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#### Business practices are ongoing conduct defined by the behaviors of many market participants

MacIntosh 97 (KERRY LYNN MACINTOSH-Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University. “LIBERTY, TRADE, AND THE UNIFORM COMMERCIAL CODE: WHEN SHOULD DEFAULT RULES BE BASED ON BUSINESS PRACTICES?” *William and Mary Law Review*, vol. 38, no. 4, May 1997, p. 1465-1544. HeinOnline accessed online via KU libraries, date accessed 8/27/21)

These new and revised articles reflect a strong trend toward choosing default rules4 that codify existing business practices.5 [[BEGIN FOOTNOTE 5]] 5. In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. § 1-205(2). [[END FOOTNOTE 5]] This is particularly true ofs the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

**Prohibition requires forbidding a practice—the plan is only a hindrance**

**Van Eaton** et al **17** (Joseph Van Eaton, Gail Karish Gerard Lavery Lederer, lawyers for BEST BEST & KRIEGER, LLP. Michael Watza, KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK, “BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C”, COMMENTS OF SMART COMMUNITIES SITING COALITION, March 8, 2017 , https://tellusventure.com/downloads/policy/fcc\_row/smart\_communities\_siting\_coaltion\_comments\_mobilitie\_8mar2017.pdf)

2. What are at issue legally are prohibitions and effective prohibitions, and not hindrances, as the Commission seems to suggest in its Notice. The term “prohibit” is not defined in the Act, but it has an ordinary meaning: to formally forbid (something) by law, rule, or other authority; or to “prevent, stop, rule out, preclude, make impossible.” A mere “hindrance” “is simply not **in accord with** the ordinaryand fairmeaning” ofthe termprohibit,104 and can provide no basis for additional Commission intrusions on local authority over wireless facilities. Much of what Mobilitie complains about is a “hindrance” at most (and usually a hindrance magnified by its own actions).

**Only per se illegality prohibits a practice---rules of reason prohibit anticompetitive effects for individual acts, or instances of ‘practice.’ Plan text says the term “net harm” which REQUIRES rule of reason!**

Stevens 90 (John Paul Stevens- Justice, Supreme Court of the United States, “FTC v. Superior Court Trial Lawyers Ass'n,” 493 U.S. 411, Lexis

LEdHN[3C] [3C]LEdHN[14] [14]Equally important is the second error implicit in respondents' claim to immunity from the per se rules. In its opinion, the Court of Appeals **assumed** that the antitrust laws permit, but do not require, the condemnation of price fixing and boycotts without proof of market power. 15 The opinion further assumed that the **per se rule** **prohibiting** such activity "is only a rule of 'administrative convenience and efficiency,' **not** a **statutory command**." 272 U.S. App. D. C., at 295, 856 F. 2d, at 249.This statement contains two errors. HN10 [\*\*\*\*42] The per se [\*433] rules are, of course, the product of **judicial** interpretations of the Sherman Act, but the rules nevertheless have the same force and effect as **any other** **statutory** commands. Moreover, while the per se rule against price fixing and boycotts is indeed **justified** in part by "administrative convenience," the Court of Appeals erred in describing the prohibition as justified **only** by such concerns. The **per se rules** also reflect a **long-standing judgment** that the **prohibited practices** by their **nature** have "a substantial potential for impact on competition." Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 16 (1984).

[\*\*\*\*43] LEdHN[15] [15]As we explained in Professional Engineers, HN11 the rule of reason in antitrust law generates

"two complementary categories of antitrust analysis. In the first category are **agreements** whose nature and necessary effect are **so plainly anticompetitive** that **no** elaborate **study** of the industry is needed to establish their illegality -- they are 'illegal **per se.'** In the second category are agreements whose competitive effect can only be evaluated by analyzing the facts peculiar to the business, the history of the restraint, and the reasons why it was imposed." 435 U.S., at 692.

[\*\*\*873] "Once experience with a particular kind of restraint enables the Court to predict with confidence that the rule of reason will condemn it, it has applied a conclusive presumption that the restraint is unreasonable." Arizona v. Maricopa County Medical Society, 457 U.S. 332, 344 (1982).

[\*\*781] LEdHN[16] [16] [\*\*\*\*44] The per se rules in **antitrust** law serve purposes analogous to per se restrictions upon, for example, **stunt flying** in congested areas or **speeding**. Laws prohibiting stunt flying or setting speed limits are justified by the State's interest in protecting human life and property. Perhaps **most** violations of such rules **actually** cause **no harm**. No doubt many **experienced** drivers and pilots can operate much more safely, even **at prohibited speeds**, than the average citizen.

[\*434] If the especially skilled drivers and pilots were to paint messages on their cars, or attach streamers to their planes, their conduct would have an expressive component. High speeds and unusual maneuvers would help to draw attention to their messages. Yet the laws may nonetheless be **enforced** against these skilled persons **without proof** that their conduct was **actually harmful or dangerous**.

In part, the justification for **t**hese per se rules is rooted in administrative convenience. They are also **supported**, however, by the observation that every speeder and every stunt pilot poses **some threat to the community**. An unpredictable event may overwhelm the skills of the best driver or pilot, even if the [\*\*\*\*45] proposed course of action was entirely prudent when initiated. A bad driver going slowly may be more dangerous that a good driver going quickly, but a good driver who obeys the law is safer still.

#### The rule of reason is the opposite of a prohibition

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

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

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

#### VOTE NEG:

#### FIRST---Ground---balancing tests devastate core links, because they allow the practice when it’s beneficial. AND, creates a moving target, because the disallowed behavior is context-dependent. And bidirectionality---rule of reason creates legally protected practices

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

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

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

#### SECOND---limits---they lead to a wave of legal standard affs that avoid generics

### 1NC — DA

#### Congress has fragile bipartisanship now. That’s vital for effective Russia policy.

Mascaro 2-28, Lisa Mascaro (Member, Associated Press); “State of the Union: Amid disputes, common cause for Ukraine;” The Philadelphia Inquirer; February 28th, 2022; <https://www.inquirer.com/wires/ap/state-union-amid-disputes-common-cause-ukraine-20220228.html>

They have argued viciously in Congress over just about everything: Whether the Capitol insurrection should be investigated or brushed aside. If the president’s choice for the Supreme Court should be the first Black woman. Even over whether or not to wear masks under the dome. But as lawmakers gather for President Joe Biden’s first State of the Union address amid the gravity of Russia’s invasion of Ukraine, they have mustered a rare and remarkable bipartisan resolve, determined to hold the U.S. and its allies together in the defense of a Western-oriented democracy. When Biden stands in the House chamber Tuesday evening, trying to make good on what until now has been a faltering attempt to resolve the nation’s bitter divisions, he may find that the threat from Russian President Vladimir Putin abroad has become the unexpected force pulling the U.S. political parties toward common purpose. “I think you will see in the State of the Union, a strong bipartisan support for our president,” predicts Sen. Chris Coons, D-Del., a Biden ally. The turn of events is both stunning and fragile. Foreign policy has not been the kind of bipartisan draw it was during the past century, when Congress and the White House worked together as the U.S. dominated the global stage. Factions on the right and left have broken off, most definitively over the long wars in Iraq and Afghanistan, creating oddball political alliances in the U.S. and chiseling away at a shared mission. The revival of a robust majority that’s largely supportive of Biden’s strategy toward Russia is even more striking because it is shaping up as one of the most significant rejections of Donald Trump’s embrace of Putin and the former president’s praise of Putin's tactics as Russia invaded Ukraine. “We’re all together at this point and we need to be together about what should be done,” said Senate Republican leader Mitch McConnell of Kentucky. Still, the State of the Union address may not be free of partisan antics, unfolding against the backdrop of a Congress deeply divided over many issues: a prime-time address to the nation, too tempting for lawmakers looking for attention. This year is particularly fraught amid ongoing COVID restrictions and a Capitol still largely shuttered to the public in part because of the security concerns in the aftermath of the deadly Jan. 6, 2021, assault by Trump supporters trying to stop Congress from certifying Biden’s election. “It’s a big worry of mine,” said Rep. Adam Kinzinger, R-Ill., who said he hoped his side of the aisle is respectful and doesn’t yell out “stupid” things. Tuesday’s gathering in the House chamber will be the first time all members are invited since the pandemic outbreak in 2020 and last year’s Capitol attack. Masks will no longer be required, removing one source of friction for those lawmakers who had flouted the guidelines and risked being booted from the session for failing to comply — though COVID tests and social distancing measures will still be required. But the heavy metal security fence is back up around the Capitol complex, a bow to the “new normal” of threats from within America’s own electorate. At least one Republican, Sen. Marco Rubio of Florida, will sit it out rather than participate in what he calls COVID “theater,” even as he is deeply involved in monitoring the war in Ukraine. "I’m just not taking any more COVID tests unless I’m sick,” Rubio said Monday. It can't be said that Republicans are fully pleased with Biden’s handling of the Ukraine war. McConnell has been highly critical of the president's runup to the crisis, calling the White House’s disastrous exit from Afghanistan last summesr a sign of U.S. weakness that opened the door to Putin’s invasion. Leading Republican lawmakers have derided what defense hawks view as Biden's initial reluctance to impose sanctions to deter Putin’s advance on Ukraine. Others have criticized the White House climate change agenda as creating an energy policy that boosts Russian exports, including via the Nord Stream 2 pipeline to Germany, now scrapped over the war. “We all know what Putin wants, and he said so publicly: He wants to reconstitute the USSR and pull back in his orbit all the countries that were in it before," said Sen. Jim Risch of Idaho, the top Republican on the Foreign Relations Committee. “This is a seminal moment.” But even some of the Trump’s staunch supporters are parting ways with the former president after he called Putin's invasion tactics “genius.” Republican Rep. Mo Brooks, who rallied with Trump supporters ahead of last year's assault on the Capitol and has won Trump’s endorsement in the Alabama Senate primary, lambasted Putin's invasion as “barbaric and evil.” But in a nod to the non-interventionist strain that runs deep in both left and right flanks, Brooks added, “While Putin’s Ukrainian invasion and murders are heinous, this is first and foremost a problem for Western Europe to resolve." Congress will face tests ahead, starting with Biden's request for at least $6.4 billion in supplemental funding to help Ukraine, which will require cooperation from both parties. Sen. Chris Van Hollen, D-Md., said the Trump voices remain "a big part of the Republican Party nationally, but at least so far on Capitol Hill, especially in the Senate, I think you’ve got an overall bipartisan consensus. I hope it stays that way.”

