic that it used in Dr. Miles, Colgate would have been an inconsequential extension of the Dr. Miles progeny. By blending the section 1 duality requirement with common-law business principles, however, the Court created an exception to the per se rule.44 3. Narrowing Colgate The Court quickly issued three decisions reaffirming the viability of Colgate, but in increasingly narrow circumstances. 45 Less than one year after Colgate, the Court decided United States v. A. Schrader's Son, Inc.46 Schrader's Son was factually similar to Dr. Miles,47 but the district court initially held for the defendant, reasoning that Colgate implicitly had overruled Dr. Miles.48 The Supreme Court reversed, stressing that its intent in Colgate was only to preserve the manufacturer's right to announce its pricing policy and cease to do business with dealers that failed to comply. 49 Based on this narrow interpretation of Colgate, the Court extended the scope of Dr. Miles to implicit agreements that attempt to make resale rates binding, including agreements "implied from a course of dealing or other circumstances." 0 The Court contrasted Colgate's holding with situations in which "the parties are combined through agreements designed to take away dealers' control of their own affairs and thereby destroy competition." 51 This language created a major expansion of the per se rule by shifting the Court's inquiry from "contract" to the less restrictive term "agreement." The Court's characterization of implicit agreements as section 1 violations is the basis of most criticism of the per se rule.52 Schrader's Son did not resolve the open distinction between implicit agreements that derive from dealer acceptance of fixed prices and unilateral declarations of terms that originate from a manufacturer's normal course of dealing. The Supreme Court was quick to quell rumors of Colgate's early demise. In Frey & Son, Inc. v. Cudahy Packing Co.53 the trial court instructed the jury that the plaintiff could prevail despite the lack of an express or implied agreement or objections to the seller's pricing demands.5 4 The Supreme Court held that the jury instruction was insufficient to establish the defendant's liability under section 1. 55 Despite the Court's inability to draw a clear distinction between Dr. Miles and Colgate, the Court refused to extend the per se rule to prohibit inferential agreements.

#### There’s a clear test: can the practice described by the AFF ever legally occur after the plan? If it’s ever still allowed, it’s not prohibited!

Martin G. Vallespinos 20, LLM, University of Michigan Law School; Manager at Ernst & Young Detroit, “Can the WTO Stop the Race to the Bottom? Tax Competition and the WTO,” 40 Va. Tax Rev. 93, Lexis

Prohibited subsidies, as described in Article 3 of the SCM Agreement, are disallowed outright, and WTO members can unilaterally impose countervailing measures against the country sponsoring them. This category [\*146] includes (i) subsidies that are contingent, in law 237or in fact 238upon export performance 239and (ii) subsidies that are contingent upon the use of domestic over imported goods.

Export contingency can be "de jure" or "de facto." De jure export contingency derives from "the very words of the relevant legislation, regulation[,] or other legal instrument constituting the measure." 240De facto export contingency is met when "the facts demonstrate that the granting of a subsidy ... is in fact tied to actual or anticipated exportation or export earnings." 241The WTO jurisprudence regarding "de facto" contingency, however, is not uniform and WTO panels have set forth various alternative tests. In Australia-Automotive Leather II, the Panel established a standard of "close connection" between the grant of a subsidy and export performance. 242In Canada-Aircraft, the Panel and the Appellate Body ("AB") implemented the so called but-for test, which interprets the "tied to" language to be equivalent to a relationship of "conditionality" between the grant of a subsidy and export performance. 243Therefore, de facto contingency is met when "the facts demonstrate that the tax benefit would not have been granted ... but for anticipated exportation or export earnings." 244In the same case, the AB clarified that "it does not suffice to demonstrate solely that a government granting a subsidy anticipated that exports would result." 245This means that, in the AB's view, the granting authority's expectations on exports may not be sufficient to meet the standard, so the subsidy must be objectively contingent upon export [\*147] performance. 246In pursuit of a more objective criteria, the AB suggested that, "where relevant evidence exists, the assessment could be based on a comparison between, on the one hand, the ratio of anticipated export and domestic sales of the subsidized product ... and on the other hand, the situation in the absence of the subsidy." 247But both the Panel and AB further clarified that an assessment based on ratios is incapable by itself of establishing that a given subsidy is de facto contingent on export performance "in the absence of any meaningful analysis regarding how a subsidy's design and structure contributes to the presence of an incentive for a recipient to [favor] export sales over domestic sales." 248

With respect to domestic use contingency, Article 3.1(b) contains no reference to contingency in law or in fact. Nevertheless, the AB has found that Article 3.1(b)'s scope covers both de jure and de facto contingency. 249Also, both the Panel and the AB have concluded that the general guidance regarding evaluations of de facto export contingency should be applicable to de facto domestic use contingency. Finally, it should be mentioned that the Panel and AB decisions are not binding precedential authority but rather can be only strongly persuasive authority. Therefore, countries should be aware of all these alternative tests when designing their tax policies, as there is no certainty as to which criteria WTO decision makers may apply in the event of a dispute (e.g. but-for test, close connection test, assessments based on ratios, etc.).

