# 1NC

## 1NC — Off

### 1NC — CP

#### The United States federal government should:

#### --substantially increase funding in research and development in artificial intelligence, robotics, quantum computing, augmented and virtual reality, and other technological research;

#### -- create a highly regulated, public data commons for artificial intelligence;

#### The United States federal government should:

#### --Reduce trade

#### --Reduce immigration of low-skilled workers

#### --Increase funding for education

#### The United States executive branch should:

#### Integrate Central Intelligence Agency, National Security Agency, Federal Bureau of Investigation, United States Military and Cyber Command cyber networks

#### Leverage diplomacy, sanctions, and executive agency enforcement in cooperation with foreign military partners against cyber threats

#### Implement proactive preventative strategies outside of criminal justice reform to prevent cyber attacks including kinetic and non-kinetic planning.

#### Government R&D solves innovation—their author

1AC Sitaraman ’20 [Ganesh; Co-founder and Director of Policy @ Great Democracy Initiative; Professor of Law @ Vanderbilt University; “The National Security Case for Breaking Up Big Tech,” *Knight First Amendment Institute at Columbia*; originally AS]

Second, and more importantly, part of the answer is that the decision to break up and regulate tech companies should be accompanied by public investment in R&D. One of the primary arguments for the national champions view is that monopolists have the resources to be able to invest in innovation because they do not face competitive pressures.65 But any system of innovation operates against a backdrop of laws and public policy.66 The ability to capture the gains of innovation depends on intellectual property law. The possibility of winning government contracts for frontier projects that require innovation is determined by procurement policies. And, of course, an alternative to monopolist investment in R&D is public investment in R&D. These policy choices all shape the innovation ecosystem, and it is not at all obvious why society has to accept national champions instead of thinking about revising these laws and policies more broadly. Given the emphasis that proponents of national champions place on research and development, it is worth noting that historically, as Mariana Mazzucato has argued, government has been a significant driver of innovation through its research and development efforts.67 Today, one could easily imagine the government spending considerable sums of money on R&D in artificial intelligence, robotics, quantum computing, augmented and virtual reality, and other technological research.

Public investment in research has a variety of benefits. First, because it is not tied to the profit motive and business model of a single company, it covers a wider range of subjects, leading potentially to innovations that would otherwise go undiscovered. Public investment extends to basic research that does not have immediate or foreseeable commercial applications. It could also include research into areas that might challenge the incumbency and business models of existing companies.

Second, and relatedly, public investment into research is less likely to be geared toward improving surveillance capacity. As long as the biggest companies have surveillance, personalized targeting, and behavioral response at the heart of their business models, research and innovation within those companies will likely be geared, in no trivial part, toward improving those activities. A digital authoritarian country might see that as a valuable public goal, but it is not at all clear why a free and democratic society should. Public-sponsored research might instead be directed toward a variety of socially beneficial uses other monopoly power over data, then they could be regulated as monopolies—and one condition of their continued protection as monopolies could be enabling access to the datasets. Again, there is no legal or regulatory reason why these kinds of policy options are impossible. And in either case, they would enable a larger number of players to innovate than does the status-quo, stand-pat approach to protecting big tech from competition.than continual improvement of individual monitoring and behavioral reactions. Notably, as there are more opportunities in research outside of the big tech companies, many talented people might choose to work on a wider range of problems.

Third, public investment in R&D has the potential to spread the benefits of technology, innovation, and industry throughout the country. At present, much of the country’s technological and intellectual prowess is concentrated in a few regions, the most prominent being northern California, Seattle, and Boston. Geographic inequality has a variety of negative consequences—economic, social, and political.68 But, as economists Jonathan Gruber and Simon Johnson show in their book Jump-Starting America, there is no reason that public investment couldn’t spur successful economies in dozens of mid-sized cities all over the country, with spillover benefits for their regions.69 Unlike government action, technology companies have no reason to develop the capacities of all regions of the country. Amazon’s so-called competition for its second headquarters is a good example. After much public attention, the company settled on New York City and a suburb of Washington, D.C., two superstar cities.

Artificial intelligence, of course, requires considerable data in order to improve precision and accuracy. One of the arguments for big tech is that such companies alone are able to collect this data and use it. But there is no reason why this has to be the case either. Consider two alternate possibilities. First, the United States could create a public data commons that would be highly regulated to protect privacy. The public data commons would include publicly available data from a variety of government sources, and qualifying businesses, local governments, or nonprofits could train their machines using this data. Any new data they collect from users could then be fed back into the data commons (de-identified), so that the data commons improves in quality and quantity of data over time.70 Second, we could imagine requiring big tech companies to make their data available in interoperable formats. If these companies effectively have a

#### Set 2 solves inequality and LIO — bunch of alt causes to the aff [KU reads green]

1AC Flaherty ’21 [Thomas; PhD Candidate and NSF Graduate Fellow @ University of California – San Diego; and Ronald Rogowski; Distinguished Professor of Political Science @ University of California – Los Angeles, Weatherhead Scholar @ Harvard University; “Rising Inequality as a Threat to the Liberal International Order,” *International Organization* 75(2), p. 495-523; AS]

Presiding over the November 2016 meeting of the International Political Economy Society, which followed that year’s US presidential election by only three days, David Lake began by saying, “To our theories, this result unfortunately comes as no surprise.” And indeed the field at large has believed that the growing “populist”1 backlash against the Liberal International Order (LIO)—not just the Trump victory but Brexit, the election of illiberal governments in Hungary, Poland, Turkey, the Philippines, and Brazil (to name only a few), and growing support for anti-immigrant and illiberal parties and candidates in many other democracies—has followed almost inevitably from the very changes the LIO has wrought, including of course increased trade and migration but also one major concomitant, rising economic inequality within states. According to our traditional economic theories,2 advanced and even middle-income countries are abundantly endowed with human capital, and poorly endowed with low-skill labor. And it is a rudimentary implication of international economics that, in those countries, expanded trade—or, even more, immigration of low-skill workers—will benefit the highly skilled and harm the less educated. Inequality will rise, and—perhaps the most prescient conclusion of the traditional analysis—partisanship will correlate increasingly with possession of human capital: opposition to the LIO will be strongest among the least educated and will decrease monotonically with more years of schooling.

The evidence, which we survey briefly, admits of no doubt that in almost all of the wealthier (and not a few semiwealthy) countries, inequality has risen, often quite sharply; returns on education3 have risen markedly; and education, even more than occupational status, has emerged as one of the most important predictors of electoral support for antiglobalization parties. What our theories however did not anticipate, and so far cannot explain, may well prove to have been even more important:

1. Not all who are well endowed in human capital, but chiefly a very thin upper layer—the top 1 percent, or even 0.1 percent—have harvested most of the gains from globalization.

2. The antiglobalization movements we observe • adopt a populist rhetoric that often excoriates not just globalization or immigration but also allegedly nefarious elites, who conspire, both domestically and across borders, to enrich each other at the expense of their fellow citizens;4 • benefit chiefly parties of the radical Right; and • have in important cases attracted non-negligible support among university-educated segments of the electorate, albeit far less than among the less skilled.5

We suggest that the extreme inequality and the anomalies are related, and that some insights from recent work in international economics may help explain them. Three advances in trade theory predict extreme inequality. “New new” trade theory (NNTT), with its emphasis on superstar firms, offers a natural framework. So too does an “enriched” neo-H-O-S-S (Heckscher-Ohlin-Stolper-Samuelson) perspective that explores how superstar workers arise in the context of heterogeneous talent.6 Finally, economic geography, explored thoroughly by Broz, Frieden, and Weymouth in this issue, shows how globalization gives rise to superstar cities.7 These three trade theories predict top-heavy inequality primarily by allowing for unit heterogeneity—an assumption that the actors our traditional theories treated as identical actually differ in important ways. Firms within sectors differ in productivity, workers within a factor class differ in innate talents, and regions within countries differ in agglomeration economies.

None of this suggests, of course, that rising inequality is the only, or even necessarily the most important, cause of the growing popular backlash against the LIO. Skill-biased technological innovation and resistance to cultural change also matter, as we discuss more fully later. We do find, however, at least from a cursory analysis of European elections, that backlash against shocks from immigration and imports is conditional on high inequality, disappearing where inequality is low; and we suspect that rising “top-heavy” inequality is related to a particularly prominent strain, within the antiglobalization movements, of anti-elite and anti-expert sentiment.

We go on to suggest why rising inequality matters, not only as a source of opposition to the LIO but as an impediment to economic growth and an exacerbant of domestic polarization and international conflict.

We assess the implications of top-heavy inequality for the LIO. What remedies have been proposed? And if they lack sufficient political support, what sources of resilience can sustain the LIO under top-heavy inequality? Relatedly, we return to the question of why antiglobalization sentiment has benefited the political Right more than the Left. Finally, we chart a course for future research on models of top-heavy inequality, and discuss how they illuminate “blind spots” in the literature on international political economy.

First, however, we survey briefly the extent of growing economic inequality in advanced economies and its seeming relation, chiefly through a human-capital channel, to antiglobalization and anti-elite attitudes and voting.

Convergence Across Countries, Divergence Within Them

The triumph of the LIO in the 1980s and 1990s—the collapse of Communism, the dismantling of trade barriers, the strengthening of institutions of international governance—coupled with, and facilitated by, breakthrough innovations in transport, communication, and finance, affected economic inequality in two ways that standard factor-endowment theories predicted: inequality declined significantly between countries, thus beginning to erode three centuries of the Great Divergence between rich and poor nations; but inequality within countries, especially among the advanced economies, increased almost as sharply.

• Between countries. As late as 1990, the richest 10 percent of the world’s population earned on average over ninety times what the poorest decile received; only twenty years later, that ratio had fallen to sixty-five times,8 or only slightly more than the within-country ratio of Brazil, where in 2008 the average income of the richest decile was about fifty times that of the poorest.9

• Within countries. Beginning even earlier, inequality of incomes, whether measured as the Gini index or the share of total income accruing to the top decile, has risen in virtually all of the advanced economies,10 and indeed in many of the middle-income ones.11 Bourguignon notes that the collapse of the Soviet empire and the opening of China, India, and Latin America injected roughly “a billion workers, for the most part unskilled, into international competition.”12 That will have drastically lowered the global capital-labor ratio and hence further raised returns on human and physical capital, while reducing those on low-skill labor, in virtually all but the poorest, most labor-abundant countries. In short, across much of the globe, the enormous overall gains from trade have benefited the highly skilled, the inventive entrepreneurs, and the owners of capital; the incomes of the less skilled and the capital-poor have risen more slowly, stagnated, or actually declined—exactly the development whose early manifestations alarmed Dani Rodrik two decades ago.13

Surely not all of the rise in inequality stems from globalization.14 Many analyses attribute much of the widening within-country gap—in the US, perhaps as much as four-fifths15—not to globalization but to skill-biased technological innovation.16 Bourguignon contends, to be sure, that innovation has been largely endogenous to globalization: wider markets and intensified competition have raised the returns on cost-reducing innovation.17 Cheaper labor, however, whether from offshoring or the competition of low-wage imports, might be expected to curtail the demand for labor-saving technologies, not to increase it.18 A stronger case is implied by “new new” trade theory: if managerial pay correlates closely with firm size, and if the most successful firms in a globalized economy tend to be the largest, it follows that globalization contributes directly to the rise in top incomes.19 Perhaps most importantly, however, whatever skill-biased innovation may have contributed to the gains of the top quintile or decile, it can say little about the gains of the top 1, or 0.1, percent of the distribution.20 Trade, as we argue, can more readily explain those disproportionate gains.

Rising Skills Premia

Also consistent with mainstream theory were the rising returns on education and the widening gap between high- and low-skill workers’ attitudes toward trade and migration. Exactly as theory would lead us to expect, antiglobalization sentiment rose sharply, and was increasingly concentrated, among voters with the least human capital—that is, the less educated.

Returns on education have indeed risen sharply. In the US in the 1970s, workers with a college degree earned only about a quarter more than ones of comparable ethnicity and age who had completed only high school; by 2010, that gap had risen to almost 50 percent.21 The “raw” difference in annual earnings (i.e., without controlling for ethnicity and age) between college graduates and those who have completed only high school is now 64 percent in the US, and on average in the OECD economies 45 percent.22

At the same time, less educated voters have mobilized strongly against globalization in almost all of the advanced economies. In the US, whites with less than a college education, having up to the year 2000 differed little in their partisanship from whites with university degrees, began to tilt Republican in the early 2000s23 and supported Trump in 2016 by a margin of more than two to one (64 to 28 percent).24 In the Brexit referendum, similarly, 70 percent of voters with only a General Certificate of Secondary Education, roughly equivalent to a US high-school diploma, supported leaving the European Union, while those with university degrees voted by almost the same margin (68 percent) to remain.25 And a recent International Monetary Fund working paper finds that since 2002 tertiary (i.e., university or equivalent) education has correlated, more than any other single variable, with not voting for a populist party in European parliamentary elections—an effect that has grown only stronger since 2012.26

#### Last set solves deterrence and proactive cyber deterrence.

**Nakasone & Sulmeyer 20** – (Paul Nakasone, Commander of U.S. Cyber Command, Director of the National Security Agency, and Chief of the Central Security Service; Michael Sulmeyer, is Senior Adviser to the Commander of U.S. Cyber Command; “How to Compete in Cyberspace”; Foreign Affairs; D.A. January 9th 2021, [Published August 25th 2020]; <https://www.foreignaffairs.com/articles/united-states/2020-08-25/cybersecurity>) //LFS—JCM

FROM DOCTRINE TO RESULTS

The National Security Agency is a critical Cyber Command partner. The two organizations are not one and the same: although one of us (General Nakasone) leads both, and although both are headquartered at Fort Meade, they are charged with different missions. The NSA produces signals intelligence and, through its cybersecurity mission, protects National Security Systems.  Cyber Command defends military networks and directs cyberspace operations against adversaries. Yet because of the overlapping nature of the threats they face, the common domain in which they work, and their shared focus on defending the nation, the two organizations work closely together.