#### The plan incites a partisan battle and is weaponized to make Biden seem weak on Russia

Evers-Hillstrom 2-23-2022 (Karl and Chris Rodrigo, “Big Tech allies point to China, Russia threat in push to squash antitrust bill,” *The Hill*, <https://thehill.com/policy/technology/595414-big-tech-allies-point-to-china-russia-threat-in-push-to-squash-antitrust>)

Big Tech’s numerous allies in Washington are repeating a similar message as they lobby lawmakers to abandon antitrust legislation: The U.S. needs tech giants at full strength to counter China, Russia and other threats to national security. The last-ditch effort comes as the Senate gears up to consider the American Innovation and Choice Online Act, a bipartisan bill that would prevent dominant digital platforms from favoring their own services and empower antitrust enforcers to scrutinize the largest tech firms. Despite making it out of the Senate Judiciary Committee by a bipartisan 16-6 vote, the legislation targeting America’s largest tech companies faces an uphill battle. Many lawmakers who gave the legislation a thumbs-up on the panel cautioned that they would be unlikely to vote “yes” on the floor unless major changes are made. A handful of those lawmakers specifically expressed concern that stopping tech giants from self-preferencing could unintentionally advantage America’s adversaries. Russian aggression in Ukraine has only reinforced those industry talking points among lawmakers who are fearful of impending cyber conflicts with Russia and China, according to tech allies. “When you’re talking about a geopolitical conflict, all of a sudden the terms of the debate change, both for the Democrats and the Republicans. There’s an ongoing shift as people grapple with the magnitude of the global tensions,” said Michael Mandel, chief economist at the Amazon- and Meta-backed Progressive Policy Institute, which opposes the antitrust bill. “You don’t want to be in a position of disassembling your strongest tech companies at the same time you’re fighting a tech war.” The argument that antitrust enforcement weakens national security is by no means new. AT&T deployed a similar defense of its power in the 1980s. But tech giants’ hawkish stance on China is a more recent development. Industry lobbyists and tech-backed advocacy groups on both the right and left have inundated lawmakers with calls, emails, op-eds and political ads warning that the antitrust proposal will give Beijing the upper hand in the technological arms race.

#### Perception of a disunified and partisan US response to Russia leads to nuclear world war 3

Dailey and Farwell 1-26-2022, \*as commanded numerous special operations units in peacetime and wartime. As an ambassador, he headed the Department of State’s counterterrorism efforts, \*\*has advised U.S. Special Operations and the Department of Defense. An Associate Fellow in the Dept. of War Studies, King’s College, University of London, he is the author of Information Warfare (Quantico: Marine Corps U. Press, 2020) and The Corporate Warrior (Brookfield: Rothstein Publishing, 2022). (Dell and James, “Will the Ukraine Crisis Spark World War III?,” *National Interest*, <https://nationalinterest.org/feature/will-ukraine-crisis-spark-world-war-iii-199893>)

Will the Ukraine Crisis Spark World War III? All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short. Vladimir Putin’s rhetoric demands another Munich with Joe Biden capitulating, but Biden can’t and won’t oblige. But then the president predicted armed conflict. These smart leaders are better than that, and both need to avert an avoidable war. What both sides need is a grand strategy that redefines relations between the West and Russia, gives each what its pride and security interests require, and averts a conflict that could escalate into World War III. A key aspect of the U.S. posture is to stop reacting to Putin’s threats and shift to a pro-active posture to resolve the crisis, proposing actionable ideas that work for all sides. The talk is about deterrence, but the United States wants action from Russia that advances U.S. security interests just as Russia wants to advance its own. What plausible strategies might work for all the parties? Here are areas to consider for where the parties might find common ground and avoid war. If one characterized Dwight Eisenhower’s grand strategy as “containment,” this one seems to qualify as “equilibrium.” That notion doesn’t view Russia as a friend or ally. Let’s move beyond personalities and strike a balance for a stable order in Europe rooted in longer-term state-to-state relationships. Containment grasped that the Soviet Union had expansionist ambitions. Ike rightly rejected co-existence and worked to defeat communism. Russia wants to revive its Soviet sphere of influence, but it offers no ideology, and while seeking global influence as a great power, lacks communist imperial ambitions. A realistic coexistence rooted in strength makes sense for a united West, led by the United States, NATO—with its military focus—and the European Union—with its political focus. Achieving that goal will enable the West to direct fuller attention to its main challenges, particularly those posed by China’s ambitions. Russia Nationalism and hubris drive Putin to regain Russia’s influence and control over its former sphere. Putin views the Maidan Revolution that overturned a pro-Russian government in Ukraine as a U.S.-sponsored color revolution forming part of a scheme to oust him from power. Regime preservation is always Putin’s number one goal. While misguided, his fears help explain his tactics. Putin’s perception of the facts, not the facts themselves, governs Russian actions. A stable framework between Russia and the West might embrace the following ideas: First, assurances that neither Ukraine nor Georgia will become members of NATO. These nations enjoy no right to join NATO; membership is invitation only. Western security interests don’t require making them NATO members, and the West need not insinuate them so closely that Russia feels the relationship amounts to membership. Ukraine could accept a status similar to Austria’s. Austria is a democracy that does business with all sides and maintains its independence. Such status won’t harm the West, and would remove the threat that Putin most complains about. Ukraine needs to be a part of that negotiation. Second, some believe that Putin fears a successful democracy in Ukraine will spur knock-on consequences in Russia that undermine his regime. Unless he wants a real war, Putin is going to have to get real about this politically. He’s popular at home and may remain so unless Russians see lots of body bags coming home. That’s a more serious threat along, potentially, with Russia’s inept response to Covid-19. Third, Putin wants the United States to avoid meddling in Russian internal politics. Let’s be realistic. The United States rightly hit the roof over Russian meddling in U.S. elections. Putin has angered Europe by using weaponized social media and other hybrid warfare tactics to create political disruption and undercut NATO and the EU. But as Russia points out, no nation meddles in other countries’ politics as much as the United States does. One way forward may lie in a mutual agreement that the West and Russia will each stop meddling in one another’s internal affairs. Fourth, Putin would like to turn back the clock. He’s going to have to get real about that. Corruption and the failure of communism defeated the Soviet Empire, not the West. He led Russia to economic progress for the first part of his tenure. He needs to recognize that this record lights his way ahead, not armed conflict. Finally, Putin wants respect as a great power equal. One sore point for him is history. He feels that the West refuses to acknowledge that Russia fought most of the ground war against Germany during World War II and suffered the most casualties. He’s quite emotional about the issue. Addressing pride and nationalism is a matter of diplomacy. Working that out may not be easy, but the goal is achievable. In the meantime, if Putin wants more credit for Russia, Russian historians need to translate their work into English and publish in the West. The West The United States should require quid pro quos from Russia. First, as noted above, both sides must commit to cease meddling in one another’s politics or internal affairs. Second, Russia must commit to avoiding using the Nord Stream II as political leverage to influence European politics. Diplomacy must work out what that means in practice. Third, Russia must recognize that the West is acting with a united front through the United States, NATO, the EU, and the parties. The United States must make clear the West will do whatever is required to honor NATO’s Article V obligations. That includes boosting current military strength in Europe, especially airpower, which can be strategically positioned fairly rapidly. We feel clear lines of communication with Russia can help avoid confusion or cause miscalculation. Issues such as missile deployments have to be negotiated. Fourth, Russia must gain control over and crackdown on criminal cyber hacking in the West by the Russian state, its proxies, so-called “patriotic hackers,” and transnational criminal groups operating from Russia. Moscow’s attempts to disclaim such groups are nonsense and the West shouldn’t give credence to such efforts. Finally, and this is a matter for diplomacy that would take time to play out, Russia and the West should try to find common ground that recognizes the existential threat posed by China’s ambition to establish global military and economic supremacy by 2049. China’s achieving that ambition would pose an existential threat to both sides. Russia won’t join the West in an alliance against China, but the West can also influence Russia against allying with China against it. From the Western perspective, any deal has to stick. President Ronald Reagan once said that in dealing with Russia, “trust but verify.” That was a Russian proverb. If Russia plays fast and loose with a deal or breaks it, all bets are off and the West should move aggressively to protect its security interests, politically and militarily. That includes providing Ukraine with essential military support for defense. Matters are obviously more complicated and nuanced, but these ideas seem common sense and may help inform a framework for negotiation. For the United States, the Biden administration should seek bipartisan consultation and support so that the United States can present a unified front. We feel Russia perceives strategic weakness in the polarization evident in U.S. politics, and unity on Russia would strengthen the U.S. hand in dealing with Russia. All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short. It’s time to move out.