A subsidy that is not considered "prohibited" can still satisfy the specificity criteria and become an actionable subsidy if it meets the two following requirements:

(1) Specificity: an actionable subsidy is considered specific when the eligibility to receive the benefits is limited to certain enterprises, industries, or areas; 250and

(2) Adverse effect: an actionable subsidy is considered adverse when it produces a serious prejudice to the interests of another member, an injury to its domestic industry, or a nullification or impairment of benefits accruing directly or indirectly to other members under the GATT. 251

#### Even if rules of reason could be T, the plan isn’t:

#### EFFECTS---all they do is create a rule, allowing its use for case-by-case evaluation---until that rule is applied, this prohibits nothing at all

Andriani Kalintiri 20, Lecturer in Competition Law at King's College London, “Analytical Shortcuts in EU Competition Enforcement: Proxies, Premises, and Presumptions,” Jnl of Competition Law & Economics (2020) 16(3): 392-433, Lexis

Firstly, normative assertions and economic propositions are what gives shape to the otherwise vague letter of the antitrust and merger provisions. Arguably, those provisions do not immediately reveal what is prohibited and are in need of elaboration to become operational. In this process, varying perceptions about the goals of the discipline may completely shift the focus of the analysis. 45 For example, if competition law is to be enforced with a view to protecting small- and medium-sized enterprises or employment-as opposed or in addition to, say, promoting consumer welfare-then different effects in the market may become relevant. 46 On the other hand, economic premises about the procompetitive or anticompetitive nature of the conduct at hand typically inform the choice between the application of a 'rule' or a 'standard'. 47 The prohibition, for instance, of cartels as 'by object' violations of antitrust law rests on the economic premise that conduct of this kind lacks any efficiency justification and thus a rule of prima facie illegality is not liable to chill procompetitive behaviour. 48 Conversely, the treatment of quantity rebates as prima facie lawful is grounded in the idea that this type of discount reflects the cost savings achieved by the undertaking in question. 49 In the same vein, the 'by effect' analysis of exclusive dealing under Article 101(1) TFEU is explained by the economic insight that behaviour of this kind may entail efficiencies. 50 Accordingly, normative and economic premises are instrumental in the construction of competition law.

## Adv CP

### 2NC-Condo Good Long

## Reg CP

### Top

#### Counterplan is more durable and enforceable

Shelanski 18, Professor of Law @ Georgetown (Howard, “Antitrust and Deregulation,” Yale Law Journal)---sex edited

Regulation can also be comparatively slow to adapt to new market condi- tions, and that delay can affect an entire regulated industry.122 Antitrust authorities also might fail to foresee relevant market changes, but their actions typically affect only one discrete case and they generally have flexibility, as conditions change, to modify relevant consent decrees and decline to pursue similar investigations or sanctions.123 It is harder for government agencies to make changes to established regulatory programs,124 making regulation more likely than anti- trust to outlast the problems it was implemented to solve. Regulation’s delayed adaptation to changing conditions can be costly,125 especially as markets transi- tion to more competitive structures.126 As Michael Boudin, a former DOJ anti- trust official (and later federal judge) put it, “regulation almost always will be very difficult to dislodge, even if it proves mistaken. Almost any regulatory regime will develop a constituency, armed with congress[people] and self-interested bureaucrats . . . [and] become[] the foundation on which private arrangements are constructed, arrangements that cannot easily be discarded.”127

#### Regs are better in the context of tech

Wheeler 21, Visiting Fellow - Governance Studies, Center for Technology Innovation (Tom, “A focused federal agency is necessary to oversee Big Tech,” *Brookings*, <https://www.brookings.edu/research/a-focused-federal-agency-is-necessary-to-oversee-big-tech/>)

Exemplified by the mantra “move fast and break things,” digital companies have exercised a consequence-free attitude to bypass the rules that historically protected consumers and a competitive marketplace. This reality is a product of the federal government’s painfully slow response to America’s transformation from an industrial economy to a digital economy. While leaders of digital companies recognized and embraced the change imposed by new technology, federal policy remains rooted in the structures and assumptions of the industrial era. Taking advantage of policymakers’ inaction, digital companies assumed a pseudo-government role to impose their own will on the digital marketplace. The result failed to adequately protect both the rights of consumers and the benefits of competition. Oversight of the dominant digital platforms’ broad effects on society is not possible within the existing federal regulatory structure. Agencies such as the Federal Trade Commission (FTC) and Department of Justice (DOJ) are filled with good and dedicated professionals, yet they are constrained in what they can do. Such limitations are perversely demonstrated by the recent headline-grabbing antitrust actions by both agencies. Antitrust enforcement, while important, is targeted against specific circumstances and cannot protect against general consumer abuses. Similarly, while the FTC also has authority over unfair and deceptive acts, many abuses in the digital marketplace are harmful but not considered deceptive and unfair. The FTC is further hampered by limited power to promulgate broad rules, thus constraining most of its activities to one-off proceedings against a singular company for a specific type of abuse rather than establishing broad behavioral rules across the consumer-facing digital economy. Reprioritizing digital policy to reflect the public interest requires focused attention on the broad sweep of corporate behaviors by the dominant digital companies. This is best achieved by establishing a new federal agency staffed with digital expertise and the focused responsibility to oversee protection of consumers and promotion of competition in the services that are critical to our lives and livelihoods.

### AT Perm Do Both

#### The permutation links harder to trade-off

Shelanski 11, Professor of Law @ Georgetown (Howard, “The Case for Rebalancing Antitrust and Regulation,” 109 MICH. L. REV. 683, Lexis)

One good way to measure the importance of a court decision is to ask how previous cases would have differed had the decision been in place earlier. By that measure, the Supreme Court's decisions in Verizon v. Trinko' and Credit Suisse v. Billing2 turn out to be unusually significant. By broadening the conditions under which regulation blocks antitrust enforcement, those cases redrew the boundary between antitrust and regulation and would likely have prevented the government from bringing, in previous decades, a number of important antitrust cases in regulated industries. Most notably, Trinko and Credit Suisse would likely have blocked the suit by the U.S. Department of Justice ("DOJ") that in 1984 broke up AT&T's monopoly over telephone service, considered among the most important antitrust enforcement actions in history. 4 The preclusion of such cases has strong implications for the future of both antitrust enforcement and industrial regulation. Before 2004, the year the Supreme Court decided Trinko, public agencies and private plaintiffs had long enforced antitrust law in a variety of regulated settings. Several of those cases reached the Supreme Court and many more went through lower federal courts with no finding that they were inconsistent with the core objectives of antitrust or would interfere with regulatory objectives.- Yet many of those cases would have difficulty surviving a motion to dismiss today. Without specifically indentifying legal flaws or harmful consequences from previous antitrust actions in regulated markets, the Supreme Court has in the past decade reconfigured the relationship between antitrust law and regulation to make it much more difficult for antitrust law to play an important role in regulated markets-a limitation this Article will argue is potentially costly and unnecessarily strong.