The power of this partnership can be seen in how Cyber Command and the NSA worked together to protect against meddling in the[2018 midterm elections](https://www.foreignaffairs.com/articles/united-states/2018-07-25/how-washington-can-prevent-midterm-election-interference). Experts from both organizations formed the Russia Small Group (RSG), a task force created to ensure that democratic processes were executed unfettered by Russian activity. It shared indicators of potential compromise, enabling DHS to harden the security of election infrastructure. It also shared threat indicators with the FBI to bolster that organization’s efforts to counter foreign trolls on social media platforms. And Cyber Command sent personnel on several hunt forward missions, where governments had invited them to search for malware on their networks. Thanks to these and other efforts, the United States disrupted a concerted effort to undermine the midterm elections. Together with its partners, Cyber Command is doing all of this and more for the 2020 elections.

Cyber Command’s partnership with the NSA also has been central to the online fight against the Islamic State, or ISIS. As part of a previous assignment as head of the army component of Cyber Command, one of us (General Nakasone) led the task force charged with fighting ISIS in cyberspace. The terrorist group’s propagandists used to spread their message on Twitter, YouTube, and their own websites. Today, because of our efforts, they have a much harder time doing so. At the height of its influence, ISIS published magazines in multiple languages, but it now struggles to publish in anything other than Arabic. At the same time as the U.S.-led coalition of conventional forces has prevailed over the physical caliphate, Cyber Command’s efforts have helped defeat the virtual one.

For all their power and results, however, cyberspace operations are not silver bullets, and to be most effective, they require much planning and preparation. Cyber Command thus works closely with other combatant commands to integrate the planning of kinetic and nonkinetic effects. Cyber Command’s capabilities are meant to complement, not replace, other military capabilities, as well as the tools of diplomacy, sanctions, and law enforcement. And they are often used in cooperation with foreign military partners, who bring different skills and techniques to the table. The West’s united front against the Soviet Union kept the Cold War cold; likewise, today, the United States and its allies are building unity of purpose to promote respect for widely held international norms in cyberspace.

### 1NC — DA

#### America's maintaining tech leadership now, but antitrust expansion cedes tech dominance.

Abbott et al. '21 [Alden; 3/10/21; Senior Research Fellow, formerly served on the Federal Trade Commission’s General Counsel, J.D. from Harvard Law School, M.A. in Economics from Georgetown University; "Aligning Intellectual Property, Antitrust, and National Security Policy," https://regproject.org/wp-content/uploads/Paper-Aligning-Intellectual-Property-Antitrust-and-National-Security-Policy.pdf/]

The U.S. government has recognized that “5G is a critical strategic technology [such that] nations that master advanced communications technologies and ubiquitous connectivity will have a long-term economic and military advantage.”8 The U.S. has had a substantial technological edge over our military and intelligence rivals in foundational R&D for 5G and other next-generation technologies. U.S. companies have long been leaders in the development of previous generations of core mobile standards (2G, 3G, 4G, and LTE). This technological leadership has made it possible for U.S. companies to ensure the security and integrity of the hardware and software products that make up the backbone of the U.S. telecommunication systems. This leadership must continue for the U.S. government to more effectively anticipate potential security risks and take the necessary steps to protect national security.9

Despite this history of clear technological leadership, there are causes for concern. First, a very small number of U.S. companies have made the investments in the overwhelming majority of the R&D necessary to develop 5G.10 Historically, U.S. companies have heavily invested in R&D, which has propelled the U.S. into leadership positions in critical standard development organizations working on foundational next-generation technologies like 5G.11 U.S. companies like Qualcomm play a significant and important role in this process through innovation, patenting, and standard setting, but they are not alone in the global community of high-tech companies.12 Backed by their nations’ leadership, Chinese and Korean companies have also invested heavily in developing the core technologies for 5G.13

The willingness of U.S. companies to invest in R&D is threatened, however. The development of 5G is a bit like a race, with the companies who develop the best technology coming out ahead. While U.S. companies are savvy and talented competitors in this race, aggressive and unwarranted use of antitrust law by U.S. regulators, as well as by foreign antitrust authorities, threatens to put obstacles in these companies’ paths and hinder their ability to lead.

III. Overly Aggressive Antitrust Enforcement Hinders American Technological Leadership and Threatens National Security

As companies from around the world develop the technology and standards for 5G mobile devices and networks, American companies are under threat by aggressive antitrust enforcement that ultimately redounds to the benefit of these foreign companies, which are economic competitors in countries that are also military competitors of the U.S. Over the past five years, foreign governments, particularly in Asia, have subjected U.S. companies to antitrust investigations that failed to follow basic norms of the rule of law, such as providing basic due process protections.14 These antitrust investigations were a thinly-disguised effort by these countries to force the transfer of U.S. patented technology to their own domestic companies, or to insulate their domestic companies from American competition. In recent years, Chinese, Korean, and Taiwanese antitrust authorities have brought nearly 30 investigations against 60 foreign companies across a range of industries, including manufacturing, life sciences, and technology.15

Antitrust challenges undermine intellectual property rights by forcing companies to license their products on non-market-based terms. One prominent example in U.S. history is when the Department of Justice wrung a concession from AT&T to license royalty-free the entire portfolio of 8,600 patents held by Bell Labs in a 1956 antitrust consent decree with the company.16 Today, the White House Office of Trade and Manufacturing Policy has observed that “China uses the Antimonopoly Law of the People’s Republic of China not just to foster competition but also to force foreign companies to make concessions such as reduced prices and below-market royalty rates for licensed technology.”17 Companies have also complained about poor policy guidance and procedural protections under China’s competition laws.18 Others have complained about China’s use of its competition laws to promote policy objectives rather than protect competition and advance consumer welfare.19 In one example, companies raised concerns with Article 7 of China’s State Administration of Industry Commerce (SAIC) 2015 Rules on the Prohibition of Conduct Eliminating or Restricting Competition by Abusing Intellectual Property Rights.20 Under this provision, intellectual property constitutes an “essential facility,” which could allow parties to raise abuse of intellectual property rights claims against patent owners for a unilateral refusal to license their patents.21

Predatory antitrust enforcement actions threaten the ability of U.S. companies to continue to be leaders in 5G technological development. China and other nations with similarly restrictive regulatory frameworks can weaken the ability of the United States to compete in global markets by exacting high monetary penalties from U.S. intellectual property owners or forcing the transfer of their intellectual property to domestic commercial rivals. As a penalty for violations of its competition laws, China can impose exorbitant fines that range up to 10% of a foreign company’s entire revenue in the prior year.22 This is not a legal rule observed in the breach; it has already resulted in fines just shy of $1 billion.23

Another way in which courts in China and other foreign countries are harming U.S. companies is through the use of anti-suit injunctions. One example of this is in the recent patent infringement lawsuit brought by InterDigital, an American high-tech company that has developed key technologies in wireless telecommunication, against Chinese company Xiaomi. In June 2020, Xiaomi filed a lawsuit in the Wuhan Intermediate Court in China requesting that the court set global licensing rates for InterDigital’s patents on standardized technologies. In July 2020, InterDigital sued Xiaomi in India for infringement of InterDigital’s Indian patents. The Wuhan Intermediate Court then ordered InterDigital to stop its lawsuit with its request for an injunction in India. The Chinese court further prohibited InterDigital from suing Xiaomi and requesting an injunction or damages in the form of reasonable licensing rates, or even to enforce a previously-issued injunction, in any other country. If InterDigital does not comply with this worldwide injunction against pursuing legal relief for the violation of its patents in any other country, the company faces a significant fine in China. The type of judicial order issued by the Wuhan court is known as an anti-suit injunction and its purpose is to force an intellectual property dispute to play out solely in a Chinese court at the behest of the Chinese government. These court orders demonstrate China’s desire to become the source of 5G innovation and to dictate the licensing terms of the technology, and the anti-suit injunctions hamstring U.S. companies like InterDigital from enforcing their intellectual property rights anywhere in the world.

The unfair use of antitrust enforcement and related legal actions like anti-suit injunctions to weaken U.S. intellectual property rights around the world risks diminishing U.S. global competitiveness in critical technologies like 5G, and further empowers China and others to expand their influence over the evolving 5G technological ecosystem. To the extent the U.S. cedes its dominance in 5G standards development, China will continue its focused efforts to fill that void. Huawei, a China-based company, has increased its R&D spending while growing its share of patents on the standardized technologies comprising 5G.24 The President’s Council on Science and Technology issued a report concluding that Chinese actions in the semiconductor industry, which include a range of policies backed by over $100 billion in government funds, threaten U.S. leadership in the industry and present risks to U.S. national security.25 China’s “Made in China 2025” plan called for China to become a leader in 5G technology, including in the development of the standards for the technology, by 2020.26 The plan expressly favors Chinese domestic producers, calling for raising the domestic content of core components in high-tech industries like 5G to 70% by 2025.27

This issue, however, extends far beyond simply the ability and willingness of U.S. companies to engage in the requisite R&D to participate in the 5G race. Reduced U.S. influence on 5G standard-setting would force the U.S. government to rely on untrusted foreign companies for its 5G product supply. The Department of the Treasury has expressed concern about the “well-known” U.S. national security risks posed by Huawei and other Chinese telecommunications companies.28

#### Platforms are key to tech sector innovation

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

Myth 8: Big Technology Companies Create Innovation Kill Zones28

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

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

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

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

#### Causes extinction---uncontrolled risks from emerging tech cause rapid shifts in strategic stability and misuse---American dominance is key.

Jain ’20 [Ash; 2020; Senior fellow with the Scowcroft Center for Strategy and Security; Strategic Studies Quarterly; “Present at the Re-Creation: A Global Strategy for Revitalizing, Adapting, and Defending a Rules-Based International System,” <https://www.atlanticcouncil.org/wp-content/uploads/2019/10/Present-at-the-Recreation.pdf>]

The system must also be adapted to deal with new issues that were not envisioned when the existing order was designed. Foremost among these issues is emerging and disruptive technology, including AI, additive manufacturing (or 3D printing), quantum computing, genetic engineering, robotics, directed energy, the Internet of things (IOT), 5G, space, cyber, and many others.

Like other disruptive technologies before them, these innovations promise great benefits, but also carry serious downside risks. For example, AI is already resulting in massive efficiencies and cost savings in the private sector. Routine tasks and other more complicated jobs, such as radiology, are already being automated. In the future, autonomous weapons systems may go to war against each other as human soldiers remain out of harm’s way.

Yet, AI is also transforming economies and societies, and generating new security challenges. Automation will lead to widespread unemployment. The final realization of driverless cars, for example, will put out of work millions of taxi, Uber, and long-haul truck drivers. Populist movements in the West have been driven by those disaffected by globalization and technology, and mass unemployment caused by automation will further grow those ranks and provide new fuel to grievance politics. Moreover, some fear that autonomous weapons systems will become “killer robots” that select and engage targets without human input, and could eventually turn on their creators, resulting in human extinction.

The other technologies on this list similarly balance great potential upside with great downside risk. 3D printing, for example, can be used to “make anything anywhere,” reducing costs for a wide range of manufactured goods and encouraging a return of local manufacturing industries.61 At the same time, advanced 3D printers can also be used by revisionist and rogue states to print component parts for advanced weapons systems or even WMD programs, spurring arms races and weapons proliferation.62 Genetic engineering can wipe out entire classes of disease through improved medicine, or wipe out entire classes of people through genetically engineered superbugs. Directed-energy missile defenses may defend against incoming missile attacks, while also undermining global strategic stability.

Perhaps the greatest risk to global strategic stability from new technology, however, comes from the risk that revisionist autocracies may win the new tech arms race. Throughout history, states that have dominated the commanding heights of technological progress have also dominated international relations. The United States has been the world’s innovation leader from Edison’s light bulb to nuclear weapons and the Internet. Accordingly, stability has been maintained in Europe and Asia for decades because the United States and its democratic allies possessed a favorable economic and military balance of power in those key regions. Many believe, however, that China may now have the lead in the new technologies of the twenty-first century, including AI, quantum, 5G, hypersonic missiles, and others. If China succeeds in mastering the technologies of the future before the democratic core, then this could lead to a drastic and rapid shift in the balance of power, upsetting global strategic stability, and the call for a democratic- led, rules-based system outlined in these pages.63

The United States and its democratic allies need to work with other major powers to develop a framework for harnessing emerging technology in a way that maximizes its upside potential, while mitigating against its downside risks, and also contributing to the maintenance of global stability. The existing international order contains a wide range of agreements for harnessing the technologies of the twentieth century, but they need to be updated for the twenty-first century. The world needs an entire new set of arms-control, nonproliferation, export-control, and other agreements to exploit new technology while mitigating downside risk. These agreements should seek to maintain global strategic stability among the major powers, and prevent the proliferation of dangerous weapons systems to hostile and revisionist states.

### 1NC — T

**The phrase “antitrust laws” includes the Sherman Act and the Clayton Act, but is explicitly exclusive of Section 5 of the FTC Act.**

**Whyte 07** – Judge, United States District Court, California Northern

Ronald M. Whyte, Hynix Semiconductor Inc. v. Rambus Inc., 2008 U.S. Dist. LEXIS 53220, United States District Court for the Northern District of California, San Jose Division, January 2008, LexisNexis. Decided: November 4, 2007

Section 5(a) accords prima facie weight to a final judgment brought "under the antitrust laws." The Clayton Act **specifically defines the phrase** "**antitrust laws**." See 15 U.S.C. § 12(a). The definition **includes** the **Sherman Act** and the **Clayton Act**, but it **does not list the Federal Trade Commission Act** (15 U.S.C. §§ 41, et seq). This exclusion accords with the final sentence of section 5(a), which **distinguishes** "**the antitrust laws**" **from** "**section 45**." 2

The Federal Trade Commission brought its proceeding against Rambus pursuant to Section 45, which is also known as **Section 5 of the FTC Act**. See In re Rambus, Administrative Complaint, Docket No. 9302, at 1, 31-33 (FTC June 18, 2002). 3 The FTC's final order found that "Rambus's acts of deception constituted exclusionary conduct under Section 2 of the Sherman Act, and that Rambus unlawfully monopolized the markets for four technologies incorporated into the JEDEC standards in violation of Section 5 of the FTC Act." In re [\*12] Rambus, Opinion of the Commission, Docket No. 9302, at 3 (FTC August 2, 2006). HN4 Section 5 of the FTC Act incorporates various standards from the antitrust laws and also forbids practices the FTC deems against public policy for other reasons. FTC v. Indiana Federation of Dentists, 476 U.S. 447, 454, 106 S. Ct. 2009, 90 L. Ed. 2d 445 (1986). Although the FTC found that Rambus violated the Sherman Act, the FTC's order was in a proceeding under Section 5 of the FTC Act.