### 1NC — CP

#### The United States federal government should establish a comprehensive technology policy that:

* Significantly expands Open-RAN and provides incentives to developing countries to adopt US and indigenously developed advanced technology
* Supports R and D in key tech, provides tax incentives for key building blocks, finances domestic production and scale-up, adopts a competitiveness screen for regulation and establishes reshoring financing

#### 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.

#### The United States federal government should:

#### Condition resources and commitment to regional allies on peace negotiations and security cooperation

#### Incentivise allies external to Saudi-Houthi conflict to reduce their involvement in the war

#### Support the Saudi-Houthi negotiations process under United Nations auspices

#### Demand and enforce Saudi accountability for the murder of Jamal Khashoggi, planting spies in American companies, and helping prisoners flee American courts

#### Revise the US-Saudi alliance to prioritize shared security threats from Iran and violent non-state actors.

#### Plank 1 solves by leveraging the entire international community against China

Patey 21, senior researcher at the Danish Institute for International Studies and author of How China Loses: The Pushback Against Chinese Global Ambitions (Luke, “To Beat China on Tech, Biden Will Have to Learn from It,” *Wired*, https://www.wired.com/story/beat-china-tech-biden/)

But the incoming Biden administration may not be China’s saving grace. President Biden is expected to maintain a hard line against Chinese tech, up America’s own game by pumping billions of dollars into basic research and development, and rally fellow democracies together to promote global technology standards on cybersecurity and digital trade. China’s tech companies may soon find themselves facing both Trump’s restrictions and new competition from an international tech alliance led by the United States. Yet if President Biden is serious about winning the race against China on 5G mobile networks and other new technologies, he will need more than the support of America’s traditional allies; he’ll also need to learn from China’s own global tech expansion and work closer with developing countries in Africa, Latin America, and Asia. Cooperating more closely with the United Kingdom, Japan, and other advanced democracies in Western Europe and East Asia offers the US instant partners in its competition with China. But global economic growth will increasingly come from emerging markets in the coming decades. If America and its allies ignore large and populous economies like Nigeria, Brazil, and Indonesia, they’re certain to lose the long game on tech. Biden will surely ditch Trump’s derogatory language toward the developing world, but he also needs to shake off America’s entrenched reluctance to view the strategic gains possible in engaging these regions. The problem for the Biden administration is that China is already miles ahead of Western competition. For too long, the United States has viewed much of the developing world as overrun by poverty, humanitarian crises, and conflict. Conversely, China has recognized that these regions offer plenty of economic opportunity in trade, investment, and technology cooperation. In the last couple decades, Chinese tech companies have gained first-mover advantage by capturing large market shares in these budding economies and laying the groundwork as a standards-setter for how the next generation of technologies will work. In Africa, for example, after developing a long line of affordable smartphones, the Chinese tech company Transsion now dominates the continent’s mobile phone industry with over 40 percent of total market share. Chinese telecoms Huawei and ZTE built the majority of Africa’s 4th generation mobile networks, and are now carving a similar path in developing 5G mobile networks in Indonesia, Malaysia, and much of Southeast Asia. Guaranteed market share in China and billions in preferential loans for partner countries have allowed China’s telecoms to deeply underprice their competitors. Chinese tech executives also had the foresight to recognize the potential for future growth in these markets. But all is not lost for Biden. China’s geopolitical behavior has caused plenty of self-inflicted damage to its own tech companies. After deadly border clashes last year between Indian and Chinese soldiers, India banned dozens of popular Chinese social media apps, including TikTok and WeChat, over security concerns. This was hardly a small loss: India was TikTok’s largest market with some 200 million active users. China will find it difficult to lead the future of new technologies without India’s 1.3 billion population on board. And along with Australia, Japan, Vietnam, and others, India is also moving to deny Huawei’s involvement in developing 5G mobile networks within its borders. These decisions weren’t the result of Trump’s aggressive diplomacy, but rather grew out of deepening tensions in relations with Beijing. Huawei’s main competitors, such as Sweden’s Ericsson, are looking to fill any gaps left by China’s geopolitical troubles. But some countries also aspire to develop their own capabilities in 5G. Working alongside California-headquartered Qualcomm, the Indian conglomerate, Reliance Industries, is developing its subsidiary Jio Platforms to provide a homegrown solution for India’s 5G mobile networks. On top of partnering with Ericsson and Finland’s Nokia, Vietnam also aims to develop its own 5G mobile networks with its national company Viettel. For President Biden, China’s setbacks in these rapidly growing markets provide new openings the United States and its allies can pursue. See What’s Next in Tech With the Fast Forward Newsletter The Trump administration struggled to get Brazil and other emerging economies to block Huawei from participating in their 5G mobile networks, despite offering to finance equipment from its competitors. Now that Trump is no longer frustrating American allies with trade war threats, the Biden team can negotiate with South Korea, Japan, the European Union, and others to pool resources in order to level the playing field with China. While not all partners in the developing world will fit into the idea of a democratic tech alliance, President Biden should look to the India and Vietnam model and help other nations develop domestic capacities that lower dependencies on Huawei and other foreign providers over time. New open radio access network technology is one way to develop such alternative solutions. Open RAN essentially allows a variety of companies to supply different parts of a telecommunications network, decoupling the hardware from the software, rather than relying on one provider like Huawei or Ericsson. Though still a work-in-progress, this new technology is believed to have the potential to undermine Huawei’s cost advantage by dramatically lowering the necessary investment to develop 5G networks. European telecom service providers Orange and Vodafone are already introducing such networks in Africa and beyond. The United States is also realizing the possibilities for Open RAN. Late last year, amid political turmoil surrounding Trump’s election defeat, a bipartisan bill quietly passed the US House, unlocking $750 million in funding to accelerate Open RAN development and deployment. In the face of fierce Chinese competition, the next step will be to work with Japan, the United Kingdom, and other allies to explore how to push this new technology forward and make it amenable to emerging market demands. But Open RAN is no silver bullet to Biden’s Huawei challenge. Its potential will only be fully realized in the mid and long run, after high integration costs, security gaps, and other problems are worked out. It should not distract from finding new ways to compete with China in traditional mobile networks. If President Biden is serious about beating China in a global tech race, he will need to learn from the Chinese experience and reverse America’s longstanding failure to see the strategic gain from engaging the developing world on technology. The new administration must not follow Trump’s playbook page by page. Its egregious approach to crippling Chinese competition did little to win over new partners. By offering tech solutions that spur on new growth and development, President Biden can harness the power and ingenuity of America and its allies to outcompete China.

#### Plank 2 solves through a robust industrial strategy

Atkinson 20, founder and president of ITIF. Atkinson’s books include: Big Is Beautiful: Debunking the Myth of Small Business (MIT, 2018), Innovation Economics: The Race for Global Advantage (Yale, 2012), and The Past and Future of America’s Economy: Long Waves of Innovation That Power Cycles of Growth (Edward Elgar, 2005). Atkinson holds a Ph.D. in city and regional planning from the University of North Carolina, Chapel Hill, and a master’s degree in urban and regional planning from the University of Oregon. (Robert, “The Case for a National Industrial Strategy to Counter China’s Technological Rise,” *ITIF*, <https://itif.org/publications/2020/04/13/case-national-industrial-strategy-counter-chinas-technological-rise>)