### AT Perm Do CP

#### The aff requires law enforcement, the CP doesn’t. And, the aff requires a judicial remedy, the counterplan doesn’t.

Bovard 21, senior director of policy at the Conservative Partnership Institute. She is the co-author of Conservative: Knowing What To Keep with former Senator Jim DeMint and a member of the TAC advisory board. (Rachel, “Why Republicans Must Rethink Antitrust,” *The American Conservative*, <https://www.theamericanconservative.com/articles/why-republicans-must-rethink-antitrust/>)

Accomplishing any of this, however, requires the right to rethink its reflexive hesitance to take action. This is especially true in the area of antitrust. Too many on the right conflate antitrust enforcement with regulation, when the two are quite distinct. Antitrust is targeted law enforcement. It addresses specific acts of marketplace conduct that must be thoroughly investigated by the Department of Justice or the Federal Trade Commission, and proven before a judge, before the law is enforced. Regulation, by contrast, goes after entire sectors of the economy with a one-size-fits-all approach, and does so without necessarily concerning itself with finding clear evidence of fault.

#### This distinction is relevant for our net-benefit

Heather 19, senior vice president for international regulatory affairs and is responsible for antitrust policy at the U.S. Chamber of Commerce. (Sean, “Antitrust is not regulation. It’s law enforcement,” Roll Call, <https://www.rollcall.com/2019/07/23/antitrust-is-not-regulation-its-law-enforcement/>)

Put simply, antitrust is “not” regulation; it’s law enforcement. Antitrust fundamentally believes market forces maximize efficiency in the market to the benefit of the consumer. That’s why we use antitrust to restore market forces when a firm’s conduct prevents the market from functioning efficiently. By contrast, regulation drives specific market outcomes that extend beyond efficiency. In our democracy, the legislative process is responsible for setting regulatory priorities. For example, Congress is actively considering federal privacy legislation. The privacy debate is important, but privacy is not an antitrust matter to be decided by our antitrust agencies.

## Advantage 1

### 2NC-Alt Cause

#### US culture and perceptions of it: Voter trends and civil discourse proves

Nichols and Bakken ‘21

(Rebecca Bakken Extension School Communications. QnA with Tom Nichols. Thomas M. Nichols is an academic specialist on international affairs, currently a professor at the U.S. Naval War College and at the Harvard Extension School. “Biggest threat to America? Not terrorism but apathy, expert says” <https://news.harvard.edu/gazette/story/2021/09/our-own-worst-enemy-looks-at-americans-lack-of-civic-virtue/>)

One of the biggest threats to American democracy right now isn’t nuclear war or terrorism, but the growing narcissism and nihilism of the public, says Tom Nichols. Nichols, an instructor at Harvard Extension School and the U.S. Naval War College, recently released “Our Own Worst Enemy.” The book details how a lack of civic virtue combined with Americans’ expectation that the government take care of their needs now pose an existential threat to our system of government. Nichols borrows a movie scenario to illustrate: In “Three Days of the Condor,” two CIA agents tensely discuss the covert bust of a nefarious plan to invade the Middle East for its oil. When a senior official, Higgins, says it was actually a good plan, his callousness stuns a low-level analyst. But Higgins says that in desperate times, people don’t care how resources like oil and food are secured for them: “They’ll just want us to get it for them.” The result, Nichols says: “You will have a technocracy that just doesn’t ask us our views anymore because they can’t get an answer out of us. And I always say, this will not be a takeover. Other people will govern us by default because we don’t care.” Harvard Extension School sat down with Nichols to talk about the book and the current state of democracy. Q&A Tom Nichols EXTENSION SCHOOL: Give me a brief description of your book. NICHOLS: Democracy is in trouble in the United States and around the world, and the usual explanations for it didn’t seem to me to be capturing the reality. The usual explanations were globalization, economic anxiety — big tectonic changes, and almost always raw economic explanations. And I didn’t find those compelling. The answer I came to is that there’s no way to track the decline of democracy with anything but large cultural changes, which have been in motion for 50 years. But I really thought the strongest relationship was the growth of an affluent, narcissistic society and the decline of civic and democratic virtue. We are expecting too much from democracy without really having to participate in it. We’ve become very entitled. We’ve become very self-centered. And we think that every inconvenience is a failure of democracy. We think that even the major things in our lives are a failure of democracy — if you lose your job, if a factory closes, if your health goes bad, somehow, everything has failed you. The idea that we are resilient adults who have agency and control our own destinies has become alien to multiple generations of Americans whose relationship with democracy is almost childlike. And when democracy doesn’t do everything we want it to do, we declare the whole thing a failure. That wasn’t good enough for me, so I wrote about why I think that’s happening and why we need to recover some sense of civic virtue. EXTENSION SCHOOL: Do you see this as a follow-up to your last book, “The Death of Expertise”? NICHOLS: It wasn’t a follow-up or a sequel. I began [“The Death of Expertise”] before the pandemic, so it’s not about Trump, it’s not about the pandemic, it’s not about Jan. 6 or any of that. But all of those [events] confirmed to me that we are not a resilient civic society capable of dealing with any adversity. That was one of the worries that was underlying “The Death of Expertise.” Actually, I was optimistic about it in “The Death of Expertise.” I used to give talks where I’d say a depression, a war, or a pandemic will probably snap us out of this. It didn’t. EXTENSION SCHOOL: In a video of you touring your hometown, you said, “Democracy has to do a better job of taking care of the people who are suffering.” How does that happen? Tom Nichols. “We are expecting too much from democracy without really having to participate in it. We’ve become very entitled. We’ve become very self-centered,” says Tom Nichols, author of “Our Own Worst Enemy.” Courtesy of Tom Nichols NICHOLS: We have to make those decisions as a society. When people say democracy has to do better, normally they don’t say we have to do better. They say the government has to do better. As if it’s some separate group of aliens who rule us from some other planet. We choose those policies. We choose those people. The same people who say “Why don’t I have health care?” tend to vote against that kind of stuff, [and they] are the people who need health care. We have become so wrapped up in our own narcissistic beefs that we will vote against our own interests and against the well-being of ourselves and our neighbors purely as some kind of tribal exercise. This has been going on for 50 years. And this is not limited to one party. We have become surly villagers — me, my family, my little plot of land, and everybody else can go to hell. Well, that’s not America. America prospered, especially in the 20th century, on the exact opposite of that. We created civic associations. I’m an Elk. We contribute to scholarship funds and flag drives. Yet people now won’t do that and then they say, “Why is society so mean and heartless and awful? And why is democracy so callous and ruthless?” Well, we never look at home for those answers. EXTENSION SCHOOL: You’re teaching a class this spring, “Popular Culture and U.S. Foreign Policy During the Cold War.” Do you see any parallels between what happened then and what’s happening now? NICHOLS: The existence of an alternative to liberal democracy sobered everybody up at various times during the Cold War. You didn’t get up every morning and think that Soviet paratroopers were going to wade ashore in Boston Harbor. But most people knew and understood that there was a giant, nuclear superpower that was our peer competitor that wished us harm, and that their model of government was the opposite of our model of government. People don’t have that anymore. They think the world is basically just a big chaotic marketplace. They look at China and they see glittering cities and trading partners, and it’s basically like us. The Soviet experience was a stark difference. It was easy to draw black-and-white differences between our system and the Soviet system. Without that sense that liberal democracy is unique and precious and worth defending, we’ve become lazy about it. Nobody has any real sense of danger from any other system in the world. Some of this, too, is 20 years of focusing on terrorists who are a threat to our personal safety in random ways but not a threat to our entire way of life or our government. Terrorists are not going to pull down the American flag or nuke Los Angeles. EXTENSION SCHOOL: Is this shift in public attitude an issue of national security? NICHOLS: It’s an existential threat to our security. Our democracy is in danger of collapsing, and our enemies are here for it. And again, we had an administration that was completely in cahoots with our worst enemy, Russia, and nobody seemed to care. The Democrats cared, but not enough. Think of the hearings that the Republicans had over Benghazi. We haven’t even had anything close to that on the Trump administration or Jan. 6. And now we’re arguing about, does the infrastructure bill care enough about the constituency that I care about? It is inconceivable to me that we are talking about anything except the fact that we are fighting a rearguard action to save the constitutional system of the United States of America. And yet here we are with business as usual.