#### They violate — they expand FTC rulemaking under section 5 of the FTC Act

#### Prefer that —

#### 1 — limits and ground — justifies hundreds of thousands of minute changes to FTC Rulemaking that obviates links to core DAs and steals FTC rulemaking based CPs

#### 2 — precision — our interpretation is legally defined and has an intent to exclude the FTC Act — that’s preferable to the affirmative’s grab-all defintion

### 1NC — CP

#### The United States federal government ought to initiate notice-and-comment rulemaking to adopt the principle of separating platforms from commerce for platforms in the private sector and implement the results pursuant to Administrative Procedure Act protocol.

#### The plan’s unannounced, unconditional mandate locks out public input and violates due process---turns solvency.

Chopra & Khan 20, \*Rohit, MBA, Commissioner, Federal Trade Commission; & \*\*Lina M., JD, current chair of the Federal Trade Commission, Counsel of the Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary. (2020, "The Case for “Unfair Methods of Competition” Rulemaking," *University of Chicago Law Review*, Vol. 87 Iss. 2, Article 4, pg. 359-367, Accessible at: <https://chicagounbound.uchicago.edu/uclrev/vol87/iss2/4>)

I. THE STATUS QUO: AMBIGUOUS, BURDENSOME, AND UNDEMOCRATIC?

Antitrust law today is developed exclusively through adjudication. In theory, this case-by-case approach facilitates nuanced and fact-specific analysis of liability and well-tailored remedies. But in practice, the reliance on case-by-case adjudication yields a system of enforcement that generates ambiguity, unduly drains resources from enforcers, and deprives individuals and firms of any real opportunity to democratically participate in the process.

One reason that antitrust adjudication suffers from these shortcomings is that courts analyze most forms of conduct under the “rule of reason” standard. The “rule of reason” involves a broad and open-ended inquiry into the overall competitive effects of particular conduct and asks judges to weigh the circumstances to decide whether the practice at issue violates the antitrust laws. Balancing short-term losses against future predicted gains calls for “speculative, possibly labyrinthine, and unnecessary” analysis and appears to exceed the abilities of even the most capable institutional actors.1 Generalist judges struggle to identify anticompetitive behavior2 and to apply complex economic criteria in consistent ways.3 Indeed, judges themselves have criticized antitrust standards for being highly difficult to administer.4 And if a standard isn’t administrable, it won’t yield predictable results. The dearth of clear standards and rules in antitrust means that market actors face uncertainty and cannot internalize legal norms into their business decisions.5 Moreover, ambiguity deprives market participants and the public of notice about what the law is, thereby undermining due process—a fundamental principle in our legal system.6

**[BEGIN FOOTNOTE 6]**

6. See FCC v Fox Television Stations, Inc, 567 US 239, 253 (2012). A lack of fair notice raises constitutional due process concerns. As the Supreme Court has explained, fair notice concerns arise when a law or regulation “fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.” Id (citations omitted)

**[END FOOTNOTE 6]**

Decades ago, former Commissioner Philip Elman observed that case-by-case adjudication “may simply be too slow and cumbersome to produce specific and clear standards adequate to the needs of businessmen, the private bar, and the government agencies.”7 Relying solely on case-by-case adjudication means that businesses and the public must attempt to extract legal rules from a patchwork of individual court opinions. Because antitrust plaintiffs bring cases in dozens of different courts with hundreds of different generalist judges and juries, simply understanding what the law is can involve piecing together disparate rulings founded on unique sets of facts. All too often, the resulting picture is unclear. This ambiguity is compounded when the Supreme Court assigns to lower courts the task of fleshing out how to structure and apply a standard, potentially delaying clarity and certainty for years or even decades.8

The current approach to antitrust also makes enforcement highly costly and protracted. In 2012, the American Bar Association (ABA) published the report of a task force that sought to “study ways to control the costs of antitrust litigation and enforcement.”9 The task force, the authors explained, was “a response to concerns” about both “the costs imposed on businesses by the American system of antitrust enforcement” and “the length of time required to resolve antitrust issues both in litigation and in enforcement proceedings.”10 Out-of-control costs undermine effective antitrust enforcement by agencies and private litigants, but may advantage actors who profit from anticompetitive practices and can treat litigation as a routine cost of business. Professor Michael Baye and Former Commissioner Joshua Wright have noted that generalist judges may be ill-equipped to independently analyze and assess evidence presented by economic experts.11 Because determining the legality of most conduct now involves complex economic analysis, courts have effectively “delegate[d] both factfinding and rulemaking to courtroom economists,” making courtroom economics “not just inevitable but often dispositive.”12 In fact, paid expert testimony now is often “the ‘whole game’ in an antitrust dispute.”13

Paid experts are a major expense. Some experts charge over $1,300 an hour, earning more than senior partners at major law firms.14 Over the last decade, expenditures on expert costs by public enforcers have ballooned.15 In a system that incentivizes firms to spend top dollar on economists who can use ever-increasing complexity to spin a favorable tale, the eye-popping costs for economic experts can put the government and new market entrants at a significant disadvantage.16

Another component of the burden is that antitrust trials are extremely slow and prolonged.17 The Supreme Court has criticized antitrust cases for involving “interminable litigation”18 and the “inevitably costly and protracted discovery phase,”19 yielding an antitrust system that is “hopelessly beyond effective judicial supervision.”20 That it can easily take a decade to bring an antitrust case to full judgment means that by the time a judge orders a remedy, market circumstances are likely to have outpaced it.21 The same 2012 ABA report suggested that lengthy, costly litigation may be contributing to reduced government-enforcement efforts over time relative to the expansion of the US economy.22

Lastly, the current approach deprives both the public and market participants of any real opportunity to participate in the creation of substantive antitrust rules.23 The exclusive reliance on case-by-case adjudication leaves broad swaths of market participants watching from the sidelines, lacking an opportunity to contribute their perspective, their analysis, or their expertise, except through one-off amicus briefs.24 Nascent firms and startups are especially likely to be left out—despite the vital role they play in the competition ecosystem—given that they do not comprise a significant portion of the parties represented in litigated matters, and they usually lack the resources to engage in amicus activity. Furthermore future entrants, whose interests should be carefully considered in all aspects of competition law and policy, have no voice.

Firms, entrepreneurs, workers, and consumers across our economy vary wildly in their experiences and perspectives on market conduct. Enforcement and regulation of business conduct can more successfully promote competition when it incorporates more voices and evidence from across the marketplace.

#### Fidelity to notice-and-comment [N&C] solves AND accesses democracy

Chopra & Khan 20, \*Rohit, MBA, Commissioner, Federal Trade Commission; & \*\*Lina M., JD, current chair of the Federal Trade Commission, Counsel of the Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary. (2020, "The Case for “Unfair Methods of Competition” Rulemaking," *University of Chicago Law Review*, Vol. 87 Iss. 2, Article 4, pg. 367-370, Accessible at: <https://chicagounbound.uchicago.edu/uclrev/vol87/iss2/4>)

We see three major benefits to the FTC engaging in rulemaking under “unfair methods of competition,” even if the conduct could be condemned under other aspects of antitrust laws. As we describe above, the current approach generates ambiguity, is unduly burdensome, and suffers from a democratic participation deficit. Rulemaking can benefit the marketplace and the public on all of these fronts.

First, rulemaking would enable the Commission to issue clear rules to give market participants sufficient notice about what the law is, helping ensure that enforcement is predictable.43 The APA requires agencies engaging in rulemaking to provide the public with adequate notice of a proposed rule. The notice must include the substance of the rule, the legal authority under which the agency has proposed the rule, and the date the rule will come into effect.44 An agency must publish the final rule in the Federal Register at least thirty days before the rule becomes effective.45

These procedural requirements promote clear rules and provide clear notice. As the Supreme Court has stated, a “fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.”46 Clear rules also help deliver consistent enforcement and predictable results. Reducing ambiguity about what the law is will enable market participants to channel their resources and behavior more productively and will allow market entrants and entrepreneurs to compete on more of a level playing field.

Second, establishing rules could help relieve antitrust enforcement of steep costs and prolonged trials. Identifying ex ante what types of conduct constitute “unfair method[s] of competition” would obviate the need to establish the same exclusively through ex post, case-by-case adjudication. Targeting conduct through rulemaking, rather than adjudication, would likely lessen the burden of expert fees or protracted litigation, potentially saving significant resources on a present-value basis.47

Moreover, establishing a rule through APA rulemaking can be faster than litigating multiple cases on a similar subject matter. For taxpayers and market participants, the present value of net benefits through the promulgation of a clear rule that reduces the need for litigation is higher than pursuing multiple, protracted matters through litigation. At the same time, rulemaking is not so fast that it surprises market participants. Establishing a rule through participatory rulemaking can often be far more efficient. This is particularly important in the context of declining government enforcement relative to economic activity, as documented by the ABA.48

And third, rulemaking would enable the Commission to establish rules through a transparent and participatory process, ensuring that everyone who may be affected by a new rule has the opportunity to weigh in on it, granting the rule greater legitimacy.49 APA procedures require that an agency provide the public with meaningful opportunity to comment on the rule’s content through the submission of written “data, views, or arguments.”50 The agency must then consider and address all submitted comments before issuing the final rule. If an agency adopts a rule without observing these procedures, a court may strike down the rule.51

This process is far more participatory than adjudication. Unlike judges, who are confined to the trial record when developing precedent-setting rules and standards, the Commission can put forth rules after considering a comprehensive set of information and analysis.52 Notably, this would also allow the FTC to draw on its own informational advantage—namely, its ability to collect and aggregate information and to study market trends and industry practices over the long term and outside the context of litigation.53 Drawing on this expertise to develop rules will help antitrust enforcement and policymaking better reflect empirical realities and better keep pace with evolving business practices.

Given that the FTC has largely neglected this tool, some may question the Commission’s authority to issue competition rules and the legal status these rules would have.54 Indeed, a common misconception is that this authority is extremely limited because FTC rulemaking is subject to the extensive hurdles posed by the Magnuson-Moss Warranty–Federal Trade Commission Improvements Act55 (“Magnuson-Moss”). In reality, Magnuson-Moss governs only rulemakings interpreting “unfair or deceptive acts or practices.”56 For rules interpreting “unfair methods of competition,” the FTC has authority to engage in participatory rulemaking pursuant to the APA. Several antitrust scholars have affirmed this authority, and the Appendix lays out further background on and discussion of it.57

#### Democracy solves extinction.

Twining 21, PhD, president of the International Republican Institute, former director of the Asia Program at the German Marshall Fund. (Daniel, 10-10-2021, "America must double down on democracy", *The Hill*, <https://thehill.com/opinion/campaign/575693-america-must-double-down-on-democracy>) \*language edited

The hard truth is that a world that is less free is one that is less secure, stable and prosperous. The greatest dangers to the American way of life emanate from hostile autocracies. There are no quick fixes, but the best antidotes to the challenges of great-power conflict, terrorism and mass migration of desperate refugees lie in the building of inclusive democratic institutions — and working with allied democracies to sustain the free and open order that China, in particular, wishes to replace with a world that’s safe for autocracy. The conventional wisdom that authoritarianism has popular momentum is wrong. No one anywhere is taking to the street to demand more corrupt governance, the adoption of one-man rule, a stronger surveillance state, or greater intervention by malign foreign powers. Democratic freedoms are unquestionably under assault in many nations. Autocrats are aggressive precisely because of the growing demands for change in their more modern, connected societies — and the rising risk that middle classes in nations such as China and Russia will not be willing forever to forfeit political rights for prosperity. American retrenchment and isolationism compound the danger. It would be nice to live in a world where failed states and dictatorships were a problem for someone else to worry about. But rather than producing stability, Western retreat only emboldens autocrats in ways that amplify dangers to American national security. We know that violent extremism flourishes under state failure and dictatorship. Broken states become breeding grounds for extremist groups because they leave vacuums that terrorists are only too happy to fill. In nations without democratic accountability, citizens become drawn to the only forms of expression available to them, which are often violent and extreme. The good news is that we have billions of allies around the world: citizens on every continent chafing for greater freedom and dignity. They do not want U.S. military-led nation-building. They want peaceful support for their independent efforts to create democratic space in systems distorted by overweening government control, dangerous governance gaps and foreign malign influence. The free world cannot be neutral in the face of autocracy’s resurgence. Rather, it should play to its strengths. The appeal of democratic opportunity is a strategic asset for the United States — despite our own shortcomings — because people around the world similarly aspire to live in societies that guarantee justice, rights and dignity. America’s closest allies are democracies. Democracies don’t fight each other, export violent extremism, or produce the conflicts that drive mass migration. Democracies are better partners in fighting terrorism, human trafficking and poverty, as well as establishing reliable trading relationships. Open societies incubate the technologies that will help solve the world’s most pressing problems, including climate change. Citizens can hold leaders accountable when they fall short, and democratic institutions are stronger than any [individual] ~~man~~ — as America itself witnessed after the assault on the U.S. Capitol on Jan. 6.