KEY TAKEAWAYS

China has long posed a stark techno-economic challenge in the advanced industries that are most critical to America’s economic wellbeing and national security. To overcome that threat, policymakers must break free of conventional economic thinking. Trade and foreign policy measures are necessary, but not enough. America needs a robust domestic strategy, too—and it cannot be limited to generic policies to expand “factor inputs” like science, education, and infrastructure. America needs a national strategy that fortifies traded-sector tech industries that are “too critical to fail,” such as advanced machinery, aerospace, biopharma, electrical equipment, semiconductors and computing, software, transportation and more. To develop and implement a national industrial strategy, the federal government will need to significantly strengthen its institutional capabilities to conduct thorough sectoral analysis. Congress should act in four areas: support for R&D targeted to key technologies, tax incentives for key building blocks of advanced production, financing for domestic production scaleup, and adding a competitiveness screen for regulation. All these programs should be aligned with U.S. allies wherever possible. Without a robust industrial strategy to bolster its advanced industries, America will likely experience a steady erosion in its competitive position—akin to the UK’s path in the 1960s and 70s—and a concurrent rise in populist fervor. OVERVIEW Economic pundit Robert Reich once wrote that “industrial policy is one of those rare ideas that has moved swiftly from obscurity to meaninglessness without any intervening period of coherence.” But after 40 years of obscurity and meaninglessness, the concept is now gaining credence for one main reason: China. Elected officials and others from both sides of the political aisle have become increasingly concerned in recent years that China will overtake the United States as the world’s technology leader, with dire consequences for America’s prosperity and national security. And the COVID-19 pandemic, with its disruptions of supply chains, has put U.S. dependency on China in the news on an almost daily basis. Yet while efforts to push back against Chinese “innovation mercantilism” are needed, such steps, even if successful—which is increasingly doubtful—will not be enough. It is time for the federal government to put in place a national industrial strategy that focuses on supporting key industries critical to America’s economic vitality, public health, and national security: in other words, industries that are “too critical to fail.” Unfortunately, when it comes to industrial strategy, our institutional structures are holdovers from the Cold War era while our thinking remains stuck in the 1990s’ free-market, globalist-based Washington Consensus. It is time for a new way of thinking about national security, economic competitiveness, and advanced technology, coupled with new institutions that can effectively develop and implement a national industrial strategy in conjunction with our allies. As such, as Congress considers further stimulus in response to the COVID-19 crisis, it should focus on actions that will not only spur short-term growth and recovery, but also ensure long-term competitive and economic resilience. It is time for the U.S. government to put in place a proactive and targeted national industrial strategy, focused on supporting key industries critical to America’s economic and national security. This report provides the “why, what, and how” of a national industrial strategy—explaining why advanced industrial competitiveness is important, particularly vis-à-vis China; what is the nature of the U.S. advanced industry competitiveness challenge and why markets acting alone are not enough to address the challenge; what a strategy should look like, both institutionally and substantively, and how policymakers should approach developing one; and finally, why common objections to such a strategy are misguided. While trade and foreign policy responses need to play a key role in any overarching strategy to address the China challenge, this report focuses only on proactive, domestic measures the United States can take to have a better chance of retaining, expanding, and making advanced technology industries more resilient in the face of Chinese competition.1 These recommendations include:

* Congress should task the administration with creating a national advanced industry strategy, as Sens. Chris Coons (D-DE), Jeff Merkley (D-OR), Marco Rubio (R-FL), and Todd Young (R-IN) have proposed.
* Congress should establish a unit within the National Institute of Standards and Technology (NIST) to monitor and analyze U.S. domestic production capabilities in advanced industry sectors and their supply chains.
* Congress should significantly expand funding for research related to key technologies, including, among others, artificial intelligence, biopharmaceuticals, robotic and autonomous systems, and semiconductors, and target it to maximize commercialization of these technologies in the United States.
* Congress should establish a Competitiveness Tax Credit, providing a tax credit of 45 percent of all business investments made in the United States in R&D, skills training, and global standards setting, and a 25 percent credit for expenditures on new equipment and software, with expenditures in excess of 75 percent of base-period expenditures qualifying for the credit.
* Congress should support the establishment of an industrial investment bank to drive advanced production scale-up in America, as well as a reshoring incentive fund to encourage relocation from China to the United States of production in critical industries.
* These efforts should be coordinated with our allies, and as such, the federal government should work to establish a joint U.S.-EU-Japan Technology Alliance.

WHY ADVANCED INDUSTRY COMPETITIVENESS IS IMPORTANT The competitiveness of advanced, traded-sector establishments is a key component of healthy economies, and why dozens of nations have implemented strategies to bolster advanced industry competitiveness. There are at least five reasons why policymakers should focus on these sectors. First, advanced traded sectors are critical to America’s trade performance, accounting for 60 percent of U.S. exports.2 More competitive sectors mean a lower trade deficit and a higher value of the dollar relative to other currencies. The former is important because a lower trade deficit means less foreign debt owed by future generations. The latter matters because a stronger dollar means cheaper imports and a higher living standard now. Given the debate over the role of the value of the dollar in competitiveness, it is important to understand that the goal is not a weak dollar; the goal is globally competitive robust advanced traded sectors. If these sectors are competitive, and if the value of the dollar is determined by market forces rather than by foreign government policy, the dollar’s value will be high because sectors are competitive and the U.S. is exporting as much as—or more—than it imports. As such, U.S. currency policy should be focused not on keeping the dollar high or low, but rather on letting the price reflect market conditions (including by fighting foreign currency manipulation). However, U.S. economic policy should work to ensure these market conditions include having the most globally competitive advanced industries. Second, advanced traded sectors are a key source of high-wage jobs, including for non-college-educated workers. Workers in advanced industries earn 80 percent more than average, while workers without college degrees earn 57 percent more in high-tech industries.3 Third, a strong advanced technology sector is a source of growth and vitality for the macroeconomy. For example, 35 percent of U.S. economic growth came from 75 intellectual property (IP)-intensive industries.4 In this sense, having healthy and growing advanced technology traded sectors is akin to the Fed cutting interest rates: They provide a stimulus for continued growth. When advanced industries decline, they generate a headwind for economic growth, in part because spending by their workers and non-traded-sector suppliers falls. Fourth, these sectors give nations needed flexibility and resilience in the face of global challenges. Strength in a broad array of advanced technology sectors makes it easier to respond to external threats to supply chains, either from natural disasters like pandemics, or from actions by other nations to intentionally harm or exert leverage over the United States. Finally, advanced traded sectors and many of the technologies associated with them are critical to America’s ability to field a robust military force, particularly as China’s technological capabilities and efforts at “civil-military fusion” advance.5 As a recent Department of Defense (DOD) report on the defense industrial base stated, “To provide for our national security, America’s manufacturing and defense industrial base must be secure, robust, resilient, and ready.”6 And while much of the U.S. defense capability could once be provided principally by defense contractors, today, advancements in technology require “spin on” from the commercial sector. This is why Mike Griffin, undersecretary of defense for research and engineering, wrote, “Superiority in these [commercial] technologies…is the key to deterring or winning future conflicts.”7 And with the loss of advanced manufacturing capabilities to overseas locations over the last two decades, this makes it harder not just to produce needed technologies, but even to develop them. As Bonvillian, Van Atta, and Windham wrote in a report on the Defense Advanced Research Projects Agency (DARPA), “For the DARPA model agencies to be cut off from these innovation system capabilities, and unable to rely on a strong U.S. manufacturing base for rapid prototyping and innovative production, spells a major potential challenge to their ability to develop and implement hard technologies.”8 This is one reason DOD launched its Defense Innovation Unit to work with the private sector, and is supporting 8 of the 14 Manufacturing USA institutes.9 As such, the ability to defend the nation’s interests comes not only from traditional defense firms in sectors such as aerospace, shipbuilding, and munitions, it also comes from firms in dual-use sectors such as software, materials, machine tools, industrial automation systems, semiconductors, and technology hardware. Moreover, even other sectors, such as consumer electronics and autos, while not directly defense related, contribute to the overall technical capabilities and production resilience of the U.S. economy, in part by supporting science, technology, engineering, and mathematics (STEM) workers and technologically sophisticated suppliers.

#### Next three planks solve 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.

#### Last set stabilizes the Middle East.

Wittes 21 — Tamara Cofman; senior fellow in the Center for Middle East Policy, former deputy assistant secretary of state for Near Eastern affairs, coordinating U.S. policy during the Arab uprisings. (“What to do – and what not to do – in the Middle East” Brookings Institute. January 25, 2021. <https://www.brookings.edu/research/what-to-do-and-what-not-to-do-in-the-middle-east/>) //LFS—SR

POLICY RECOMMENDATIONS

America needs conflict resolution

As the United States works to reduce the heavy military focus of its regional policy, it needs to beef up its diplomacy to tamp down other regional conflicts that give troublemakers like Iran and Russia opportunities to grow their influence. In that regard, there may be a silver lining: the financial [pinch](https://www.washingtonpost.com/world/middle_east/worst-financial-crisis-in-decades-deals-blow-to-saudi-princes-ambitions-for-the-kingdom/2020/05/13/83dcc848-938c-11ea-87a3-22d324235636_story.html) felt by Gulf states might also [reduce](https://www.brookings.edu/blog/order-from-chaos/2020/05/27/as-a-global-economic-crisis-wreaks-havoc-on-saudi-arabia-the-kingdom-should-reduce-military-spending/) their recent tendency to regional adventurism. Since 2011, Gulf governments have provided financial, material, and political support to armed actors in [Syria](https://www.bbc.com/news/world-middle-east-34479929), [Yemen](https://www.washingtonpost.com/politics/2019/08/28/what-saudi-arabia-uaes-changing-partnership-means-future-yemens-war/), and [Libya](https://www.reuters.com/article/us-libya-security-intervention-factbox/factbox-whos-involved-in-libyas-war-and-why-idUSKBN2351W0), seeing these civil conflicts as proxy wars with their regional rivals for the future regional order. Most Gulf aid to Syrian insurgents [trailed](https://tcf.org/content/report/assads-enemies-gave-syrian-opposition/) off years ago — although its impact is still visible in the fragmented nature of the Syrian opposition. In Libya, though, the UAE, Egypt, and Russia [funded](https://www.brookings.edu/blog/order-from-chaos/2020/06/15/libyas-proxy-sponsors-face-a-dilemma/), armed, and provided military support to General Khalifa Hifter’s bloody assault on Tripoli while Turkey and Qatar [backed](https://www.bbc.com/news/world-africa-51003034) the other side — all of them in violation of a U.N. [arms embargo](https://www.sipri.org/databases/embargoes/un_arms_embargoes/libya/libya_2011). In Yemen, of course, two Gulf states have been [direct combatants](https://www.reuters.com/article/us-yemen-security-coalition-factbox/factbox-saudi-arabias-coalition-against-yemens-houthis-idUSKBN0MM1A320150326).