## Advantage 2

### 2NC-AT: Warming

#### Experts and the IPCC vote neg--- we can adapt

Richard **Tol 14**, Prof of the Economics of Climate Change at Vrije Universiteit and of Economics at the University of Sussex, Author in Working Groups I, II and III of the IPCC, author and editor of the UNEP Handbook on Methods for Climate Change Impact Assessment and Adaptation Strategies, Editor of Energy Economics and Associate Editor of Environmental and Resource Economics, PhD in Economics from Vrije Universiteit, Mar 31 2014, “Bogus prophecies of doom will not fix the climate,” http://www.ft.com/cms/s/0/e8d011fa-b8b5-11e3-835e-00144feabdc0.html

**Humans are** a **tough and adaptable** species. **People live on the equator and in the Arctic, in the desert and in the rainforest. We survived the ice ages with primitive technologies**. **The idea that climate change poses an existential threat to humankind is laughable.**¶ **Climate change will have consequences,** of course. Since different plants and animals thrive in different climates, it will affect natural ecosystems and agriculture. Warmer and wetter weather will advance the spread of tropical diseases. Seas will rise, putting pressure on all that lives on the coast. **These** impacts **sound alarming** **but they need to be put in perspective before we draw conclusions** about policy.¶ **According to Monday’s report by the I**ntergovernmental **P**anel on **C**limate **C**

hange, a further warming of 2C could cause losses equivalent to 0.2-2 per cent of world gross domestic product. On current trends, that level of warming would happen some time in the second half of the 21st century. In other words, **half a century of climate change is about as bad as losing one year of economic growth.**¶Since the start of the crisis in the eurozone, the income of the average Greek has fallen more than 20 per cent. Climate change is not, then, the biggest problem facing humankind. It is not even its biggest environmental problem. The World Health Organisation estimates that about 7m people are now dying each year as a result of air pollution. Even on the most pessimistic estimates, climate change is not expected to cause loss of life on that scale for another 100 years.

# 1NR---Round 1

### 1NR---Turns Econ

#### High health care costs decimate economic vibrance

Faucheux 17, Head of Risk Management and Portfolio Construction @ MARTO Capital (Luc, Luc, 8-31-2017, "Healthcare As The Ultimate Giffen Good?," Seeking Alpha, <https://seekingalpha.com/article/4103336-healthcare-ultimate-giffen-good>