### 1NC — DA

#### US-EU trade relations are strong now---key to strategic alignment on China.

Reuters 21, published in Al Jazeera. (6-15-2021, "EU and US call truce in Trump-era trade war", *Al Jazeera*, <https://www.aljazeera.com/economy/2021/6/15/eu-and-us-call-truce-in-trump-era-trade-war>)

United States President Joe Biden ended one front in a Trump-era trade war when he met European Union leaders on Tuesday by agreeing to a truce in a transatlantic dispute over aircraft subsidies that has dragged on for 17 years. Quoting Irish poet WB Yeats at the start of his first EU-US summit as president, Biden also said the world was shifting and that Western democracies needed to come together. “The world has changed, changed utterly,” Biden, an Irish-American, said, citing from the poem Easter 1916, in remarks that pointed towards the themes of his eight-day trip through Europe: China’s rise, the COVID-19 pandemic and climate change. Sitting at an oval table in the EU’s headquarters with US cabinet officials, he told EU institution leaders that the bloc and the US working together was “the best answer to deal with these changes” that he said brought “great anxiety”. He earlier told reporters he had very different opinions from his predecessor. Former President Donald Trump also visited the EU institutions, in May 2017, but later imposed tariffs on the EU and promoted Brexit – the United Kingdom’s departure from the bloc. “I think we have great opportunities to work closely with the EU as well as NATO and we feel quite good about it,” Biden said after walking through the futuristic glass Europa Building, also known as The Egg, to the summit meeting room with EU institution leaders. “It’s overwhelmingly in the interest of the USA to have a great relationship with NATO and the EU. I have very different views than my predecessor,” he said. The two sides agreed to remove tariffs on $11.5bn of goods from EU wine to US tobacco and spirits for five years. The tariffs were imposed on a tit-for-tat basis over mutual frustration with state subsidies for US planemaker Boeing and European rival Airbus. “This meeting has started with a breakthrough on aircraft,” European Commission chief Ursula von der Leyen said. “This really opens a new chapter in our relationship because we move from litigation to cooperation on aircraft – after 17 years of dispute … Today we have delivered.” Biden’s summit is with von der Leyen and the European Council President Charles Michel, who represents EU governments. Biden also repeated his mantra – “America is back” – and spoke of the need to provide good jobs for European and American workers, particularly after the economic impact of COVID-19. He spoke of his father saying that a job “was more than just a paycheque” because it brought dignity. He is seeking European support to defend Western liberal democracies in the face of a more assertive Russia and China’s military and economic rise. “We’re facing a once in a century global health crisis,” Biden said at NATO on Monday evening, while adding “Russia and China are both seeking to drive a wedge in our transatlantic solidarity.” According to an EU-US draft summit statement seen by Reuters news agency and still being negotiated up until the end of the gathering, Washington and Brussels will commit to ending another dispute over punitive tariffs related to steel and aluminium. Broader agenda US Trade Representative Katherine Tai discussed the aircraft dispute in her first face-to-face meeting with EU counterpart Valdis Dombrovskis before the US-EU summit. The pair are due to speak on Tuesday afternoon. Freezing the trade conflicts gives both sides more time to focus on broader agendas such as concerns over China’s state-driven economic model, diplomats said. Biden and US Secretary of State Anthony Blinken earlier met Belgian King Philippe, Prime Minister Alexander De Croo and Foreign Minister Sophie Wilmes in Brussels’ royal palace. On Wednesday, he meets Russian President Vladimir Putin in Geneva. The summit draft statement to be released at the end of the meeting said they had “a chance and a responsibility to help people make a living and keep them safe, fight climate change, and stand up for democracy and human rights”. There are no firm new transatlantic pledges on climate in the draft summit statement, however, and both sides will steer clear of setting a date to stop burning coal. The EU and the US are the world’s top trading powers, along with China, but Trump sought to sideline the EU. After scotching a free-trade agreement with the EU, the Trump administration focused on shrinking a growing US deficit in goods trade. Biden, however, sees the EU as an ally in promoting free trade, as well as in fighting climate change and ending the COVID-19 pandemic.

#### Enforcers would apply the plan extraterritorially. That blows up US-EU trade relations.

Kava 19, J.D./M.B.A. Candidate, 2020, University of Maryland Francis King Carey School of Law and Johns Hopkins University Carey School of Business. (Samuel F., “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity”, 15 J. Bus. & Tech. L. 135, pg. 157-159 Available at: <https://digitalcommons.law.umaryland.edu/jbtl/vol15/iss1/5>)

A. Adverse Political and Economic Effects

Before the FTAIA was enacted, in 1982, many of the United States’ closest allies were disgruntled by the U.S. courts’ expansive extraterritorial application of the Sherman Anti-Trust Act.152 These nations confided in the territorial principle, and believed it “axiomatic that in anti-trust matters the policy of one state may be to defend what it is the policy of another state to attack.”153 The United Kingdom, one of the most outspoken allies against the United States’ “attempt[] to impose [its] domestic laws on persons and corporations who are not U.S. nationals and who are acting outside the territory of the United States,” viewed the extraterritorial application of the Sherman Anti-Trust Act as ironic given the fact “the United States was founded by those who took exception to little matters of taxation being imposed extraterritorially.”154 Thus, in an attempt to “protect their nationals from criminal [and civil] proceedings in foreign courts where the claims to jurisdiction [were] excessive and constitute[d] an invasion of sovereignty,” foreign nations enacted blocking statutes to resist the extraterritorial application of the Sherman Act.155

The blocking statutes of each nation varied, but all served to “block the discovery of documents located in their countries and bar the enforcement of foreign judgements.”156 The United Kingdom achieved these goals with the Protection of Trading Interests Act, France with the French Blocking Law, Canada with the Foreign Extraterritorial Measures Act, and Australia with the Foreign Proceedings Act.157 The conflicting laws between the United States and its foreign counterparts created tremendous uncertainty regarding what nation’s laws would be applied in the event of a cross-border dispute. According to Nuno Limáo and Giovanni Maggi, economists from the University of Maryland and Yale University, “as the world becomes more integrated, the gains from decreasing trade-policy uncertainty should tend to become more important relative to the gains from reducing the levels of trade barriers.”158 should tend to become more important relative to the gains from reducing the levels of trade barriers.”158

Essentially, for trade to prosper, it is more important to provide producers and consumers with predictability and certainty (regarding the rule of law) rather than enacting laws that focus on free trade economics. Accordingly, it is in the best interest of governments to focus on unifying its laws before negotiating for the elimination of tariffs or quotas. This is not to say that eliminating trade barriers is not vital to the health of the economy—in fact, tariffs, quotas, and other trade barriers are proven to adversely affect all parties involved in the chain of distribution—however, it is more important to unify laws before focusing on the elimination of any trade barriers.159

As mentioned in Part I.C., the complaints of U.S. exporters and foreign governments were heard, and the United States Congress enacted the FTAIA “to address the concerns of foreign governments that the effects test established in the Alcoa case had not made clear the magnitude of the U.S. effects required to support a claim under the Sherman Act.”160 Thus, the FTAIA was implemented to bring certainty to consumers and producers by requiring that “conduct must have a ‘direct, substantial, and reasonably foreseeable effect’” for the Sherman Anti-Trust Act to apply extraterritorially.161 This language provided the foreign community with temporary relief, and gave producers and consumers the certainty and predictability needed to establish confidence in the markets and continue trading.

However, since the passage of the FTAIA in 1982, the world has witnessed a remarkable increase in globalization, such that most conduct that takes place today has a “direct, substantial, and reasonably foreseeable effect” 162 on the U.S. economy. Epitomizing the obscureness of the FTAIA, is the fact that U.S. enforcement agencies—i.e. the U.S. Department of Justice and the Federal Trade Commission—have taken an aggressive approach to pursuing international antitrust claims. In 2017, the U.S. Department of Justice (“DOJ”) and Federal Trade Commission (“FTC”) published the International Guidelines—a publication “explaining how the agencies intend to enforce U.S. antitrust laws against conduct occurring outside the United States.”163 The International Guidelines have taken the broadest approach in determining if conduct is “direct”—finding if there is a “reasonably proximate causal nexus between the conduct and the effect” conduct is “direct”—and the narrowest view that international comity bars enforcement of U.S. antitrust laws only when it is impossible for the actor to comply with both U.S. law and its foreign nation’s law.164 Thus, because the FTAIA has become ineffective and there is a risk of further expansion of the extraterritorial application of the Sherman Anti-Trust Act with Apple v. Pepper, foreign nations will almost certainly strive to adopt modern and effective blocking statutes. These blocking statutes will revitalize uncertainty in the markets, and the global economy will be adversely affected.

In addition, because our world is more integrated, compared to the time when the FTAIA was implemented, the adverse economic effects may be worse if foreign nations pursue modern blocking statutes. To hedge against judicial uncertainty, corporations will likely react by hiring more robust legal teams. By re-allocating money to legal costs, with the hopes of avoiding potential litigation and ensuring compliance with all nations’ laws, corporations would have foregone the opportunity to spend time and money on: (1) scaling its current line of products (which would decrease the price of goods for consumers), (2) enhancing the capabilities of its current line of products (which improve consumer capabilities and increase corporate profits), or (3) creating new and innovative products (which would benefit both consumers and producers). Thus, because corporations would be forced to spend more resources on avoiding litigation rather than research and development with the new blocking statutes, consumers, producers, distributors, and the economy as a whole will be adversely affected.

Overall, there is a significant risk that foreign nations will look towards blocking statutes to limit the extraterritorial application of the Act. The conflicting laws of the United States and international community will lead to judicial uncertainty, which will have an adverse impact on the global economy. Businesses will spend more time and money to avoid disputes; thus, undermining corporate profits, a customer’s ability to purchase low cost goods, and the overall health of the global economy. The only certainty is that trade will slow down as a result of trade policy uncertainty. To avoid these adverse economic effects, it would be advantageous for the United States Congress to amend the FTAIA in a way that limits the effects of the extraterritorial application of the Sherman Anti-Trust Act. Specifically, Congress should limit the effects of the extraterritorial application of the Sherman Anti-Trust Act by expressly providing courts with a robust international comity analysis.

#### Reducing trade tensions is key to check Chinese tech norms.

Mulligan 20, managing director for national security and international policy at the Center for American Progress. She previously worked in the national security division at the U.S. Department of Justice, where she provided legal and policy advice on a broad range of national policies. Jordan Link is the China policy analyst at the Center for American Progress. Laura Edwards is the China program coordinator at the Center for American Progress. (Katrina, 11-18-2020, “THE ROAD TO A SUCCESSFUL CHINA POLICY RUNS THROUGH EUROPE,” *War on the Rocks*, <https://warontherocks.com/2020/11/the-road-to-a-successful-china-policy-runs-through-europe/>)

European nations also have a crucial role to play on tech issues. The European Union has already demonstrated leadership on technology governance, and the United States is beginning to follow. Together, the United States and the European Union can collaborate on common technology governance standards, offering a democratic alternative to China’s digital authoritarianism. To do so, the administration should develop a new digital technology strategy within its first 100 days. This strategy should be coordinated with allies and partners like the European Union to promote liberal governance values, push back against increasing disinformation, and combat digital authoritarianism. The next administration should also convene an international technology forum for like-minded democracies to develop common approaches to challenges posed by emerging technologies. Beijing will no doubt be hostile to a united democratic approach to technology governance. For example, the Chinese ambassador to Germany recently threatened that “the Chinese government will not stand idly by” if Germany bans Huawei 5G telecoms equipment. But that makes it even more important that the United States and the European Union coordinate on tech together. Human Rights and Democratic Values Another area in which the United States and Europe can exert pressure on China is human rights — in particular, holding China accountable for abuses in Hong Kong and Xinjiang. Europe is already toughening its stance on China’s human rights violations. European leaders pressed Xi on these issues during the E.U.-Chinese virtual summit in September, expressing grave concerns over the treatment of minorities and human rights advocates in a conversation that was reportedly “quite intense.” European Council President Charles Michel stated, “We reiterated our concerns over China’s treatment of minorities in Xinjiang and Tibet, and the treatment of human rights defenders and journalists.” The European Union also requested that China allow independent observers to visit the Xinjiang region to investigate internment camps. During the meeting, European leaders raised concerns with Xi about Hong Kong’s new national security law, which effectively severed China’s agreement to abide by the “One Country Two Systems” governance structure. The United States should join Europe in demanding better. The U.S. Congress has already worked to highlight China’s abuses. The United States should push the European Union further to turn recent soft rhetoric into broader collaborative action. The next administration can take immediate steps to demonstrate support for democratic norms and aid victims of China’s egregious human rights violations. Possible actions include granting temporary protected status and special immigration status to the people of Hong Kong and announcing new U.S. sanctions against individuals and entities connected to the repression of the Uighurs in Xinjiang. The administration should also invite Uighur activists to the White House to bring greater attention to the atrocities that Beijing is carrying out in Xinjiang. Trade On trade, the United States should shift away from the transactional trade policy of the last four years to focus on addressing China’s most egregious economic and trade behavior jointly with Europe. As German Foreign Minister Heiko Maas has said, “Europe and U.S. alike have expectations towards China: fair conditions for trade and investment, observance of international treaties and obligations.” To implement this shift, the next administration on day one should announce an end to President Trump’s misguided trade war with the European Union. While all disputes will not be settled within 100 days, a productive dialogue to lower trade barriers is a key step in repairing transatlantic relations. Reducing trade tensions will create space for Washington and Brussels to coordinate on other issues related to China. Further, the next administration should take collective action at the World Trade Organization by filing a nullification and impairment case against Beijing. These actions will set the stage to develop a more multilateral trade approach with buy-in from Europe on China. Looking Ahead Policymakers in European capitals are watching the United States to gauge opportunities to join forces. The Biden administration must get that outreach right in order to course-correct a failed China strategy. It will be critical for the next administration to collaborate with the European Union on common interests such as climate change, technology policy, human rights and democracy, and trade issues in order to form a more coherent coalition to face challenges presented by Beijing. Without coordinated action on these critical fronts, Beijing will continue to challenge global norms while seeking to alter the rules that govern the international system. Together, the United States and the European Union can overcome this challenge. Now more than ever, there is a clear path towards a reinvigorated transatlantic partnership: The road to a successful policy towards China runs through Europe.

## 1NC — Solvency

### 1NC — AT: Solvency

#### They do nothing —

#### In the plantext: “adopt” doesn’t mean or encompass ‘enforce’—the aff solves nothing

Morath 21 (MIKE MORATH, COMMISSIONER OF EDUCATION. OPINION In ANDREW SHANE EMERINE, Petitioner, v. NECHES INDEPENDENT SCHOOL DISTRICT, Respondent. DOCKET NO. 028-R10-02-2021, 2021 TX EDUC. AGENCY LEXIS 19. July 14, 2021. Lexis accessed online via KU Libraries, date accessed 9/22/21)

Further, Texas Education Code § 26.011(a) is a provision that protects parents; it requires a grievance procedure for violations of parents' rights under Chapter 26. Chapter 26 concerns parents' rights, not teachers' rights. [\*9] Only parents have the standing to allege a violation of chapter 26. A teacher cannot defeat a parent's complaint against him or her by showing that the district did not follow its complaint process. Petitioner lacks standing to make his Texas Education Code § 26.011(a) claim. Additionally, as the Commissioner has held in Parents v. Socorro Independent School District, Docket No. 039-R10-05-2020 (Comm'r Educ. 2020), adoption and enforcement are distinct concepts; a requirement to adopt a policy is not violated by alleged improper enforcement of that policy. The term "adopt" does not mean or encompass the term "enforce." When the Legislature wishes a body to adopt and enforce a policy it says so. 4

#### The aff’s rulemaking fails and gets quashed by the courts

Werden 8/15 (Greg Werden is the former Senior Economic Counsel, Antitrust Division, U.S. Department of Justice, “Can the FTC Turn Back the Clock?” forthcoming in ABA Antitrust Section, Antitrust online, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3909851>, Date Written: August 15, 2021, thanks to y2k)

In an earlier article, Ms. Khan had suggested that the FTC could use its rulemaking power to preclude the owners of Internet platforms from doing business on their own platforms.61 Based on her work on the October 2020 report issued by the House Subcommittee on Antitrust, Commercial and Administrative Law,62 she might be contemplating a rulemaking to declare selfpreferencing an unfair method of competition when done by a dominant Internet platform. The fundamental problem the FTC would confront is that no two of the potentially dominant platforms are alike. What self-preferencing means differs across platforms, as does its impact, so any specific self-preferencing remedies should be the product of adjudicative proceedings. Chair Khan will have to move expeditiously if the Supreme Court is to review her initiatives while she remains chair. The Court likely would be unanimous in holding that harm to competition must be what makes a practice an unfair method of competition, 63 and it might be prepared to hold the FTC unconstitutional,64 so Ms. Khan should take care. All Chair Khan should ask from the courts is reasonable leeway on proof of harm to competition, especially as to likelihood and immediacy. And the Department of Justice should have just as much leeway because the Sherman Act directed the Attorney General to institute proceedings to “prevent” violations. 65 Chair Khan’s writings before becoming chairman place her in the vanguard of a populist movement advocating radical reform, but a radical agenda as FTC Chair could be stymied by the courts. The best approach is likely to be incremental change through fact-based FTC decisions focused on competitive effects.