Trump administration policy on all three of these devastating civil conflicts has been capricious and confused, allowing regional actors to pursue their own goals unconstrained by any American red lines. But Gulf states have achieved neither greater security nor greater American engagement from their assertive approach; instead, their behavior generated [bipartisan concerns](https://www.defensenews.com/congress/2020/11/18/lawmakers-introduce-resolutions-to-block-trumps-f-35-sale-to-uae/) in Congress about continuing the sale of U.S. arms to these states. Perhaps now their reduced financial circumstances will encourage them to give peace a chance. A relative decline in both resources and commitment by some fairly hardheaded actors may provide the United States additional leverage in situations where, over recent years, gaining leverage would have required a significant commitment of resources. Already, the UAE has withdrawn militarily from Yemen, while Libyan factions have [reached](https://www.france24.com/en/middle-east/20201111-libya-peace-talks-reach-breakthrough-agreement-to-hold-elections) a tentative agreement on new elections and are discussing a process for power-sharing.

The Yemen conflict offers the most opportunities for the United States to encourage a path toward conflict resolution. Both the Saudi and Emirati leaderships have begun to [recognize](https://www.brookings.edu/blog/order-from-chaos/2020/04/13/saudi-arabia-wants-out-of-yemen/) that the price they are paying for their involvement in the conflict has grown higher and unsustainable. They have not only failed to achieve their goals, they have also profoundly undermined Yemeni and regional stability, to the benefit of Iran and al-Qaida in the Arabian Peninsula.

But it takes two to tango — the Houthis, well-entrenched on the ground and feeling secure in the support of their Iranian backers, are [resisting](https://www.reuters.com/article/us-yemen-security-saudi/saudi-coalition-says-it-shot-down-houthi-drone-heading-for-kingdom-idUSKCN2521FX) negotiation efforts. The maritime coalition to interdict arms shipments to the Houthis has borne fruit; to support the peace process, this mission should be strengthened. The Houthis might take egregious actions to capture Saudi territory, attack Saudi infrastructure, or cause significant Saudi casualties. But barring such escalation, the United States can helpfully expend some diplomatic energy by encouraging external actors to reduce their involvement in the war, support the negotiations process under U.N. auspices, and by discouraging unhelpful actions by its regional partners. Such an effort is [vastly complicated](https://www.brookings.edu/blog/order-from-chaos/2020/11/25/the-mistake-of-designating-the-houthis-as-a-foreign-terrorist-organization/) by the reckless decision of the Trump administration in January 2021 to designate the Houthi movement as a foreign terrorist organization.

Righting unbalanced relationships

Persuading regional partners to pull back from their regional adventurism is one part of a broader reset needed in these fundamental relationships. Over the past decade, the Middle East has undergone upheaval of historic proportions. After decades of eroding social contracts, weakening government services, and sustained repression, popular uprisings challenged autocratic governments across the region and toppled longtime dictators. In the wake of these protests, civil wars erupted in Yemen, Syria, and Libya. The shock waves of this upheaval left regional leaders intently focused on regime security, with various players using a combination of reforms, increased government spending, and intensified repression to remain in power. At the same time, the United States under President Barack Obama found itself at odds with several of its traditional partners, not just over popular demands for democracy and human rights, but also over negotiations with Iran and the terms of the Joint Comprehensive Plan of Action that resulted.

Today, the Middle East is an arena of fierce geopolitical competition between blocs led by Turkey, Saudi Arabia, and Iran, with outside actors like Russia taking advantage of the situation to undermine American policies and challenge American partnerships. Under Trump, the United States abandoned the Iran nuclear deal and escalated confrontation with both Iran and IS, but the Trump administration’s impulsive decisionmaking on issues from Syria to Iran did not reassure regional governments of its reliability as a security partner. Their anxiety, as much as the threat of Israeli annexation and Trump’s fire-sale offers of highly sophisticated weapons systems, helped catalyze the Israel-UAE normalization agreement. And this regional uncertainty is bolstered by the accurate understanding amongst regional actors that the United States would prefer to spend less time, attention, and resources on the Middle East, so that it can focus on the emergent global competition with Russia and China. In the last four years, some of the strategies deployed by the United States’ traditional regional partners have involved taking advantage of the ego, ignorance, carelessness, and venality of Trump and his senior advisers, with the result that Washington’s regional friends have become enmeshed in America’s deeply polarized domestic politics, to the detriment of bilateral cooperation.

The crux of the dilemma facing the United States in attempting to implement this change is that doing less in the Middle East means relying more on regional partners to stabilize the region and protect our shared interests. But in this region, Washington itself has no clear vision of how to return to regional stability, and its partners have thus far been intent on narrow strategies of short-term self-help that destabilize at least as often as they calm. Even if post-COVID dynamics tamp down some of the worst tendencies of regional actors, the gaps between Washington and its partners remain. A path forward for America in the Middle East demands clarity and honesty in communications with longtime regional partners, to overcome the mistrust built up over the past decade, and to determine whether and how much Washington and its regional friends can agree on priorities for stabilizing the region. One clear lesson from the Trump era is that, as in families, healthy relationships rely on open communication and solid boundaries.

 The diplomatic opening between the United Arab Emirates and Israel is evidence that America’s friends in the region are ready to work more closely and overtly together against the Iranian threat. As the United States builds on this foundation, it must also take care that its regional friends aren’t working together in ways that violate American interests or values, like enhancing the capabilities of autocratic governments to surveil citizens or repress dissent. Washington must also watch carefully that the new weapons and systems it shares with its friends do not kick off a new regional arms race, or give governments capabilities that they might use in aggressive or destabilizing ways. The arms package for the Emiratis has already provoked a request from Qatar for F-35 aircraft and necessitated a “compensation” package for Israel. Given the ongoing Emirati role in Libya, and there are hard questions to be asked about the wisdom of selling the UAE [Reaper drones](https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104470/mq-9-reaper/), with their capabilities for close air support and irregular warfare.

Probably the relationship most in need of revision is that with Saudi Arabia. The Trump administration and Riyadh both played a part in radically unbalancing the relationship. Trump did so through his willingness to abide egregious Saudi behavior and even to [abuse](https://www.washingtonpost.com/national-security/state-department-says-pompeo-cleared-in-emergency-saudi-arms-sale/2020/08/10/6f43d244-db5a-11ea-b205-ff838e15a9a6_story.html) executive authorities to shield the kingdom from consequences for that behavior imposed by Congress. Riyadh did so through a series of behaviors that, in the eyes of both Republican and Democratic elected officials, evidenced disrespect for American sovereignty and interests and called into question the steadiness and strategic judgment of the new leadership of a longtime U.S. partner. From the American side, a reset will thus inevitably begin with demanding, and enforcing, Saudi accountability for egregious actions like journalist Jamal Khashoggi’s murder, [planting spies](https://www.washingtonpost.com/national-security/former-twitter-employees-charged-with-spying-for-saudi-arabia-by-digging-into-the-accounts-of-kingdom-critics/2019/11/06/2e9593da-00a0-11ea-8bab-0fc209e065a8_story.html) in American companies, [attempting to kidnap](https://www.thedailybeast.com/regime-critic-says-saudis-tried-to-kidnap-him-on-us-soil) Saudis in the United States, and helping Saudis [flee American courts](https://www.oregonlive.com/news/2020/01/fbi-saudi-government-almost-certainly-helps-its-citizens-escape-prosecution-in-us-for-serious-crimes.html). None of these are the actions of a partner or a friend.