The canonical example often cited of a "Giffen good" is the price of potatoes around the time of the great Irish famine. Giffen goods are usually inferior products with no substitution, where a price increase leads to a disproportionate increase in the amount of disposable income dedicated to that product. The story goes that the diet of the Irish people was highly dependent on potatoes, and when the price of potatoes rose people had even less money to spend on meat, hence increasing their consumption of potatoes. So they were spending more on potatoes because 1) the price went up, and 2) they were buying more of them in order to survive as there were no available substitutes. This is deflationary in nature, as one more sterling spent on potatoes is a sterling not spent elsewhere. The effects of the great Irish famine were catastrophic and their consequences are still felt today. When oil briefly went above $130, some economists argued that oil was indeed a Giffen good because people would need to buy oil at any price, and the higher the price the more dependent people would be. That proved to be wrong as cheaper substitutes (solar, wind, geothermal, etc...), cost reductions in the traditional exploitation, and technological advances (fracking) triggered the current bear market in oil, with the world weening itself off of its oil addiction. On a long-term basis, clean water is certainly the next commodity to be a candidate to be nominated the next great Giffen good. We make the argument here that healthcare in the U.S. is the ultimate Giffen good as rising costs impede discretionary spending, but also reduce the ability of the consumer to earn income. So a dollar spent on healthcare translates into more than a dollar not spent somewhere else. People do spend more on healthcare: Of all the G20 countries, the U.S. has the highest percentage of GDP spent on healthcare, almost double the other G20 countries. So, the U.S. spends twice as much of its GDP than roughly any other country, but bear in mind that the U.S. GDP also dwarf any other country except China, by almost a factor of ten. Essentially grouping the European countries together in order to compare with an equivalent population, the U.S. spends roughly 4x to 5x more than its European counterparts per capita. This will continue to increase as the baby boomers are retiring, living longer, and, by logical extension, demanding more healthcare. Note in the graph below the dramatic dip between the baby boomers and Generation X, roughly a 10mm deficit occurring at the worst time possible for funding the retirement and healthcare needs of said boomers. The cost of healthcare itself is rising due to higher prescription costs and higher premiums, either mandated through the ACA or passed on by the insurance industry because of uncertainty regarding the level of subsidies. This happens at the same time when the earning power of the baby boomers is declining as they are retiring. For younger healthcare consumers, the impact is still there. If you need healthcare, usually you are not able to work or earn as much as before, and so you will curtail your expenses in a drastic manner. There is also an inverse survivorship bias at play here. If you need to spend money on healthcare now, chances are that you have a condition that will require ongoing treatment in the future. As such, that will require you to spend even more in the future. In short, we see rising healthcare costs in the U.S. as the great next deflator, as follows: 1. Baby boomers will start unloading assets in order to gain access to healthcare, so real estate in higher tax states (where they currently live and work before moving to lower tax states upon retirement) will suffer from that drag down. Fixed-income products, such as bonds, will start to be unloaded -- in particular, with the rise of the risk parity paradigm adopted by money managers, which should be the subject of its own article. Stocks will suffer, as 401(NYSE:K)s will start to be tapped. In particular, we would shy away from any TIPs ETF (TIP) or similar, as those will suffer from the double impact of potentially rising rates and deflationary pressures. They would only benefit in a rush for a safe haven, and in that case you are better off being long gold ETFs (GLD). 2. Should you buy pharmaceuticals as a hedge? No, as those are global companies. While a forced reduction in the margins of prescription drugs (assuming that the current administration can follow through on this) would certainly reduce their operating margins, as was seen by their weakness after Trump was elected, the demand in India, Asia and Africa will far outweigh this -- in particular for "developed world" diseases like diabetes and obesity. So I am still bullish on those companies based on that global effect. In that regard, we highly recommend Novo Nordisk (NVO), as it is one of the best-positioned companies to benefit from the dramatic increase in diabetes and obesity in India, which is predicted to be roughly the size of the total diabetic population in the U.S. 3. Should you buy any stocks related to nursing and retirement homes? Well, yes, logically -- however, the question there is whether the buyers will still be able to afford those, as they are unloading depressed assets in order to pay for their healthcare needs. In that respect, we recommend Brookdale Senior Living (BKD), as it's the largest and is more diversified across the country. 4. Buy stocks that will benefit in a deflationary environment, or will themselves create such price reductions. Amazon (AMZN) buying Whole Foods (WFM) is only the beginning, as smart companies get on the deflation train. Just in the first day after that purchase some items were already reduced by more than 40%. This analysis could go wrong if another inflationary event takes over -- and, quite frankly, one can only imagine a major disruption of the food chain (either nature-made through floods or global-warming-related events, or man-made through major conflicts in localized regions or nuclear conflict) -- or we see a drastic change in monetary policies toward hyper-inflation. The question remains, though, how will central banks could achieve this with rates essentially at zero? I am bullish on gold as well as crypto-currencies, as those become the de facto alternative assets and "safe havens" in such a scenario. Another mitigating factor to the above analysis is the sometimes overlooked fact that the human body is also a lot more resilient than people give it credit for. This could certainly be a mitigating factor, as already seen in the U.S. after a few generations of exposure to a high-sugar diet and the resulting diseases, where those are now "manageable" and do not impede drastically the income-earning potential of the individual. This is, of course, a different story in Asia and India where the change in diet is a lot more drastic on a much shorter timescale. People in general are sensitive to first-order changes and have very little ability to forecast and adapt to major shifts. If the past year has taught us anything (Brexit, the election of Trump, the great bearish oil market, etc...) it's that change will happen, and that people on average are always unprepared. I do not wish for a major deflationary trend in the U.S., but the demographics (baby boomers retiring and living longer), the economics (the rising cost of healthcare through individual mandate, uncertainty on the policy of the current administration, and drug prices), and the fact that healthcare is the ultimate Giffen good (an increase in price creates an increase in demand, and a larger reduction in spending overall) make this scenario, if it were to be realized, have very drastic consequences. If this were to happen, a prudent portfolio manager would have no choice but to heed the warning and consider the deep and powerful undercurrents at stake here, and position his or her portfolio accordingly. Hopefully, the above-mentioned suggestions should help start this adjustment.