## 1NC — Dynamism

### 1NC — AT: Econ

#### 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.

## 1NC — Dependency Trap

### 1NC — AT: Dependency Trap

#### Local antitrust enforcement is preferable to the plan—their author

1AC Johannsen & Gonzalez ’21 [German; PhD Candidate and LLM @ Max Planck Institute for Innovation and Competition; and Andrés; LLM and Chilean Competition Law Compliance Officer; “Digital Platforms & Economic Dependence in Chile Any Room for Competition Theories of Harm without Dominance?”; <https://law.haifa.ac.il/images/ASCOLA16/GJAG.pdf>; 15 June 2021; originally AS]

5. Conclusion

Given the different economic realities (and problems) developing countries face vis-a-vis developed economies, law regimes should not be transplanted from one jurisdiction to another, without careful consideration of those differences. In the case of competition law, the different realities may drive competition law regimes to consider goals that escape the orthodoxy of the consumer welfare standard, for instance, non-welfare ones. Considering that the goals of a competition law regime shape their interpretation and enforcement, it is important to clarify what would these non-welfare goals entail.

The challenges that digital markets pose to competition law offers an opportunity to address this issue, due to the emergence of new theories of harm in which traditional rules and tests may be outdated. Specifically, it raises the question of whether a non-dominant undertaking could incur in an anticompetitive infringement and how different jurisdictions are prepared to deal with those issues. Moreover, as discussed along this paper, the scope of competition goals defined by each jurisdiction according to its own socioeconomic reality —in the case of Chile, a middle-income developing country— may be crucial to answer whether this jurisdiction is well equipped to face the referred challenges.

In our opinion, in the Chilean jurisdiction it is feasible to open up digital markets in the context of free competition in order to study possible anti-competitive effects of abuses of economic dependence in which dominance is not yet possible to prove. On the one hand, the TDLC's own jurisprudence has ruled in this sense in cases where the risks of anticompetitive effects are not as marked as in digital markets. On the other hand, this interpretation is consistent with the competition goals recognized by Chilean Courts in terms of safeguarding the freedom to compete and the competitive process. Naturally, this entails difficulties in balancing the risks of an anticompetitive effect. The most obvious one is that the dominance rule cannot be used as a differentiating element. On the other hand, it is not a hypothesis built on the basis of an effect that can be proven, but only on a probability of occurrence. This brings up the question about which benchmark to use in these cases.

Regarding intermediary digital platforms, their own economic rationality leads their behaviour to be aimed at achieving dominant power and, therefore, foreclosing the market to competition. In other words, many of their commercial relationships with suppliers and users contribute to this end, as they tend to increase network externalities and switching costs. However, the mere fact that the platform economy favours the monopolisation of markets would not be sufficient evidence to justify a sanction for infringement of free competition, according to current evidentiary standards (it is merely a structural element). In this context, it is essential to distinguish which conducts —from those with objective aptitude to foreclose the market— are objectionable to competition.

One criterion for differentiating between lawful and unlawful scenarios could be based on the type of conduct. This would require, however, a methodological refocusing when analysing unilateral conducts with anticompetitive potential. First, it should be determined whether economic dependence relationships exist. If so, secondly, it should be analysed the objective aptitude for the platform to reach a dominant position and, therefore, to foreclose the market. If such aptitude exists, thirdly, it should be determined whether the conduct is unfair. If it is considered unfair, it would be appropriate to declare the conduct as anticompetitive. By not relying on the dominance rule, such an analysis would not only be useful for cases of platforms that are not yet dominant, but also for those cases where they are dominant, but it is complex to prove it.

In the second scenario we explored —dependency-based exploitative conduct— things are less clear though. While the broad wording of Art. 3 generic and the recognition of equal access to markets as a goal of Chilean Competition Law grant an opening to try this theory of harm, the Chilean Competition Authorities are still far from considering this approach. In addition, given that currently Chilean Unfair Competition Law (Law 20.169) includes as unfair commercial practices the abusive conduct to the detriment of suppliers, it is unlikely that a potential plaintiff will use the TDLC to obtain relief. Moreover, Law 20.169 expressly states that in case of a guilty verdict, all backgrounds and documents of the case must be sent to the FNE in order to assess if it is necessary (in light of the gravity of the conduct) to initiate a proceeding before the TDLC. Therefore, the dominant litigation strategy regarding dependency-based exploitative conducts is the civil action contained in Law 20.169.

In the years to come it will be necessary to see to what extent the competition authorities —both the FNE and the TDLC— will adapt to the new challenges that the digital world brings for the well-functioning of markets. It is important to recognise that such challenges are of not only a technical nature, but ultimately opens up the question of competition goals. Globally, there is pressure to establish market rules that effectively limit the excessive economic power that a few players in the digital economy have achieved. In the case of Chile —as in Latin America— it should borne in mind that it is still a developing country with high levels of inequality. A pure efficiency-oriented approach normally does not provide solutions to these socio-economic issues. Therefore, a broader perspective is needed.

Introducing more explicit fairness-oriented elements in the competition assessment —e.g. due to an explicit protection of small and medium enterprises in the digital platforms context, as well as proposing new rules allowing to address anticompetitive conducts irrespective of the dominance rule seems a good way to update competition law to make it a system that promotes social welfare and not just the welfare of a privileged few. In this regard, new lines of investigations that —considering the economic reality and needs of developing countries— are aimed at reviewing the normative goals of competition law may shed light on the properness and readiness of those jurisdictions to address the challenges that the digital era brings for competition, especially in relation to increasing economic inequalities. Considering the above, perhaps developing countries' competition law regimes can even be better equipped to face these new challenges than the developed country legal regime, at least from a normative perspective, for two reasons: first, in these countries there may be a trend toward recognizing broader fairness-oriented competition goals; second, as Professor Fox argues108, developing countries do not have the path dependence that makes it harder for traditional competition jurisdictions —the US and the EU— to take new legislative routes.

### 1NC — 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.

## 1NC — Systemic Risk

### 1NC — AT: Cyber

#### No blackouts or grid collapse - exhaustive tests prove

**Niiler ’19** [Eric Niiler is an adjunct faculty member at Johns Hopkins University’s Science Writing Program and a science and technology writer for Wired, “The Grid Might Survive an Electromagnetic Pulse Just Fine,” 4-30-19, https://www.wired.com/story/the-grid-might-survive-an-electromagnetic-pulse-just-fine/]

Over the past few years, speculation has risen around whether North Korea or any other nation could detonate a nuclear weapon over the United States that would create an electromagnetic pulse and knock out all electricity for weeks or months. This doomsday hypothesis has been promoted by a former CIA director, a commission set up by Congress, and a book by newsman Ted Koppel. But a sober new engineering study by industry experts finds that key equipment on the grid can be protected from any such EMP. Even if it could happen, the resulting blackouts would affect a few states but wouldn't turn the US into a backdrop for The Walking Dead. The study, by the Electric Power Research Institute, a utility-funded research organization, finds that existing technology can protect various components of the electric grid to buffer it from the effects of solar flares

MARKED

, lightning strikes, and an EMP from a nuclear blast all at the same time: a three-for-one surge protector. “We have a strong technical basis for what the impacts [of an EMP] might be,” says Randy Horton, EPRI project manager and author of the report being released today. “That is one thing that didn’t exist before.” Horton says that EPRI technicians worked with experts at the Department of Energy labs at Los Alamos and Sandia to simulate some effects of an EMP on substations and distribution systems. They also did real-world testing of electrical equipment at an EPRI laboratory in Charlotte, North Carolina. The study, which took three years to complete, looks at the effects of three kinds of energy spawned by a nuclear detonation. The first high-energy wave occurs in just a few nanoseconds and is called an E1. The second wave, called an E2, lasts up to a second and can fry electric systems the way a lightning strike does, unless they are properly grounded. Effects of an E2 wave on the grid are expected to be minimal. The third kind of wave can last for tens of seconds and is similar to what utility operators might expect from a low-frequency, long-duration solar flare or geomagnetic storm. The report says that the combination of an E1 and E3 would cause the most damage over the widest area. Horton says simulations and testing by EPRI contradicts earlier findings that an EMP would wipe out the US grid. “You could have a regional voltage collapse, but you wouldn’t damage a large number of bulk power transformers immediately,” Horton says. “That was the difference in our finding. There were some studies that said you could damage hundreds of transformers. We just didn’t find it.” Some members of an EMP commission have argued for the past decade that an attack would destroy the electric grid, and kill 90 percent of the US population through disease or starvation. That panel shut down in 2017 after the Department of Homeland Security did not request more funds from Congress to keep it going. Apart from the electric power industry, the Pentagon has been conducting its own classified tests about potential effects from such an event on military installations. A group of experts is meeting this week at Maxwell Air Force Base in Montgomery, Alabama, says Air Force lieutenant-general Steven Kwast, who is coordinating the event. Kwast says the threat is much more real than the public believes. “You don’t need to have a nuclear detonation in space to do this,” he said. “You could have a hot-air balloon rising above a city with a tactical electromagnetic weapon. You could do one over an airfield of F-35s or one Army post so none of the tanks work or over a shipyard so that none of the ships sail. Our enemy is clever and adaptive. They see our soft underbelly is our electricity.” But other nuclear weapons experts say the technical study by EPRI brings scientific rigor to a field that has been dominated by hype and fearmongering. “When you are doing documented research on physical systems, it is still solid evidence, no matter who paid for it,” says Sharon Burke, a senior adviser at the Foundation for a New America and a former assistant secretary of defense for operational energy in the Obama administration. “This is not someone’s opinion.”

# 2NC

## T — Core Antitrust

**Those are colloquial references—FTC isn’t antitrust law**

**Bonder 9** – Partner at Alston & Bird

Teresa T. Bonder, Defendants’ Opposition to Federal Trade Commission’s Motion for Permission to Serve Nine Trial Subpoenas, Federal Trade Commission v. Actavis Inc., et al., US District Court for the Northern District of Georgia, April 2009, LexisNexis

The statute the FTC cites, 15 U.S.C. § 23, authorizes nationwide service of process only for claims “arising under the antitrust laws.” Id. “[A]ntitrust laws” is a defined term for purposes of the statute. And, as the FTC admits (Mot. at 6), that definition in 15 U.S.C. § 12(a) **does not list the FTC Act**—the basis for all of the FTC’s claims in this case. Thus, the nationwide service of process statute does not, by its plain language, apply to this case. That is the end of the matter. None of the FTC’s arguments for **ignoring** the **statutory definition** is **convincing**.

First, the FTC notes this case has been **colloquially referred** to as an “**antitrust case**” by the parties and the courts in a variety of contexts. But **such colloquial references cannot trump** the **express definition** of the **term** “**antitrust laws**” in the statute. The **Supreme Court** has **specifically instructed** that whether a statute “may be **colloquially described** as an antitrust [law]” is “**of no moment**” when interpreting Section 12. Nashville Milk Co. v. Carnation Co., 355 U.S. 373, 376 (1958). Instead, as the notes to 15 U.S.C. § 23 explain, “[t]he antitrust laws, referred to in text, are defined in section 12 of this title.” 15 U.S.C. § 23 note, attached as Ex. A. The Supreme Court has also said that the list in Section 12 “is exclusive.” Nashville Milk Co., 355 U.S. at 376. For this reason, courts maintain that “[t]he FTC Act is **not** an ‘**antitrust law**’ **within the meaning of the Clayton Act**, 15 U.S.C. § 12(a).” Fed. Trade Comm’n v. Onkyo U.S.A. Corp., 1995 WL 579811, at \*4 n.2 (D.D.C. Aug. 21, 1995).

**The FTC agrees.**

Jon **Leibowitz 06**. **FTC Commissioner**. “In the Matter of Rambus, Inc.,” Federal Trade Commission, 2006, LexisNexis

It would be equally apt, though, to characterize Rambus's conduct as an "unfair method of competition" in violation of **Section 5** of the **FTC Act**. Section 5 was intended from its inception to **reach conduct** that **violates not only** the **antitrust laws** **[[FOOTNOTE 1 BEGINS]]** 15 U.S.C. § 12 (a) (2006). **The antitrust laws** include the **Sherman Act** and the **Clayton Act** (**as modified by the Robinson-Patman Act**). The **FTC Act** is **not an antitrust law**. **[[FOOTNOTE 1 ENDS]]** themselves, but also the policies that those laws were intended to promote. At least three of these policies are at issue here. From the FTC's earliest days, deceitful conduct has fallen within Section 5's province for its effects on competition, as well as on consumers. Innovation -- clearly at issue in this case -- is indisputably a matter of critical antitrust interest. In addition, joint standard-setting by rivals has long been an "object[] of antitrust scrutiny" for its anticompetitive uses, notwithstanding its great potential also to yield efficiencies. In this case, Rambus's deceptive conduct distorted joint standard-setting decisions and innovation investments in ways that seriously injured the operations of the competitive market to the detriment of consumers; it thereby transgressed the policies and spirit of the antitrust laws in all three respects. While respondent's behavior before JEDEC might well have been challenged solely as a pure Section 5 violation, Complaint Counsel did not litigate this theory before the administrative law judge. Thus, I write separately to discuss and reemphasize the broad reach and unique role of Section 5.