That said, shared interests and shared history still offer opportunity for common ground. Washington should focus the partnership on shared security threats from Iran and violent non-state actors, and prioritize Saudi military professionalism over [arms sales](https://www.brookings.edu/blog/order-from-chaos/2020/05/27/as-a-global-economic-crisis-wreaks-havoc-on-saudi-arabia-the-kingdom-should-reduce-military-spending/). The U.S. cannot determine who leads Saudi Arabia, and it should not try. But it can ask for assurances that the Saudi leadership understands U.S. interests and concerns, and cares enough about the bilateral relationship to be responsive to them and to be forthright about its own views and priorities. There are a number of actions Riyadh could take at the outset of the new administration to reassure concerned Americans that the kingdom’s rulers value the relationship and understand the need to strengthen their reputation as a reliable, stabilizing force in the region. Actions in that vein could include decisively removing Saad al-Qahtani, Crown Prince Mohammed bin Salman’s aide implicated in both the [murder](https://www.reuters.com/article/us-saudi-khashoggi-adviser-insight/how-the-man-behind-khashoggi-murder-ran-the-killing-via-skype-idUSKCN1MW2HA) of Khashoggi and the [torture](https://www.washingtonpost.com/opinions/global-opinions/saudi-arabia-has-dragged-its-imprisoned-female-activists-back-into-court-how-will-biden-respond/2020/11/30/a1ee4c30-3337-11eb-b59c-adb7153d10c2_story.html) of Loujain al-Hathloul, from any role in the government or palace; dismissing the outrageous [cases](https://www.bbc.com/news/world-middle-east-47956124) against women’s rights activists and releasing them from prison, house arrests, and bans on work and travel; releasing U.S. nationals like Walid Fataihi from Saudi prisons; and working with alacrity to move toward a negotiated solution in Yemen.

## 1NC — Platforms

### 1NC — Turn

#### The aff increases the effectiveness of US sanctions writ large — that’s 1AC Harrell — that’s bad —

#### Strengthening sanctions cause NoKo to sell bioweapons because of revenue shortfalls

Jang, 18 — Sungku Jang is an ASAN fellow at the Center for the National Interest. (11-1-2018; *The Diplomat*:https://thediplomat.com/2018/11/beyond-denuclearization-dealing-with-north-koreas-other-wmds/ The Proliferation Challenge; //GrRv)

There is also a proliferation challenge associated with North Korea’s WMD capabilities. If it so chooses, Pyongyang can sell its BW and CW to a rogue state or terrorist group. International sanctions against North Korea have starved the country of cash, making illicit arms sales attractive to Pyongyang. Indeed, North Korea has supplied Syrian president Bashar al-Assad’s regime with parts and technical assistance for its chemical weapons program, which it has used to attack opposition forces repeatedly throughout the Syrian Civil War. Furthermore, given that North Korea and Iran already cooperate militarily and many North Korean arms dealers live in Tehran, it is possible that North Korea could help Iran obtain or improve BW and CW capabilities. If North Korea helps Iran develop an emerging biochemical ability, denuclearization negotiations with Tehran will become more complex and costly than before.

#### It's a question of drying up revenue streams

Park & Miller 16 — June Park; Postdoctoral Fellow at the Centre on Asia & Globalisation of the Lee Kuan Yew School of Public Policy at the National University of Singapore, Lecturer of Global Affairs and Government at George Mason University Korea (GMUK) via the Global Affairs Program and the Schar School of Policy and Government at George Mason University. Berkshire Miller; Senior visiting fellow with the Japan Institute of International Affairs, Distinguished Fellow with the Asia-Pacific Foundation of Canada, and Senior Fellow on East Asia for the Tokyo-based Asian Forum Japan and the New York-based EastWest Institute. (“The Scariest Thing North Korea Could Ever Do: Sell a Nuclear Weapon”, <https://nationalinterest.org/blog/the-buzz/the-scariest-thing-north-korea-could-ever-do-sell-nuclear-18313> //AP)

As North Korea’s economic position worsens, **the risk that it sells its nuclear weapons** technology **grows**. Pyongyang conducted its fifth nuclear test on 9 September, accompanied by claims it has developed a warhead that can be mounted onto rockets. This test is estimated to have been at a yield of 25–30 kilotons — significantly larger than previous tests. While the magnitude of the test alarmed some US policymakers, Washington’s foreign policy remains focused on the Middle East. Similarly, North Korea’s subsequent missile tests that ended in failure on 15 and 20 October gained little attention. There appears to be a de facto acceptance by some in the Obama administration that North Korea will not agree to denuclearize — regardless of the concessions. Earlier this month, Obama’s top intelligence chief, James Clapper, remarked at an event hosted by the Council on Foreign Relations that “the notion of getting the North Koreans to denuclearize is probably a lost cause.” Despite Clapper’s remarks, the Obama administration as a whole continues to insist that a nuclear North Korea is not an option regardless of their unwillingness to disarm. Meanwhile, concerns remain about the possible transfer of North Korea’s nuclear technology and knowledge to non-state actors. Hillary Clinton considers their “quest for a nuclear weapon” a grave threat because “the greatest threat of all would be terrorists getting their hands on loose nuclear material.” So how likely is North Korea to engage in a nuclear arms sale with a terrorist group? Up until this point, proliferation of North Korea’s weapons of mass destruction seemed to be restricted to sovereign states. But this has not stopped apprehension from some in the intelligence community — spurred by Pyongyang’s connections to Libya’s Gaddafi regime and ties to Syria’s failed nuclear weapons program. Over the years North Korea has created a web of foreign connections to peddle its missiles and components. As talks on denuclearization remain non-existent and foreign sanctions against the regime tighten, there are startling concerns that a cash-strapped Pyongyang may resort to dealing with its finances through the black-market with terrorist groups or organized crime syndicates. While the threat may seem fanciful — even for a state as repugnant to international rules as North Korea — **the risks are real.** The official and unofficial transfer of nuclear technology has always been a method of global outreach for North Korea. Nuclear proliferation to non-state actors is a viable option for this regime when it feels threatened, economically cornered and politically unstable. Pyongyang is strapped for funds despite China’s less than ideal compliance of UN sanctions — which has kept the little trade they have alive and enabled the state to continue to obtain materials and funds for missile tests . As tougher sanctions are imposed, North Korea will be pressured into securing funds via alternative channels. When the state’s cash flows and resources dry up, selling nuclear technology **to the highest bidder may become a tantalizing option** for the Kim regime.

#### Bioweapon proliferation causes extinction.

Millett, 17 — Piers Millett; PhD, Senior Research Fellow at the Future of Humanity Institute, where he focuses on pandemic and deliberate disease and the implications of biotechnology. Andrew Snyder-Beattie; Director of Research at the Future of Humanity Institute, University of Oxford. (August 1, 2017; "Existential Risk and Cost-Effective Biosecurity;" *PubMed Central*; https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5576214/; //GrRv)

How worthwhile is it spending resources to study and mitigate the chance of human extinction from biological risks? The risks of such a catastrophe are presumably low, so a skeptic might argue that addressing such risks would be a waste of scarce resources. In this article, we investigate this position using a cost-effectiveness approach and ultimately conclude that the expected value of reducing these risks is large, especially since such risks jeopardize the existence of all future human lives.

Historically, disease events have been responsible for the greatest death tolls on humanity. The 1918 flu was responsible for more than 50 million deaths,1 while smallpox killed perhaps 10 times that many in the 20th century alone.2 The Black Death was responsible for killing over 25% of the European population,3 while other pandemics, such as the plague of Justinian, are thought to have killed 25 million in the 6th century—constituting over 10% of the world's population at the time.4 It is an open question whether a future pandemic could result in outright human extinction or the irreversible collapse of civilization.

A skeptic would have many good reasons to think that existential risk from disease is unlikely. Such a disease would need to spread worldwide to remote populations, overcome rare genetic resistances, and evade detection, cures, and countermeasures. Even evolution itself may work in humanity's favor: Virulence and transmission is often a trade-off, and so evolutionary pressures could push against maximally lethal wild-type pathogens.5,6

While these arguments point to a very small risk of human extinction, they do not rule the possibility out entirely. Although rare, there are recorded instances of species going extinct due to disease—primarily in amphibians, but also in 1 mammalian species of rat on Christmas Island.7,8 There are also historical examples of large human populations being almost entirely wiped out by disease, especially when multiple diseases were simultaneously introduced into a population without immunity. The most striking examples of total population collapse include native American tribes exposed to European diseases, such as the Massachusett (86% loss of population), Quiripi-Unquachog (95% loss of population), and the Western Abenaki (which suffered a staggering 98% loss of population).9

In the modern context, no single disease currently exists that combines the worst-case levels of transmissibility, lethality, resistance to countermeasures, and global reach. But many diseases are proof of principle that each worst-case attribute can be realized independently. For example, some diseases exhibit nearly a 100% case fatality ratio in the absence of treatment, such as rabies or septicemic plague. Other diseases have a track record of spreading to virtually every human community worldwide, such as the 1918 flu,10 and seroprevalence studies indicate that other pathogens, such as chickenpox and HSV-1, can successfully reach over 95% of a population.11,12 Under optimal virulence theory, natural evolution would be an unlikely source for pathogens with the highest possible levels of transmissibility, virulence, and global reach. But advances in biotechnology might allow the creation of diseases that combine such traits. Recent controversy has already emerged over a number of scientific experiments that resulted in viruses with enhanced transmissibility, lethality, and/or the ability to overcome therapeutics.13-17 Other experiments demonstrated that mousepox could be modified to have a 100% case fatality rate and render a vaccine ineffective.18 In addition to transmissibility and lethality, studies have shown that other disease traits, such as incubation time, environmental survival, and available vectors, could be modified as well.19-21