#### High health care costs terminally collapse hegemony

Shatz 17, senior economist at the nonpartisan, nonprofit RAND Corporation, where he focuses on international economics and economics and national security (Howard, “THE LONG-TERM BUDGET SHORTFALL AND NATIONAL SECURITY: A PROBLEM THE UNITED STATES SHOULD STOP AVOIDING,” War on the Rocks, <https://warontherocks.com/2017/11/the-long-term-budget-shortfall-and-national-security-a-problem-the-united-states-should-stop-avoiding/>)

Without changes, the already historically high national debt will continue to rise, and the government’s ability to pay for many functions — including defense — will rely wholly on borrowed money, calling into question the ability to sustain those functions. This punting could have strongly negative consequences for U.S. security. Continued budget imbalances will crowd out discretionary spending, of which defense comprises about half. With decades-long procurement cycles, weapons-system development and acquisition is always uncertain. It will become more so in the future when money is far tighter, confronting U.S. security strategists with a decline in available resources but no corresponding decline in tasks desired by policymakers. Furthermore, as the veterans of the Iraq and Afghanistan wars grow older, the costs of their health care are likely to continue to rise, making further demands on the federal budget. For Congress and the president, the steps are clear: Regardless of one’s policy preferences, matching revenues to spending is essential. If left unaddressed, continuing deficits and rising U.S. debt could lead the government to cut programs and services, and a rising tax burden could slow U.S. growth and therefore tax receipts, leading to further cuts. And for defense policymakers, the path is also clear. Without fixing the long-term imbalance, it is unlikely that the increased spending levels proposed by the House and Senate Armed Services Committee chairs will be sustainable for more than a few years. Defense officials need to emphasize more strongly the importance of fixing the federal budget, and plan more aggressively for meeting national security goals in a constrained environment. How We Got Here: Budget History and Projections Since the end of World War II, from 1946 to 2016, the federal budget has been in deficit 60 times. But overall debt always remained under control, even as the rare surpluses of 1998 to 2001 evolved back to deficits (Figure 1). This gave the government leeway to borrow in times of emergency. Even by 2008, debt remained below 40 percent of GDP. Figure 1. Federal Debt Held by the Public, 1992-2016, Percent of GDP Source: Congressional Budget Office, An Update to the Budget and Economic Outlook: 2017 to 2027, June 2017. This changed with the Great Recession. The U.S. budget system provides automatic fiscal stimulus during economic downturns, for example through such transfer payments as unemployment insurance and through decreases in tax revenues stemming from reduced incomes. The response to the Great Recession also included a discretionary fiscal stimulus, raising deficit spending further. Many economists argued this was necessary, and some retrospectives indicate that it helped save the United States from more dire economic outcomes. But except for a slight decline relative to GDP in 2015, the federal debt kept rising faster than the economy. The slow recovery resulted in below-average revenues through 2014. Even after revenues started rising, spending remained even higher, staying above its long-term average through at least 2016. And as of now, these deficits and the debt increase have no end in sight. Ominously, current CBO projections suggest that federal spending on entitlements along with interest on the national debt will amount to 100 percent of federal revenues by 2039 (Figure 2). Interest rates will deliver a double hit. Thus far, historically low interest rates have accompanied the recent increase in debt. But interest rates will likely start rising, so even at the same level of debt, required federal payments will increase. Put differently, after 2039 the federal government will need to borrow if it wants to spend so much as a penny on environmental protection, education, transportation, veterans’ benefits and services, administration of justice, diplomacy, and defense. Figure 2. Entitlements and Interest as a Percent of Federal Revenues Notes: “Entitlements” include Social Security, Medicare, Medicaid, CHIP, ACA Marketplace Subsidies, and Basic Health Program insurance. Source: Summary Extended Baseline in Supplemental data file for CBO, The 2017 Long-Term Budget Outlook, March 2017. Budget Warnings and Inadequate Solutions The CBO has been one among many voices warning about the long-term budget shortfall. The Government Accountability Office Comptroller General Gene Dodaro has raised this issue, as did his predecessor, David M. Walker. Outside the government, the Center for a Responsible Federal Budget has been raising alarms for years, trotting out an all-star cast of economic and budget experts. One former federal economic official now at Stanford University warned in 2011 that “the long term budget problem begins now.” For those reluctant to read boring government or policy reports, there’s even a snazzy GAO video, with live-action analysts. And yet, Congress and successive presidential administrations have done little to address the problem. In its FY17 budget proposal, its last, the Obama administration proposed policies that over the long term would stabilize the federal debt held by the public at 78.3 percent of GDP in 2038, compared to 76.5 percent in 2016 — well below CBO’s most recent projection of 116 percent in 2038 under current policy. It’s possible that these proposals would have helped manage the debt, but the deficit and debt projections depended on assumptions about the economy and politics through 2040 that were unlikely to hold. The budget path had an element of paying Tuesday for a hamburger today — the plan projected deficit and debt increases as a percentage of GDP into the 2030s, leaving the implementation of fiscal tightening to future Congresses and presidents. Not only that, the proposal projected a steady decline of discretionary spending — about half of which is defense — from 6.6 percent of GDP in 2016 to only 3.9 percent of GDP in 2040 (Figure 3). Figure 3. The Projected Relative Decline in Federal Discretionary Spending Sources: Office of Management and Budget, Budget of the U.S. Government, Fiscal Year 2017, February 2016: Long Range Budget Projections for the FY 2017 Budget; and Office of Management and Budget, Budget of the U.S. Government: A New Foundation for Greatness, Fiscal Year 2018, May 2017: Long Range Budget Projections for the FY 2018 Budget. Moreover, even if the proposals had been viable, they weren’t as ambitious as they appeared: Except for 1944–1948 and 1950, the debt has never been as high as 78.3 percent. The Trump administration’s FY18 budget proposal was far more aggressive on deficit and debt reduction over the long term. It proposed an immediate reduction in the federal debt held by the public in 2018, and then a steady decline to 29.2 percent of GDP by 2040. But as with the Obama budget, this also rested on assumptions that may turn out to be incorrect. Like Obama’s budget, the new Trump plan projected that discretionary spending would fall, in this case to only 2.8 percent of GDP by 2040. This would be crushing pressure on discretionary spending relative to historical norms. Defense spending alone was 3.1 percent of GDP in 2016. So even if the entire discretionary spending budget were handed to defense, under Trump’s plan resources would still be more constrained than they are now. Fixing the Budget The United States has been facing a potentially exploding deficit and rising debt for at least a decade. But as demonstrated by the failure of the Budget Control Act of 2011 to have a noticeable effect on the national debt, efforts to date have been far from sufficient. Bringing the budget into balance is likely to continue to be difficult. The policy solutions are well-known. Even with faster economic growth, spending cuts and tax increases will be needed. Potential measures include a carbon tax, which would not only raise revenue but take a precautionary step against climate change, a value added tax, or raising the retirement age for Social Security. And there will also likely need to be further adjustments to how the nation pays for health care.