I also address the scope of Section 5 because some commentators have **misperceived** the Commission's authority to challenge "unfair methods of competition," **incorrectly viewing** it as **limited**, with perhaps a few exceptions, to **violations** of the **Sherman** and **Clayton Acts**. Others are unclear just how far Section 5 **can reach beyond** the **antitrust laws**. Regardless of the reasons for these cramped or confused views, a **review** of Section 5's **legislative history**, **statutory language**, and **Supreme Court interpretations** reveals a **Congressional purpose** that is **unambiguous** and an **Agency mandate** that is **broader** than many realize.

**Courts have determined the FTC Act is not an antitrust law.**

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

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

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

**Their evidence only uses the term colloquially.**

**Brinkman et al 16** – Independent, nonpartisan, quasi-judicial federal agency that fulfills a range of trade-related mandates

Paul F. Brinkman, Jon Corey, Debbie L. Shon, S. Alex Lasher, Ethan Glass, Jennifer Kash. Complainant U.S. Steel's Response to the Written Submissions by Respondents and OUII Staff regarding the Commission's Determination to Review an Initial Determination Granting Respondents' Motion to Terminate Complainant's Price-Fixing Claim, Certain Carbon and Alloy Steel Products, Investigation No. 337-TA-1002, April 2016, LexisNexis

The Clayton Act and its “antitrust injury” limitation only apply to the specific “antitrust laws” identified by Congress. 15 U.S.C. § 15 (“[A]ny person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue. . . .”). In disregarding Section 337’s statutory language and legislative history, and just asserting that Section 337 is an “antitrust law,” Respondents fail to alert the Commission that **Congress** has **expressly defined**—in the **Clayton Act**—that the “**antitrust laws**” **include only**: the **Sherman Act**, the **Clayton Act,** and **parts** of the **Wilson Tariff** and **Robinson-Patman Acts**. See 15 U.S.C. § 12(a); Nashville Milk Co. v. Carnation Co., 355 U.S. 373, 375–76 (1958) (“In light of the **much other so-called antitrust legislation** enacted prior and subsequent to the Clayton Act, it seems plain that the rule expressio unius exclusio alterius is applicable, and that the **definition contained** in § 1 of the **Clayton Act** [15 U.S.C. § 12] is **exclusive**.”). **[FOOTNOTE 2 STARTS]** **Section 5** of the **FTC Act**, the most similar statute to Section 337, also is not an “**antitrust law**” and does not require antitrust injury. Rader v. Balfour, 440 F.2d 469, 471 (7th Cir. 1971). **[FOOTNOTE 2 ENDS]** In Nashville Milk, the Supreme Court also **expressly rejected** any argument that **statutes** such as Section 337(a)(1)(A)(iii) should be treated as “antitrust laws” simply because they are **described colloquially** as “**antitrust statutes**.” Id. at 375–76 (“[I]t is of no moment here that the Robinson-Patman Act may be colloquially described as an ‘antitrust’ statute.”); see RBr. at 4–5 (citing colloquial references by the Commission). Thus, by definition, Section 4 of the Clayton Act and its “antitrust injury” limitation do not apply to Section 337, which is not an antitrust law and which has its own injury requirement.

## CP — Advantage

## Solvency

#### “Adoption” is distinct from implementation

Henderson 16 (THELTON E. HENDERSON, United States District Judge. Opinion in Emma C. v. Eastin, 2016 U.S. Dist. LEXIS 82077, Court: California Northern District Court, Date: June 23, 2016, Lexis, date accessed 9/30/21)

The Court finds itself in the undesirable, but sometimes necessary, position of interpreting language that was not drafted by the Court, but rather was drafted by the parties and approved by the Court. Therefore, the Court does not have any information - besides the parties' arguments at the June 13, 2016 hearing - as to the intent behind the provision at issue. That being said, the Court is inclined to agree with Plaintiffs' interpretation that the "thirty days advance notice" was intended to mean 30 days prior to formalization or adoption,2 not implementation, of statewide monitoring system changes that would be applied to the District. Plaintiffs' interpretation is the only one that makes sense when considering the paragraphs following the "thirty days" provision in the Fifth Joint Statement - namely, that after CDE gives its notice, Plaintiffs and the District make objections within 21 days; then if necessary, the parties engage in what can be an extensive meet-and-confer process, the Monitor makes determinations [\*11] if necessary, and the parties engage in motion practice before the Court if necessary. Fifth Joint Stmt. at 9-10. CDE's interpretation would not allow the parties sufficient time to engage in this process.

#### There are clear legal designations

Ohio Board of Tax Appeals 7 (Linda S. Hanna, Appellant, vs. Wood County Board of Revision and the Wood County Auditor, Appellees. State of Ohio -- Board of Tax Appeals, November 16, 2007, CASE NO. 2006-B-1117 (REAL PROPERTY TAX) Lexis, date accessed 9/30/21)

Furthermore, the effective date of the appraisal relied upon by the appellant is twelve months subsequent to the tax lien date in issue. In Olmsted Falls Village Assn. v. Cuyahoga Cty. Bd. of Revision (1996), 75 Ohio St.3d 552, 1996 Ohio 456, 664 N.E.2d 922, the Supreme Court found this board's reliance upon appraisal evidence which did not opine value for the pertinent tax lien date to be improper:

"We [\*6] reverse the BTA's decision and remand this matter to the BTA because the BTA based its decision on evidence that did not value the property as of the tax lien date.

"R.C. 5715.19(A)(1)(d) authorizes a property owner to file complaints with a board of revision against determinations made by the county auditor concerning the true value of the owner's property. According to R.C. 5715.19(D), 'the determination of any such complaint shall relate back to the date when the lien for taxes \*\*\* for the current year attached \*\*\*.' The lien for taxes for each year attaches on the first day of January. R.C. 323.11.

"To emphasize the importance of this date, R.C. 5715.01, which authorizes the Tax Commissioner to direct and supervise the assessment of real property for taxation, including adopting rules to that end, states:

"'The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year \*\*\*.'

"The BTA valued the property according to Canitia's opinion of value. However, Canitia did not value the property as of any certain date. According to his testimony, he valued [\*7] the property as of the entire year. To him, the tax lien date was a reflective date, not the valuation date. Thus, the evidence on which the BTA relied for its ultimate decision is unlawful. SFZ Transp., Inc. v. Limbach (1993), 66 Ohio St.3d 602, 1993 Ohio 240, 613 N.E.2d 1037, \*\*\*.

"We emphasize that the BTA '\*\*\* may consider pre- and post-tax lien date factors that affect the true value of the taxpayer's property on the tax lien date.' Youngstown Sheet & Tube Co. v. Mahoning Cty. Bd. of Revision (1981), 66 Ohio St. 2d 398, 422 N.E.2d 846, \*\*\*, paragraph two of the syllabus. However, the BTA must base its decision on an opinion of true value that expresses a value for the property as of the tax lien date of the year in question." Id. at 554-555. (Parallel citations omitted.)

## Adv — Dynamism

## Adv — Systemic Risk

#### 3---no motivation.

Lewis 18, PhD, a senior vice president at the Center for Strategic and International Studies (CSIS). (James Andrew, 1-1-2018, “Rethinking Cybersecurity: Strategy, Mass Effect, and States”, pg. 7-9, <https://www.jstor.org/stable/resrep22408.5?seq=1#metadata_info_tab_contents>) \*language edited---brackets

The most dangerous and damaging attacks required resources and engineering knowledge that are beyond the capabilities of nonstate actors, and those who possess such capabilities consider their use in the context of some larger strategy to achieve national goals. Precision and predictability—always desirable in offensive operations in order to provide assured effect and economy of force—suggest that the risk of collateral damage is smaller than we assume, and with this, so is the risk of indiscriminate or mass effect.

State Use of Cyber Attack Is Consistent with Larger Strategic Aims

Based on a review of state actions to date, cyber operations give countries a new way to implement existing policies rather than leading them to adopt new policy or strategies. State opponents use cyber techniques in ways consistent with their national strategies and objectives. But for now, cyber may be best explained as an addition to the existing portfolio of tools available to nations.

Cyber operations are ideal for achieving the strategic effect our opponents seek in this new environment. How nations use cyber techniques will be determined by their larger needs and interests, by their strategies, experience, and institutions, and by their tolerance for risk. Cyber operations provide unparalleled access to targets, and the only constraint on attackers is the risk of retaliation—a risk they manage by avoiding actions that would provoke a damaging response. This is done by staying below an implicit threshold on what can be considered the use of force in cyberspace.

The reality of cyber attack differs greatly from our fears. Analysts place a range of hypothetical threats, often accompanied by extreme consequences, before the public without considering the probability of occurrence or the likelihood that opponents will choose a course of action that does not advance their strategic aims and creates grave risk of damaging escalation. Our opponents’ goals are not to carry out a cyber 9/11. While there have been many opponent probes of critical infrastructure facilities in numerous countries, the number of malicious cyber actions that caused physical damage can be counted on one hand. While opponents have probed critical infrastructure networks, there is no indication that they are for the purposes of the kind of [devastating] crippling strategic attacks against critical infrastructure that dominated planning in the Second World War or the Cold War.

Similarly, the popular idea that opponents use cyber techniques to inflict cumulative economic harm is not supported by evidence. Economic warfare has always been part of conflict, but there are no examples of a country seeking to imperceptibly harm the economy of an opponent. The United States engaged in economic warfare during the Cold War, and still uses sanctions as a tool of foreign power, but few if any other nations do the same. The intent of cyber espionage is to gain market or technological advantage. Coercive actions against government agencies or companies are intended to intimidate. Terrorists do not seek to inflict economic damage. The difficulty of wreaking real harm on large, interconnected economies is usually ignored.

Economic warfare in cyberspace is ascribed to China, but China’s cyber doctrine has three elements: control of cyberspace to preserve party rule and political stability, espionage (both commercial and military), and preparation for disruptive acts to damage an opponent’s weapons, military information systems, and command and control. “Strategic” uses, such as striking civilian infrastructure in the opponent’s homeland, appear to be a lower priority and are an adjunct to nuclear strikes as part of China’s strategic deterrence. Chinese officials seem more concerned about accelerating China’s growth rather than some long-term effort to undermine the American economy.6 The 2015 agreement with the United States served Chinese interests by centralizing tasking authority in Beijing and ending People’s Liberation Army (PLA) “freelancing” against commercial targets.

The Russians specialize in coercion, financial crime, and creating harmful cognitive effect—the ability to manipulate emotions and decisionmaking. Under their 2010 military doctrine on disruptive information operations (part of what they call “New Generation Warfare”). Russians want confusion, not physical damage. Iran and North Korea use cyber actions against American banks or entertainment companies like Sony or the Sands Casino, but their goal is political coercion, not destruction.

None of these countries talk about death by 1000 cuts or attacking critical infrastructure to produce a cyber Pearl Harbor or any of the other scenarios that dominate the media. The few disruptive attacks on critical infrastructure have focused almost exclusively on the energy sector. Major financial institutions face a high degree of risk but in most cases, the attackers’ intent is to extract money. There have been cases of service disruption and data erasure, but these have been limited in scope. Denial-of-service attacks against banks impede services and may be costly to the targeted bank, but do not have a major effect on the national economy. In all of these actions, there is a line that countries have been unwilling to cross.

When our opponents decided to challenge American “hegemony,” they developed strategies to circumvent the risks of retaliation or escalation by ensuring that their actions stayed below the use-of-force threshold—an imprecise threshold, roughly defined by international law, but usually considered to involve actions that produce destruction or casualties. Almost all cyber attacks fall below this threshold, including, crime, espionage, and politically coercive acts. This explains why the decades-long quest to rebuild Cold War deterrence in cyberspace has been fruitless.

It also explains why we have not seen the dreaded cyber Pearl Harbor or other predicted catastrophes. Opponents are keenly aware that launching catastrophe brings with it immense risk of receiving catastrophe in return. States are the only actors who can carry out catastrophic cyber attacks and they are very unlikely to do so in a strategic environment that seeks to gain advantage without engaging in armed conflict. Decisions on targets and attack make sense only when embedded in their larger strategic calculations regarding how best to fight with the United States.

There have been thousands of incidents of cybercrime and cyber espionage, but only a handful of true attacks, where the intent was not to extract information or money, but to disrupt and, in a few cases, destroy. From these incidents, we can extract a more accurate picture of risk. The salient incidents are the cyber operations against Iran’s nuclear weapons facility (Stuxnet), Iran’s actions against Aramco and leading American banks, North Korean interference with Sony and with South Korean banks and television stations, and Russian actions against Estonia, Ukrainian power facilities, Canal 5 (television network in France), and the 2016 U.S. presidential elections. Cyber attacks are not random. All of these incidents have been part of larger geopolitical conflicts involving Iran, Korea, and the Ukraine, or Russia’s contest with the United States and NATO.

There are commonalities in each attack. All were undertaken by state actors or proxy forces to achieve the attacking state’s policy objectives. Only two caused tangible damage; the rest created coercive effect, intended to create confusion and psychological pressure through fear, uncertainty, and embarrassment. In no instance were there deaths or casualties. In two decades of cyber attacks, there has never been a single casualty. This alone should give pause to the doomsayers. Nor has there been widespread collateral damage.