Although these experiments had scientific merit and were not conducted with malicious intent, their implications are still worrying. This is especially true given that there is also a long historical track record of state-run bioweapon research applying cutting-edge science and technology to design agents not previously seen in nature. The Soviet bioweapons program developed agents with traits such as enhanced virulence, resistance to therapies, greater environmental resilience, increased difficulty to diagnose or treat, and which caused unexpected disease presentations and outcomes.22 Delivery capabilities have also been subject to the cutting edge of technical development, with Canadian, US, and UK bioweapon efforts playing a critical role in developing the discipline of aerobiology.23,24 While there is no evidence of state-run bioweapons programs directly attempting to develop or deploy bioweapons that would pose an existential risk, the logic of deterrence and mutually assured destruction could create such incentives in more unstable political environments or following a breakdown of the Biological Weapons Convention.25 The possibility of a war between great powers could also increase the pressure to use such weapons—during the World Wars, bioweapons were used across multiple continents, with Germany targeting animals in WWI,26 and Japan using plague to cause an epidemic in China during WWII.27

Non-state actors may also pose a risk, especially those with explicitly omnicidal aims. While rare, there are examples. The Aum Shinrikyo cult in Japan sought biological weapons for the express purpose of causing extinction.28 Environmental groups, such as the Gaia Liberation Front, have argued that “we can ensure Gaia's survival only through the extinction of the Humans as a species … we now have the specific technology for doing the job … several different [genetically engineered] viruses could be released”(quoted in ref. 29). Groups such as R.I.S.E. also sought to protect nature by destroying most of humanity with bioweapons.30 Fortunately, to date, non-state actors have lacked the capabilities needed to pose a catastrophic bioweapons threat, but this could change in future decades as biotechnology becomes more accessible and the pool of experienced users grows.31,32

### 1NC — Defense

#### Iran can’t and won’t prolif.

Ditz 20, news editor at Antiwar.com, a nonprofit organization dedicated to the cause of non-interventionism. (Jason C., 9-9-2020, "Iran’s Uranium Stockpile Is Not a Nuclear Proliferation Risk", *American Conservative*, https://www.theamericanconservative.com/articles/irans-uranium-stockpile-is-not-a-nuclear-proliferation-risk/)

On top of that, Iran has never attempted to take such uranium to make a weapon, which is also non-trivial. Figuring out the exact process of turning uranium into an atomic bomb would take quite a bit of time, and converting that into a weapon small enough to deliver is a whole other challenge which would take a lot of time. And again, with the IAEA monitoring the centrifuges, Iran would be telling the whole world its intentions to even go down this path. They haven’t, and Iran has publicly, repeatedly vowed to never produce nuclear weapons.

More to the point, if Iran could snap its fingers and convert the whole stockpile, they would wind up with, optimistically, 80 kg of weapons-grade 90% uranium. How does this translate to a uranium-based arsenal?

Not great, it turns out. There are a lot of nuclear weapons designs, but let’s use America’s Little Boy design from WW2 as a model, because it is halfway well-documented, and a good example of a first-generation weapon. This contained 64 kg of weapons-grade uranium.

If Iran somehow went through all of this process, which again would take years, not three and a half months, the next step would be a successful detonation in a test to prove they’d entered the nuclear club. And beyond starting a huge war, a detonation of this type of bomb would cost them 64 kg of weapons-grade uranium, meaning they wouldn’t have enough to make a second bomb to do anything with.

While it would be conceivably possible to make smaller bombs to get more than one out of the stockpile, that is a far more complicated design problem and makes this whole process take even longer.

In conclusion, Iran has no easy path to a nuclear weapon, even if they tried to make one, which they aren’t doing anyhow. The stockpile’s size is irrelevant to making weapons, because it is far too low-enriched, and meant for energy production.

## 1NC — Conduct

### 1NC — Turn

#### The plan artificially props up the smallest and least secure 5G companies— turns cybersecurity

Tom Wheeler 19. Fellow in Governance Studies at The Brookings Institution, former Chairman of the FCC. 9/3/2019. “Why 5G requires new approaches to cybersecurity.” https://www.brookings.edu/research/why-5g-requires-new-approaches-to-cybersecurity/#cancel.

Proactive cyber investment today is the exception rather than the rule. For public companies, the Securities and Exchange Commission (SEC) and others are driving change from the corporate board-level on down through management. A favorite entrance point for cyberattacks, however, remains the smaller companies, many of which are outside of the scope of these efforts. Unfortunately, the SEC’s efforts [impact only the less than 10% of American companies that are publicly owned](https://www.privco.com/knowledge-bank/intro-to-private-companies/). At the very least, where companies have a role in critical infrastructure or provide a product or service that, if attacked, could imperil public safety, there must be the expectation that cybersecurity risks are being addressed proactively.[[2]](https://www.brookings.edu/research/why-5g-requires-new-approaches-to-cybersecurity/#footnote-2) Implementation of machine learning and artificial intelligence protection Cyberattacks on 5G will be software attacks; they must be countered with software protections. During a Brookings-convened discussion on 5G cybersecurity, one participant observed, “We’re fighting a software fight with people” whereas the attackers are machines. Such an approach was like “looking through soda straws at separate, discrete portions of the environment” at a time when a holistic approach and consistent visibility across the entire environment is needed. The speed and breadth of computer-driven cyberattacks requires the speed and breadth of computer-driven protections at all levels of the supply chain.

#### Especially because entrants in telecom lack resources to invest in cybersecurity.

Edward Longe 20. Policy manager at the American Consumer Institute. 9/24/2020. “A Serious Casualty of Antitrust Legislation: Cybersecurity.” https://www.theamericanconsumer.org/2020/09/a-serious-casualty-of-antitrust-legislation-cybersecurity/.

Proposals to break up large technology companies would be profoundly damaging to consumer privacy and cybersecurity as smaller technology companies and startups lack the resource capabilities of making substantial capital investments required to ensure consumer data is protected or deal with the newly emerging cyberthreats associated with new technology devices such as the Internet of Things (IoT). Every year, [Microsoft](https://www.techrepublic.com/article/why-microsoft-spends-over-1-billion-on-cybersecurity-each-year/) faces about 7 trillion cyberthreats, many of which are becoming increasingly sophisticated. To combat these cyberattacks, [Microsoft](https://www.techrepublic.com/article/why-microsoft-spends-over-1-billion-on-cybersecurity-each-year/) invests “over $1 billion to cybersecurity” and recently created a dedicated [Cyber Defense Operations Center](https://www.microsoft.com/en-us/msrc/cdoc) that is staffed around the clock to ensure its consumer data is protected. Microsoft is not the only major tech corporation to invest significant amounts into protecting its consumer data. In 2018, Apple reported it would invest $10 billion dollars over the next few years on new U.S. Data Centers that are responsible for ensuring the [protection of consumer data](https://www.paloaltonetworks.com/cyberpedia/what-is-a-data-center). These data centers do not just hold the companies’ sophisticated cybersecurity technology, but also employ those who are responsible for monitoring emerging threats and ensure that the company can provide [superior cybersecurity](https://www.computerworld.com/article/3253248/apple-provides-superior-cybersecurity-protection.html) to its consumers. Outside of this direct investment in cybersecurity and cybersecurity facilities, big tech companies like Facebook, Amazon, Google, Apple, invested approximately [$2.5 billion](https://www.cbinsights.com/research/facebook-amazon-microsoft-google-apple-cybersecurity/) dollars into supporting cybersecurity companies that develop products which protect everything from login credentials, credit card information and social security numbers. Without the significant investment large technology companies make in protecting consumer data and deterring cybercrime, consumers would have significantly fewer protections. Some smaller technology companies simply do not have the sources to invest in sophisticated cybersecurity technology, leaving their data vulnerable to cyberattacks and crime. Breaking up the large technology companies would therefore weaken cybersecurity and increase the vulnerability of consumer data. As communication technology becomes more advanced, significant investment in cybersecurity will also be needed to ensure it is protected. While IoT technology allows the interconnection various internet of computing devices (cameras, smart appliances, and smart home gadgets) and enables them to receive and send to your home computer and smartphone, they could be vulnerable to a number of threats. [Mobile Network Mapping](https://www.tripwire.com/state-of-security/featured/emerging-technology-cyber-security/) is one threat that home networks could face and is where “attackers can create maps of devices connected to a network, identify each device and link it to a specific person.” To meet these and other cyberthreats, networks and network devices will require significant investment in security that will undoubtedly run into the [billions](https://www.nextgov.com/emerging-tech/2020/06/industry-calls-government-invest-billions-developing-secure-5g-networks/166490/) of dollars and require collaboration between industry and government. Given the billions that will be required to protect against online threats, it is clear that currently larger tech companies will have the means to invest and meet the demands for cybersecurity.