### 1NR---Turns Warming

#### Food shocks collapse biodiversity and cause warming

Trudell 5 – JD

Robert H., Fall, Food Security Emergencies And The Power Of Eminent Domain: A Domestic Legal Tool To Treat A Global Problem, 33 Syracuse J. Int'l L. & Com. 277, Lexis

In 1994, the United Nations Development Program, an organization dedicated to sustainable development in the developing world, identified seven main categories of threats to human security: economic, health, environmental, personal, community, political, and food security. 71 Certainly, food security is fundamental to each of the other listed threats because a population that cannot feed itself will not be able to thrive, will be increasingly unhealthy, and will destroy the environment of the land it depends upon in its desperate pursuit of food.  [\*288]  The lack of food security in sub-Saharan Africa makes it one of the least stable regions of the world. 72 Such instability has a negative effect on global security, especially in the poorer countries of the world, which suffer from major violent conflicts. 73 One cause of this instability can be seen in the connection of food insecurity with the degrading sub-Saharan environment. 74 In the search for sustainable agriculture, the pressures of a growing population have resulted in a reduction of cropland. 75 In Africa, forests are cut down to make grazing pastures, then grazing pastures erode away and become deserts or areas of land incapable of producing any sustainable harvest because the soil has no more nutrients. 76 One commentator, writing about sub-Saharan Africa, noted: "the relationship that exists between human security and environmental degradation is best illustrated in the agricultural sector." 77 Many of the farmers in this region still use the "slash-and-burn" method of subsistence farming. 78 The forests of sub-Saharan Africa are cut down for agriculture because, as will be further discussed below, the African soil quickly loses its ability to sustain plant life so more and more land is needed to grow the same amount of food. 79

### 1NR---Link

### 1NR---Link Evidence

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

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

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

#### Antitrust enforcers are drawing from other areas to challenge health care mergers now. The plan flips that strategy on its head.

Baer 20, Visiting Fellow, Governance Studies, The Brookings Institution (Bill, “Before the United States House Committee on the Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law,” <https://www.brookings.edu/wp-content/uploads/2020/05/Bill-Baer-5.19.20-Submission-to-Subcommittee-on-Antitrust-Commercial-and-Administrative-Law-of-the-House-Judiciary-Committee.pdf>)

The dollars and resources need to be increased for a number of reasons. First, as I have discussed, the courts today place a high burden on the government to prove an antitrust violation. That means the enforcers need to devote significant resources to investigating and proving their cases, including extensive document reviews, witness interviews and depositions and expert opinion – industrial organization economists and others. It is time-consuming; it is expensive; and it is resource-intensive. As an example in 2016 the Antitrust Division challenged two proposed mergers that would have dramatically consolidated the health insurance industry: Anthem’s proposed acquisition of Cigna and Aetna’s effort to acquire Humana.13 We successfully persuaded the courts to enjoin both deals, but to get there required the commitment of 25 to 30% of the Division’s professional staff. My colleagues in the FTC’s Bureau of Competition were similarly constrained as they litigated in multiple forums during that same time. That inevitably meant other matters were understaffed. That is no way to ensure adequate enforcement.

#### The plan requires significant resources---that trades off with other areas

DOJ 15 (COMPETITION AND MONOPOLY: SINGLE-FIRM CONDUCT UNDER SECTION 2 OF THE SHERMAN ACT : CHAPTER 9, originally published in 2008, updated in 2015, https://www.justice.gov/atr/competition-and-monopoly-single-firm-conduct-under-section-2-sherman-act-chapter-9)