# 1NR

## DA — Innovation

#### US tech sector is dominant---only antitrust crushes it

Moore 8-6-2021, MA, economics, syndicated columnist. (Stephen, "Moore: US tech sector keeps besting the world", *Boston Herald*, <https://www.bostonherald.com/2021/08/06/moore-us-tech-sector-keeps-besting-the-world/>)

Take a bow, America. It’s official and irrefutable: The U.S. is blowing out the rest of the world in tech leadership. No other country in the world comes anywhere close in tech innovation and the dominance of our made-in-America 21st-century companies. The Nasdaq index of once-small technology companies reached 15,000 last week. Only a few years ago, that index stood at 5,000. Yes, these companies have tripled in their market cap value — and that doesn’t include the dividends that have been paid out to large and mom-and-pop shareholders in America and across the planet. We are told constantly that China is catching up and achieving remarkable digital-age leaps forward in biotechnology, artificial intelligence, green energy, robotics, 5G technologies and microchips. The value of America’s 12 most valuable companies today in terms of stock valuation is well over $10 trillion. Those red, white and blue companies from Silicon Valley to the “Silicon Slopes” of Utah to Boston to northwest Arkansas are worth roughly as much as all of the Chinese publicly traded companies combined. Firms such as Google — many of which didn’t even exist 30 years ago — have made millionaires off your next-door neighbor. Ordinary people are getting rich beyond anyone’s imagination 50 years ago, thanks to American innovation and inventiveness. Risk-taking, old-fashioned can-doism is a hallmark of this unrivaled success story that has never been matched anywhere at any time in world history. Almost all of this is a tribute to American financial markets that allocate capital in hyperefficient ways. Capitalists doing a spectacular job of allocating capital efficiently is our secret sauce to financial and technological success. I am always mystified when highly successful Wall Street investors can’t explain how it is they add value and sometimes concede that they are just unnecessary middlemen. Even Warren Buffett, one of the greatest of all time, expresses guilt about his billions, as if he and other great financiers are economic parasites. No. Steering financial resources to winners like Google, not losers like Solyndra, makes everyone in America richer. Meanwhile, few politicians have any clue of how capital markets create wealth and jobs and shared prosperity in America. If they did, they would appreciate that without capitalists and capital, there is no enterprise — no material progress. They would instantly understand the economic ~~lunacy~~ of increasing taxes on capital gains and dividends, wealth taxes, and, worst of all, death taxes that threaten the future survival of family-owned businesses. Cutting, not raising, the U.S. capital gains tax would be far wiser if we want America to maintain and widen our competitive lead and keep winning globally. The arrogant fools in the administration of President Biden believe that to keep America No. 1 technologically, we need to have a multibillion-dollar government-run slush fund with the politicians picking winners and losers with other people’s money. China does this, and so does Japan, and it has never worked. One of the most famous stories of government-as-investment banker was when the Tokyo government’s brain trust recommended that Honda not get in the business of making cars. Here in the U.S., the political class has made a $150 billion bet on wind and solar power since the late 1970s, and in return, that has produced only a small sliver of our energy needs. Even more inexplicable is the movement in America coming from senators such as Democrat Elizabeth Warren on the left and Josh Hawley of Missouri on the right to break up our tech companies. Why? Because, evidently, they are too good at what they do. They make too much money. They have too many customers and too many advertisers. Put aside for a moment the rancid political persuasions of some of these leftist Silicon Valley CEOs. Somehow, the left and right agree that building a superior product and even crafting entire new industries is a punishable offense. God forbid. The rest of the world — the Chinese, Indians, Japanese and especially the technologically inferior Europeans — would love to hobble American titans and tax away their profits. The role of the U.S. government should be to repel the foreign attacks. Crazily, the Biden administration has given the green light to foreigners pillaging American companies. This doesn’t put America first. So, can America’s tech dominance continue to blow away the foreign competition for decades to come? Bet on it. That is, unless we are foolish enough to decapitate our own industries through regulation, antitrust policies and raising tax rates on success. The challenge for U.S. supremacy is coming from Washington, D.C., not China.

#### American defense innovation is peerless.

Gholz 6-24-2021, Eugene, Associate Professor of Political Science at the University of Notre Dame. Harvey M. Sapolsky, Professor of Public Policy and Organization, Emeritus, at the Massachusetts Institute of Technology (MIT) and the former Director of the MIT Security Studies Program. ("The defense innovation machine: Why the U.S. will remain on the cutting edge", *Journal of Strategic Studies*, <https://doi.org/10.1080/01402390.2021.1917392>)

Here we examine these concerns that the American military advantage in the Post-Cold War era has dissipated in large part because the Defense Department lags behind in developing advanced technologies. Our judgment is that the American defense research and development system, as honed during the Cold War and expanded since, is fully capable of handling any military challenge. It is a gigantic technology-generating, innovation-producing, war-fighting machine. U.S. ‘hard’ innovation capabilities – ‘input and infrastructure factors’ like R&D facilities, human capital, access to foreign technology, and availability of funding – far outstrip those of its potential rivals, even though those factors are the ones often thought of as easier for catch-up countries to obtain.3 Despite warnings that the United States no longer spends enough on R&D and that Chinese R&D spending is surging, the reality is that the United States dramatically leads in military innovation investment. In functional terms, the United States dominates all other countries, including China, in ‘input factors,’ starting with resource allocations to defense research and development. More important, we believe that the American defense technology system is pushed toward innovation by specific contextual factors, the ‘soft’ categories of attributes and capabilities, that cannot readily transfer to likely rivals.4 First, the political culture of the United States values technology strongly: technology is assumed to be the solution to most problems, including military ones. American culture also has a strong casualty aversion driven by an economy traditionally burdened by labor scarcity and by responsive political institutions that encourage the substitution of capital for labor to keep its own people out of harm’s way.5 The All-Volunteer Force reflects this by making military service voluntary and thus making military service expensive for government and service personnel lives ever-more-valuable and in need of husbanding. Second, competition is deeply engrained in defense, as it is in most of American society, stimulating new ideas and providing a diversity of approaches to any problem, in case one technology trajectory does not work out as hoped. Competition extends among the various military services and agencies, which each seek to propose solutions to the nation’s strategic problems, and among firms with different design-team philosophies. Third, the United States also welcomes foreign ideas much more readily than other countries, given U.S. openness to immigration, especially among the highly skilled and technically expert. Finally, a Cold-War organizational innovation in the United States created special public-private hybrid organizations, Federally-Funded Research and Development Centers (FFRDCs) that offer unbiased technical advice and a mechanism for the accumulation of knowledge – a unique social, relational system for institutional memory and systems integration capability that generally works very well. Other nations, with different divisions between the public and the private and dramatically different governance institutions, cannot easily copy these capabilities. These soft innovation factors particularly emphasize American advantages in the functional category of institutional factors – norms of seeing technology as a solution, trying hard to minimise casualties, using innovation as a means of competition among organizations, and welcoming foreign ideas. The institutional factors draw from the particular American mix of organizations, notably independent military services with strong identities, competitive firms in the defense industry that readily form networks or teams of suppliers even as each maintains its own core competencies and technical habits, and FFRDCs that help keep systems integration efforts honest and less parochial and that help preserve knowledge of false-start technology trajectories and craft skills that enable high-tech systems to function well.6 Because of the robustness of America’s input factors and the difficulty of copying its unique institutional factors, we conclude that the American defense innovation system will remain at the cutting edge and will not be surpassed by a potential international rival. In the final section, we explain why American leaders are so nervous anyway.

#### Venture capital, investment, and tech firms are thriving.

Jaffer 10-11-2021, \*Jamil N. Jaffer, former Chief Counsel and Senior Advisor to the U.S. Senate Foreign Relations Committee and currently serves as the Founder and Executive Director of the National Security Institute at George Mason University's Antonin Scalia Law School. \*\*Joshua D. Wright, former Commissioner of the Federal Trade Commission (FTC) and currently serves as the Executive Director of the Global Antitrust Institute and University Professor at George Mason University's Antonin Scalia Law School. ("We need to protect American innovation in the competition with China", *Newsweek*, <https://www.newsweek.com/we-need-protect-american-innovation-competition-china-opinion-1636706>)

The United States is home to companies that make up substantially more than half of the market value of the top 100 global public companies. Technology makes up more than a third of America's contribution to that market value, at nearly $8 trillion. According to the World Bank, the innovation-based digital economy grew more than twice as fast as the overall GDP between 2004 and 2019. In the U.S., the digital economy has grown more than three times as fast as the overall U.S. economy since 2005. This torrid growth increases domestic employment and labor productivity. All of this redounds directly to U.S. national security—economic security is national security.

America's economic future depends not on big manufacturing, but on technology and innovation. Where steel plants and manufacturing plants once stood, we now see software development and chip design labs, cloud computing nodes and supply distribution centers. All this has happened specifically in the United States precisely because the government allowed resources to flow to their most productive uses and at times helped prime the pump with basic research funding.

The U.S., unlike some European nations, has avoided creating a vast web of bureaucracy and heavy-handed government regulation. While there are some pockets of innovation in Europe, the regulatory environments in France, Germany and Spain make them much less attractive to cutting-edge companies. Venture capital investment in the U.S. is more than three times larger than in the EU. For all of its foibles, America remains a good bet for innovative companies.

Our relatively laissez-faire economic policy has also created a robust startup community. It supports strong venture capital funding, like Andreessen Horowitz' investments in the burgeoning crypto industry and social media app Clubhouse. It also has helped the U.S. become the world leader in startup acquisitions.

Current U.S. economic policy has also created long-term growth opportunities in the public markets. American tech companies, for example, make up four of the five most valuable public companies based on market capitalization. Larger technology companies like Illumina may very well be able to fund smaller ones like Grail. They can identify opportunities to leverage economies of scale, make important innovations, such as new ways to screen for cancer, and bring new technology like multi-cancer early detection tests to market. This is a good thing.

#### Large firms drive innovation---it’s high now

Portuese 21, Dr. Aurelien Portuese, director of The Schumpeter Project on Competition Policy and adjunct professor of law at the Global Antitrust Institute of George Mason University. (6-25-2021, “Pharmaceutical Consolidation & Competition: A Prescription for Innovation”, *Information Technology and Innovation Foundation*, https://www2.itif.org/2021-pharmaceutical-task-force.pdf)

The concerns that pharma mergers will lead to fewer drug discoveries or higher drug prices are largely unsubstantiated.29 Recent empirical evidence demonstrates that “the predominant concerns over megamergers among pharmaceutical giants might be misplaced. Changes in scientific landscape of competitive innovation generated a vibrant marketplace for discovery, which megamergers do not necessarily threaten and instead might actually invigorate.”30

Pharmaceutical companies compete via innovation. Rather than competing over prices in a neck-and-neck competition, pharmaceutical companies innovate to have a viable competitive edge vis-à-vis rivals.31 Pharma markets inherently exhibit dynamic competition given the high reliance of drug companies on patents. A temporary “monopoly” right over a new drug constitutes the main driver for R&D expenditures. In fact, the U.S. biopharma industry is the most R&D-intensive in the world.

And these sunk costs are high and increasing in part because the failure rate is high. For every 10,000 pharmaceuticals patented, about 100 may go through human trials, and less than 10 may ultimately be marketed.32 Drug development now often takes an average time of 12-14 years to bring an innovative new drug to market. These rising costs and uncertainties associated with drug innovation lead pharmaceutical companies to diversify their drug portfolios. Consequently, such diversification requires different lines of products with different patents. Mergers and acquisitions can provide a viable path toward such diversification—a crucial element for drug innovation.33

Because of the massive R&D investments required for pharmaceutical companies to compete in the marketplace effectively, size is critical, or as Omta states: “size can be considered to be by far the most important contingency concerning performance.”34 Mergers may be explained by the desire to submit more patents since “the larger firms clearly submit more patent per invested dollar than the smaller ones. This could be a clear indication of their higher innovative effectiveness. Another explanation could be that larger companies submit their patents relatively earlier than smaller ones.”35

#### Separation fails---doesn’t preserve incentives to innovate.

Gilbert 21, Economics Professor at UC Berkeley. (Richard J, March 2021, “Separation: A Cure for Abuse of Platform Dominance?” *Information Economics and Policy,* Volume 54, https://doi.org/10.1016/j.infoecopol.2020.100876)

There is no single formula to address concerns about the alleged abuse of market power by these platforms. Separation is an alternative to behavioral remedies of the type imposed by the European Commission in the Google Shopping case. These behavioral remedies have accomplished little to restore competition that the EC alleged was harmed by Google’s search algorithms. Separation has the potential to be a more effective remedy to restore competition allegedly harmed by the conduct of a platform owner, but separation raises many questions, including the platforms that require separation, the services that must be separated, the terms and governance of separation requirements, and procedures to evaluate appeals from line-of-business restrictions. Structural separation is administratively feasible for some platform activities, such as the sale of merchant and proprietary products on Amazon’s online retail platform or the separation of Google’s Ad Manager from its other products and services. Some past acquisitions could be unwound. Functional separation is another alternative for some services. Amazon could establish an ethical wall between its proprietary sales and sales by independent merchants. However, structural or functional separation does not necessarily eliminate incentives for discrimination and Amazon’s use of non-confidential information obtained from sales of products on its platform can benefit consumers. For many other platform services, it is unlikely that structural or functional separation would prove to be more consumer-friendly than the line-of-business restrictions imposed on AT&T by FCC regulation and the 1984 Modified Final Judgment, which ultimately collapsed under the weight of numerous waiver requests and were replaced by the 1996 Telecommunications Act. Courts have avoided structural remedies in part because they are difficult to implement and potentially harm corporate, shareholder, and labor interests (Waller, 2009). Yet the threat to dissolve a corporate structure can deter some future anticompetitive conduct precisely because it has disruptive consequences. For separation to serve this deterrence function, it should punish conduct that has clear and substantial anticompetitive effects and is likely to be repeated in the future absent the threat of dissolution. However, the deterrence benefit from structural or functional separation is limited for digital platforms. There is disagreement about the conduct by digital platforms that warrants harsh punishment and about effective remedies for allegedly harmful conduct. Although antitrust liability and remedy are separate concepts, it is questionable whether conduct should be liable for antitrust enforcement if enforcers cannot fashion a workable remedy for the challenged conduct (Melamed, 2009). Furthermore, many of the alleged concerns related to conduct by the major digital platforms are specific to particular business models and therefore punishments would not necessarily deter other types of conduct by the platforms. Antitrust is a critical enforcement tool despite the difficulties of crafting effective remedies to restore or deter anticompetitive conduct. Merger enforcement can and should prevent platforms from increasing their market power or using acquisitions to eliminate nascent competitors. Monopolization law can address abuses of monopoly power, which can occur at many different levels in the chain of activities engaged by digital platforms. Along with antitrust oversight from properly designed consent decrees, the threat of monetary penalties can be an effective deterrent for anticompetitive conduct, but they must be large enough to make the conduct unprofitable, which is not the case today. Antitrust enforcement cannot solve all of the problems raised by the concentration of market power in the digital economy. Public policy for the digital economy requires a mix of institutional approaches, including regulations, to promote competition in ways other than structural or functional separation, such as by requiring platforms to share data that create a barrier to new competition, along with stronger antitrust enforcement to address abuses of market power. The most important lesson for structural separation of the major digital platforms gained from the history of telecommunications deregulation and other reforms is the trade-off between encouraging competition and innovation. The breakup of AT&T into separate functional and geographic units imposed by the 1984 MFJ promoted competition in some sectors of the industry that had been highly regulated. The decree arguably also stifled some innovations by erecting a wall between local telecommunications services, long distance, and enhanced information services when technology was eroding the distinctions between these services. There are no simple structural solutions that both preserve the incentive and ability of platforms to innovate and protect rivals from the consequences of that innovation.