The rapid changes and innovation typical of new-economy industries raise the question whether current antitrust enforcement mechanisms, which often involve lengthy investigation, followed by complex, time-consuming trials, are suitable for implementing effective remedies that adequately protect competition. Developing an equitable remedy in these markets has been likened to "trying to shoe a galloping horse."(116) One panelist observed that "the system seems broken in terms of speed, cost, and effectiveness of remedies."(117) Professor Hovenkamp explained the problem in the context of the Microsoft litigation: "[T]he legal wheels turn far too slowly. By the time each round of Microsoft litigation had produced a 'cure,' the victim was already dead."(118) Similar criticisms were directed to the long-running litigation against IBM. A panelist concluded that the IBM case highlights the "need for speed" and demonstrates "how the industry and the technology tend to change in a manner that by the time you are done, everything you thought when you started the case is irrelevant."(119) The time required for litigation may present particularly acute concerns in new-economy industries because in many instances, if anticompetitive conduct has eliminated potential competitors, the opportunity for robust competition may be difficult to recreate. As one panelist explained, in fast-moving, high-technology markets, "it's extremely difficult to resuscitate a competitor, after the competitor has been crushed. The convergence of factors that produced a competitive challenge before it was anticompetitively excluded[] may never re-appear, not in the same fashion, anyway."(120) To be sure, antitrust litigation ideally would be more rapid, reaching resolution and a remedy before the markets change significantly. In some cases, this issue can be addressed by consent decrees entered into before litigation; in others, it may suggest seeking preliminary injunctive relief. More generally, the effort to develop clear, objective standards for liability discussed in chapters 1-8 can help address this concern. The clearer and more objective the standard for liability, the more efficient and effective the antitrust enforcement. Violations are more likely to be deterred, litigation is likely to be faster and less expensive, and parties are more likely to reach prompt and effective settlements. Once an appropriate judgment has been issued, steps can be taken to ensure the efficacy of relief in dynamic industries. One possibility is to fashion remedies that go beyond the precise conduct at issue. For example, some panelists suggested that, before the Microsoft litigation ended, "the browser wars were over."(121) For that reason, the remedies at least partially focused on protecting competition that might arise through future middleware technologies. Of course, even when an industry's dynamic nature makes effective injunctive relief problematic, antitrust enforcement continues to play an important role. Thus, the Microsoft court recognized that, while the passage of time in fast-changing settings threatens enormous practical difficulties for courts considering the appropriate measure of relief . . . . [e]ven in those cases where forward-looking remedies appear limited, the Government will continue to have an interest in defining the contours of the antitrust laws so that law-abiding firms will have a clear sense of what is permissible and what is not."(122) The same potential for dynamic change between complaint and judgment that complicates crafting a remedy in the first place raises further complexity after a remedy is in place. Panelists warned that when technology is changing rapidly, a fixed remedy running years into the future may have damaging, unintended consequences.(123) Panelists' general admonitions that decrees should provide adequate flexibility(124) and should run no longer than necessary for re-establishing the opportunity for competition are therefore particularly applicable to cases in technologically dynamic settings.(125) V. Monetary Remedies The antitrust-remedial system in the United States is not limited to conduct and structural remedies. There are also a variety of monetary remedies available that can both deter future anticompetitive conduct and help restore injured parties to the position they would have been in without the unlawful conduct. Private plaintiffs in antitrust cases can seek monetary damages, which by law are trebled automatically.(126) Similarly, the federal government may seek treble damages in instances in which anticompetitive conduct harmed the United States itself,(127) and the states may recover damages they suffered themselves as well as on behalf of injured citizens in their parens patriae capacity.(128) In addition, certain monetary equitable remedies, such as disgorgement and restitution, may be available.(129) The antitrust enforcement agencies, however, do not have the authority to impose civil fines. Private Monetary Remedies--Treble Damages The U.S. antitrust laws permit private plaintiffs to recover three times the damages they prove they have suffered. Although treble damages can increase deterrence and overall enforcement, a number of observers argue that, in the section 2 context, treble damages also can chill procompetitive conduct and that the rationale for trebling is weaker here than in other contexts. As explained below, these concerns have led to questions about the appropriateness of treble damages in private section 2 cases. A successful plaintiff in a section 2 case is entitled to recover "threefold the damages by him sustained."(130) Plaintiffs also may recover attorneys' fees and, in limited circumstances, pre-judgment interest.(131) These private monetary remedies provide incentives for private enforcement and advance at least three important goals: deterrence, punishment of wrongdoers, and compensation of victims.(132) Trebling damages generally increases deterrence by compensating for the possibility that anticompetitive conduct will not be detected and prosecuted.(133) Likewise, the possibility of winning multiple damages enhances plaintiffs' incentives to seek out and detect anticompetitive conduct and to bear the time, expense, and uncertainty of bringing suit.(134) The Department believes that private actions and resulting monetary remedies play an important role in overall antitrust enforcement. The government has finite resources to prosecute antitrust violations; private enforcement supplements these efforts. Indeed, private plaintiffs, rather than the government, undertake a significant portion of antitrust enforcement, including section 2 enforcement.(135) Moreover, by deterring violations, private damages can reduce the need for government enforcement in the first instance.

#### The plan extends antitrust beyond its institutional capacity

Sokol 20, University of Florida Research Foundation Professor of Law, University of Florida (Daniel, “Antitrust's "Curse of Bigness" Problem ,” <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=2020&context=facultypub>)

Antitrust works well because it is technocratic in that a singular (but flexible within its economics) goal is administrable institutionally. To introduce the world of political imperfections into a technical process that examines markets would create further distortions affecting consumers.152 Antitrust does well dealing with antitrust problems. To the extent that there are other related problems, the right answer is not to create an antitrust that lacks democratic accountability (because antitrust becomes regulation via the backdoor) and exceeds its mandate of the past forty years. Rather, the better solution is to identify the underlying problem and solve it with more effective tools. If the problem is one of redistribution, tax is a better choice than antitrust.153 If the problem is one of privacy, strengthen privacy laws. 154 If the problem is one of financial institutions or sector regulators not doing what they need to do, correct structural problems with sector regulators. Antitrust has increasingly moved out of sector regulation 155 and toward advocacy. 156 The advocacy budget of the antitrust agencies is tiny, and to the extent that the problem is the rules of the game for particular industry sectors, Wu falls short by not suggesting greater competition advocacy. Wu’s concern with big tech companies because they are big (p. 126) is as misplaced now as it was earlier in antitrust history. Antitrust has gone through various moments in which it had reevaluated whether it has the proper tools to combat anticompetitive behavior in technology-related markets.157 It does have such tools and can bring important cases in these markets.158 It was just a decade ago that we were told that Walmart was taking over shopping, that eBay was the largest online marketplace, or that Facebook was the primary way in which users shared information. Today, Uber competes with Lyft, Amazon has eclipsed eBay, Facebook is a legacy service, and younger people use any other set of applications to share information— such as Pinterest, Twitter, or Snapchat. In a world of continuous change, antitrust is what remains constant. It has the tools to police against unlawful exercise of monopoly power and adapts to changes in economic theory and empirics. To ask antitrust to go beyond its institutional capacity sets up antitrust to fail, because Wu’s deeper concern is with how society is structured. That structure can be changed through elections to the presidency and Congress and through changes as to the makeup of the Supreme Court. Antitrust history shows that it is the Supreme Court that changes antitrust law and policy the most because of antitrust’s common law–like nature. 159