#### Digital platforms and the products they offer are tightly integrated and designed for interoperability. Breaking them up is impossible and annihilates efficiency.

Miller 21, PhD, senior policy research editor at the Mercatus Center at George Mason University. (Tracy, 5-5-2021, “Evaluating Arguments for Antitrust Action against Tech Companies”, *Mercatus Research Series*, pg. 39, Accessible at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3840448>)

More generally, structurally separating different products and services of vertically integrated DP firms could sacrifice important efficiencies, contributing to reduced incentives for competition and innovation and, in turn, harming consumers.139 Such separation would likely have similar effects as the 1984 Modified Final Judgment resulting from the antitrust case against AT&T that separated local exchanges that had been part of AT&T into Regional Bell Operating Companies. The Modified Final Judgment facilitated new competition that resulted in lower prices for some services. However, the line-of-business restrictions it imposed also raised costs and slowed innovation in the telecommunications industry, creating “massive impediments to efficient operation of the network.”140

The characteristics of DP companies would likely create even more difficulty in breaking them up without destroying many of the benefits that consumers gain from their ecosystems of products. These firms are tightly integrated and “rely upon flexible teams to solve problems that tend to cross the normal divisional and functional bounds.”141 Breaking up these firms would require breaking up their technology stacks, the suite of technologies that power websites. Some components of these stacks—such as Facebook’s BigPipe, which dynamically serves pages quickly—keep costs down because they are used by multiple divisions. After the breaking up of these companies, preventing them from reintegrating would require government regulation. Such regulation would likely lead to a decline in innovation.142 Although the number of firms might be larger, the overall result would likely be lower productivity and fewer consumer benefits

#### Plan causes platform consolidation AND wrecks innovation incentives

Moss 19, PhD, MA, President of the American Antitrust Institute, Adjunct Faculty in the Department of Economics at the University of Colorado at Boulder. (Diana L., October 2019, “Breaking Up Is Hard to Do: The Implications of Restructuring and Regulating Digital Technology Markets”, *The Antitrust Source*, Volume 19 Issue 2, pg. 8-9, <https://www.americanbar.org/content/dam/aba/publishing/antitrust-magazine-online/2018-2019/atsource-october2019/oct19_full_source.pdf>)

In light of the incentives that are likely to be created by the Warren proposal, platform utilities may be more likely to be sold to a standalone platform operator. Likewise, affiliated businesses may be more likely to be divested to firms operating similar businesses. In the latter case, concerns about horizontal concentration or vertical foreclosure could arise in antitrust merger reviews. The same is true of divesting a platform utility to an existing platform operator, which might increase concentration in the platform market, raising concerns around mega-platform operators and, eventually, non-trivial questions of regulatory capture. 45 In both cases, finding viable buyers to maintain sophisticated assets and inject the competition that is the goal of breakup proposals is likely to be difficult, particularly if markets are concentrated. 46

Restructuring, coupled with regulation, may also result in weaker incentives to maintain a standalone platform utility and continue to innovate—problems that could undermine the claimed effectiveness of restructuring proposals. Two lessons are illustrative. First, the Regional Transmission Operator (RTO) entity was created as part of wholesale electricity market restructuring in the United States in the 1990s. The Federal Energy Regulatory Commission opted to pursue “functional,” rather than structural separation of generation and transmission. 47 RTOs, which are subject to public utility regulation, are tasked with independently operating transmission networks (which continue to be owned by electric utilities) in various regions of the United States. They have grappled with governance and access pricing issues. Moreover, studies have revealed that the benefits of maintaining standalone RTOs are unclear. 48

Second, standalone operators of regulated networks or utilities typically have weak incentives to maintain a platform or invest in upgrading it. 49 The spinoff of the British railway system to an independent operator in the United Kingdom in the 1990s is instructive. The new network operator experienced safety problems in the wake of restructuring, and numerous modifications have been made to the original ownership and operation scheme. 50 These problems all pose potential costs on competition and consumers.

#### Platform separation is incoherent and destroys the platforms themselves

Todd 19, MA, LLM, LPC, Trainee Solicitor, Herbert Smith Freehills LLP, London (Patrick F., "Digital Platforms and the Leverage Problem", *Nebraska Law Review* 98, No. 2, pg. 535-536, <https://heinonline.org/HOL/P?h=hein.journals/nebklr98&i=498>)

3. Static Product Boundaries

In prior cases of access regulation, the input that adjacent market rivals have depended on for access to consumers has been clearly distinguishable from the rivals' products. However, digital platforms are not railroads on which rolling stock sits and trundles along.2 53 Platform owners constantly introduce new features and functionalities to their platforms to the benefit of both users and third-party distributors and integrate those features and functionalities with the platform itself. Antitrust literature commonly refers to "platforms" and "applications" as if these are perceptibly different products, but the reality is much different: both platforms and their complementary applications are composed of individual components. Any attempt to freeze the definitional boundary of a platform would negate platform owners' incentive to build upon and improve their platforms, to the detriment of consumers. Consider the following components that Apple produces in-house: voice assistant (Siri), alarm, camera, and payment system (Apple Pay). These components are distributed with Apple's iOS platform and in essence form part of the OS itself. If Apple were prevented from vertically integrating, would it be allowed to be active in these adjacent markets? What would iOS look like? Could it even have a voice-call function? Alternatively, under non-discrimination regulation, what would a new iOS phone look like? Would it just be a blank screen where the user is then forced to choose between various alternatives? The problem with proposing to separate platforms from adjacent products (structurally or behaviorally) is that any platform component can theoretically be modularized and opened to competition by third parties.254 When one breaks a platform down into its individual components and prevents adjacent market entry or leveraging, it is not clear what remains of the platform itself. Because integration of complementary components is an essential part of inter-platform competition, imposing the proposed regulation would destroy the very ecosystems that the competitors that critics seek to protect depend on.

#### If they aren’t extraterritorial, that’s a link---the plan enables Chinese monopolies to dominate digital markets.

Dolmans 19, lawyers at Cleary Gottlieb Steen & Hamilton LLP (Maurits & Tobias Pesch, October 2019, “Should We Disrupt Antitrust Law?”, *Competition Law & Policy Debate*, Volume 5 Issue 2, Accessible at: https://www.clearygottlieb.com/-/media/files/should-we-disrupt-antitrust-law-pdf.pdf)

Fourth, international law and comity stand in the way: could a US authority break up Baidu or the EU break up Facebook? This extraterritorial exercise of jurisdiction would create legal issues and international tension.33 Breaking up Western IT firms while leaving Chinese or Indian firms untouched is not a solution either, since it could skew online competition in the long term.

#### Private sector tech leadership wards off revisionism and secures military dominance.

Thompson 20, PhD, MA, Chief Operating Officer of Lexington Institute. (Loren B., 10-8-2020, "Why U.S. National Security Requires A Robust, Innovative Technology Sector", *Lexington Institute*, PDF accessible at: <https://www.lexingtoninstitute.org/why-u-s-national-security-requires-a-robust-innovative-technology-sector/>)

Technology is thus a critical driver of national security, because it is the variable that determines the significance of all the other factors. In the past, the United States was able to sustain a culture of innovation that permitted it to lead the world in advanced technologies. Now that may be changing as other nations pursue investment initiatives aimed at dominating the global information revolution. For example, the Chinese economy today generates as much manufactured output as Germany, Japan and America combined, and that output increasingly consists of advanced information technology. This report is about the role that America’s own technology sector plays in bolstering national security. It is focused mainly on the defense dimensions of America’s strategic competition with China and other nations, illuminating how a robust and innovative domestic technology sector can contribute directly and indirectly to U.S. military dominance. The United States has faced major challenges to its military security in every generation since the 20th century began, and in each case new technology was a key factor defining the danger. The threat posed by imperialism at the century’s beginning was closely associated with 4 development of the dreadnaught. The threat posed by fascism a generation later was driven largely by the advent of air power. And the threat posed by communism in the century’s second half arose first and foremost from nuclear weapons. Unlike those earlier dangers, the technological content of today’s threat from other nations is grounded largely in commercial innovations— innovations readily adapted to new concepts of warfare. If the United States is to emerge from this latest contest with its leadership position intact, as it did in earlier rivalries, it will have to compete successfully in commercial markets through commercial enterprises. This is not an “arms race” in the traditional sense, but its implications for America’s place in the world are every bit as serious as the danger posed by dreadnaughts and bombers in earlier generations. What is the technology sector, and why will it be central to national security in the years ahead? The domestic technology sector is that part of the national economy devoted to developing and exploiting new information technologies. During the 1960s and 1970s, it was defined by information hardware such as mainframe computers and semiconductors. The definition later expanded to include enterprises focused on the generation of software. More recently, it has come to encompass companies whose business lines are enabled by the internet, such as Google and Facebook. It is not easy to define the boundaries of the technology sector, because every segment of the economy now relies on digital innovations and the internet to function. Hardware such as the smartphone is central to the emerging information economy, but many tech companies are engaged primarily in delivering services leveraged off of that hardware. For example, Amazon has transformed marketing and logistics using an internet-based business model, but it is mainly a provider of services rather than hardware. It is, nonetheless, a technology-driven change agent that is revolutionizing commerce. The military’s interest in the technology sector arises from the fungibility of information innovations across all facets of human activity. The same processors and memory chips that enable iPhones can be applied to smart weapons, battlefield communications, and military training devices. The same algorithms that facilitate machine learning in commercial products can be used to operate unmanned attack drones and autonomous fighting vehicles. And the “internet of things” that links disparate appliances is a model for the joint connectivity the military seeks in wartime. There is a broad consensus among military planners that the industrial model of warfare spawned by 20th century conflicts is giving way to an information-driven model enabled by new digital technologies. Collectively, these technologies allow warfighters to find, fix and defeat threats faster than adversaries can, while minimizing dangers arising from the fog of war such as fratricide. But the process of innovation is unfolding at a furious pace, and America’s military is hard-pressed to keep up. In August of 2020, the chief of staff of the Air Force released a strategy document aptly titled Accelerate Change Or Lose. The fear among military planners is that a near-peer adversary might use new technologies to leapfrog beyond the warfighting capabilities of America’s joint force, exploiting technologies that barely existed when the current force was conceived. In June of 2020, the Pentagon’s director of research and engineering issued a list of the highest-priority technologies in which the military needed to invest. The top technologies, in descending order of importance, were (1) microelectronics, (2) 5G communications, (3) hypersonics, (4) biotechnology, (5) artificial intelligence, (6) autonomy, and (7) cyber technologies. Only one of these technologies is predominantly military in character; all the others are mainly the products of commercial innovation. They are also all technologies that China and other nations have disclosed plans to invest in heavily as they strive to overtake the United States. So from a military perspective, the threat posed by new information technologies is twofold. On the one hand, the United States might be overtaken and surpassed in operationalizing the new technologies as tools for gaining military advantage in future conflicts. On the other hand, if America cannot keep up in the race to innovate, it might eventually lack the economic resources needed to sustain a global military posture. The U.S. government, and the Department of Defense in particular, invests extensively in such technologies. However, it is widely recognized that the private sector is where innovation in advanced technologies occurs more quickly and more imaginatively. Government can help industry to innovate with targeted funding, tax policy and other exertions, but it cannot create a culture of innovation within the public sector. That requires a structure of incentives that exists only in the marketplace.

#### Turns case---small businesses rely on Big Tech’s tools

CR 21, Catalyst Research, research organization led by Dr. Mark Drapeau (August 2021, “Nightmare on Main Street: The Effects of ‘Populist Antitrust’ on America’s Small Businesses”, pg. 13-14, *Data Catalyst Institute*, https://datacatalyst.org/reports/nightmare-on-main-street-the-effects-of-populist-antitrust-on-americas-small-businesses/)

We are currently living in an “inter-COVID world,” a confusing environment in which in many places COVID-19 is relatively under control, but due to local or international flare-ups, the virus is still a concern and restrictions on things like travel and dining will still have effects on commerce for the foreseeable future. (According to the Global Business Travel Association, for instance, a full recovery of business travel is not expected until 2025.) Thus, most SMBs will continue to heavily rely on digital tools to hire and train people, drive sales, and optimize operations.

Our analysis concludes that if Populist Antitrust and the proposed legislation becomes the driver for antitrust regulation, it would create a more extreme “VUCA” (volatile, uncertain, chaotic, and ambiguous) business environment for SMBs, due to the widespread and evolving effects over a period of many years on GAFA and possibly other companies that provide critical digital services to them. This would be, in a nutshell, small business’ worst nightmare.

# 2NR

## T

#### They are wrong about the DOJ — here’s a specific card

**DoJ 7** (“ANTITRUST DIVISION STATEMENT REGARDING THE RELEASE OF THE ANTITRUST MODERNIZATION COMMISSION REPORT”, Department of Justice Press Release, 4/3/2007, <https://www.justice.gov/archive/atr/public/press_releases/2007/222344.htm> , date accessed 9/4/21)

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

* Free-market competition should remain the touchstone of United States' economic policy. The Commission's conclusion in this regard is a fundamental starting point for policy makers. Over a century of experience has shown that robust competition among businesses, each striving to be increasingly successful, leads to better quality products and services, lower prices, and higher levels of innovation.
* The core antitrust laws—Sherman Act sections 1 and 2 and Clayton Act section 7—and their application by the courts and federal enforcement agencies are sound and appropriately safeguard the competitiveness of the U.S. economy.
* New or different rules are not needed for industries in which innovation, intellectual property, and technological innovation are central features. Unlike some other areas of the law, the core antitrust laws are **general in nature and have been applied to many different industries** to protect free-market competition successfully over a long period of time despite changes in the economy and the increasing pace of technological advancement. One of the great benefits of the Sherman and Clayton Acts is their adaptability to new economic conditions without sacrificing their ability to protect competition.

We look forward to reading the report in depth and considering all of the Commission's recommendations. The Antitrust Division appreciates the service and commitment of the AMC Commissioners.