### 1NC — No Impact

#### No cyber impact.

Lewis 20, PhD, a senior vice president and director of the Technology Policy Program at the Center for Strategic and International Studies in Washington, D.C. (James Andrew, 8-17-2020, "Dismissing Cyber Catastrophe", *CSIS*, https://www.csis.org/analysis/dismissing-cyber-catastrophe)

A catastrophic cyberattack was first predicted in the mid-1990s. Since then, predictions of a catastrophe have appeared regularly and have entered the popular consciousness. As a trope, a cyber catastrophe captures our imagination, but as analysis, it remains entirely imaginary and is of dubious value as a basis for policymaking. There has never been a catastrophic cyberattack.

To qualify as a catastrophe, an event must produce damaging mass effect, including casualties and destruction. The fires that swept across California last summer were a catastrophe. Covid-19 has been a catastrophe, especially in countries with inadequate responses. With ~~man-made~~ actions, however, a catastrophe is harder to produce than it may seem, and for cyberattacks a catastrophe requires organizational and technical skills most actors still do not possess. It requires planning, reconnaissance to find vulnerabilities, and then acquiring or building attack tools—things that require resources and experience. To achieve mass effect, either a few central targets (like an electrical grid) need to be hit or multiple targets would have to be hit simultaneously (as is the case with urban water systems), something that is itself an operational challenge.

It is easier to imagine a catastrophe than to produce it. The 2003 East Coast blackout is the archetype for an attack on the U.S. electrical grid. No one died in this blackout, and services were restored in a few days. As electric production is digitized, vulnerability increases, but many electrical companies have made cybersecurity a priority. Similarly, at water treatment plants, the chemicals used to purify water are controlled in ways that make mass releases difficult. In any case, it would take a massive amount of chemicals to poison large rivers or lakes, more than most companies keep on hand, and any release would quickly be diluted.

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

One major failing of catastrophe scenarios is that they discount the robustness and resilience of modern economies. These economies present multiple targets and configurations; they are harder to damage through cyberattack than they look, given the growing (albeit incomplete) attention to cybersecurity; and experience shows that people compensate for damage and quickly repair or rebuild. This was one of the counterintuitive lessons of the Strategic Bombing Survey. Pre-war planning assumed that civilian morale and production would crumple under aerial bombardment. In fact, the opposite occurred. Resistance hardened and production was restored.1

This is a short overview of why catastrophe is unlikely. Several longer CSIS reports go into the reasons in some detail. Past performance may not necessarily predict the future, but after 25 years without a single catastrophic cyberattack, we should invoke the concept cautiously, if at all. Why then, it is raised so often?

## 1NC — Access

### 1NC — Turn

#### Mergers and Acquisitions are key to start-ups and innovation

-Acquisitions are why Venture Capitalists invest in startups

Feiner 7-24, news associate @ CNBC. (Lauren, 7-24-2021, “Start-ups will suffer from antitrust bills meant to target Big Tech, VCs charge”, CNBC, <https://www.cnbc.com/2021/07/24/vcs-start-ups-will-suffer-from-antitrust-bills-targeting-big-tech.html>)

Many lawmakers are eager to rein in the power of the largest tech companies: Amazon, Apple, Facebook and Google. But some of their proposals could actually hurt the smaller companies they’re meant to protect, venture capitalists warned CNBC. VCs are particularly concerned about efforts in Congress to restrict mergers and acquisitions by dominant platforms. Some of those proposals would work by shifting the burden of proof onto those firms in merger cases to show their deals would not harm competition. While proponents argue such bills would prevent so-called killer acquisitions where big companies scoop up potential rivals before they can grow — Facebook’s $1 billion acquisition of Instagram is a common example — tech investors say they’re more concerned with how the bills could squash the buying market for start-ups and discourage further innovation. Of course, venture capitalists and the groups that represent them have an interest in maintaining a relatively easy route to exiting their investments. A trade group representing VCs, the National Venture Capital Association, counts venture arms of several Big Tech firms among its members. (Comcast, the owner of CNBC parent company NBCUniversal, is also a member.) But their concerns highlight how changes to antitrust law will have an impact far beyond the largest companies and how smaller players may have to adjust if they’re passed. Why start-ups get acquired When venture capitalists invest in a start-up, their goal is to make a large return on their spend. While most start-ups fail, VCs bank on the minority having large enough exits to justify their rest of their investments. An exit can occur through one of two means: through an acquisition or by going public. When either of these events occurs, investors are able to recoup at least some of their money, and in the best case scenario, reap major windfalls. About ten times as many start-ups exit through acquisitions as through going public, according to the NVCA. Venture capitalists say that number shows just how important it is to keep the merger path clear. The top five tech firms aren’t the only ones scooping up tech deals. Amazon, Apple, Facebook, Google and Microsoft have accounted for about 4.5% of the value of all tech deals in the U.S. since 2010, according to public data compiled by Dealogic. Reform advocates have pointed to some acquisitions, like that of Instagram by Facebook, as examples of companies selling before they have the chance to become standalone rivals to larger firms. But VCs say that’s often not the case. “They all think they could be public companies one day, but the realities are, it’s not realistic for most of these companies to achieve the size and scale to survive the public markets as of today,” said Michael Brown, general partner at Battery Ventures. While going public is a often the goal, VCs say it can be impractical for start-ups for various reasons. First, some start-ups may simply not have a product or service that works long-term as a standalone business. That doesn’t mean their technology or talent isn’t valuable, but just means it could be most successful within a larger business. Kate Mitchell, co-founder and partner at Scale Venture Partners, gave the example of a company called Pavilion Technologies that made predictive technology for manufacturers and agriculture, which sold to manufacturing company Rockwell Automation in 2007. “That’s a company that just couldn’t get to escape velocity,” she said of Pavilion. “Because they were selling globally to large plants, we couldn’t figure out how to sell the technology cost effectively.” It was still a useful technology, but needed the infrastructure of a larger business to accelerate further, she said. After Rockwell acquired it, it became incorporated into its offerings and several employees stayed for years. Sometimes, she said, an acquisition is a last resort before bankruptcy, and at least helps investors get some of their money back. “It is better that they’re sold for even 80 cents on the dollar than that they go bankrupt,” she said. In addition, going public can be difficult. The IPO process is expensive and VCs said that small cap companies often struggle on the public market in part because of the lack of analyst coverage of such businesses. Clate Mask, co-founder and CEO of venture-funded email marketing and sales platform Keap, said greater merger restrictions on the largest companies would likely “change the calculus” for start-ups. But the shift would not be between getting and acquired and going public. Instead, he said, it could make entrepreneurs think harder about whether to raise venture funding at all. “When you have capital behind you, you can think and operate differently,” he said, adding that entrepreneurs can take more risks with that backing. Loss of investment and innovation Several VCs told CNBC they were worried about the trickle-down effect that merger restrictions on the largest firms would have on the entire entrepreneurial ecosystem. Their fear is that if companies no longer have enough viable exit paths, institutional investors that back VCs — like endowments and pension funds — will shift their money elsewhere. In turn, VCs will have fewer funds to dole out to entrepreneurs, who may see less reason to take the risk of starting a new company. The ultimate concern is for a loss of innovation, they say, which is exactly what lawmakers are hoping to fend off with merger restrictions on the largest buyers. “If you restrict the potential to generate exciting rewards and returns from investment, entrepreneurs could find other things to do with their time,” said Patricia Nakache, general partner at Trinity Ventures. Nakache said placing restrictions on the largest tech firms’ ability to make acquisitions could actually discourage entrepreneurs from building companies that compete with their core businesses. That’s because many entrepreneurs like having a back-up plan incorporating possible acquirers if they can’t go public. With greater uncertainty about whether the Big Tech companies could be potential buyers, they may seek to build businesses outside of the largest players’ core offerings, she said. VCs also warned that without the biggest players in the mix, sale prices for start-ups would drop significantly. But outside the industry, some believe these concerns won’t be as bad as VCs fear. “These sorts of laws, if they work as intended, you’re going to have a more competitive marketplace generally, so there’s going to be more potential buyers,” said Michael Kades, director of markets and competition policy at the non-profit Washington Center for Equitable Growth. “I get it if you’re at the VC today, what you’re concerned about is the next couple of years or what your company can get, but increasing the number of potential buyers for firms ... also means that there’s still a very thriving market for these sorts of acquisitions, just not by dominant firms.” Bhaskar Chakravorti, dean of global business at Tufts University’s Fletcher School, said while venture capitalists are probably right that acquisition prices could slide under new merger restrictions, entrepreneurs will still have a drive to innovate. “Ultimately people are going to adapt and yes, some of the valuations, some of the bidding may be stunted. Some of the acquisitions may go for ten, 20% less,” he said. “But ultimately, I don’t think it’s going to make that much of a difference because entrepreneurs are going to go after ideas, they’re going to build them, they’re going to put together teams, and venture money needs a place to invest.” Kades agreed that good ideas will still likely get funding even if the largest firms can’t bid on them or would have a harder time completing an acquisition. Restricting mergers from those companies is about “trying to limit the anticompetitive premium,” he said. Shifting capital VCs are also concerned the new rules could accelerate the shift of venture investment outside the U.S. Mitchell said while other countries including Canada have been adding incentives for entrepreneurs to come and stay in their borders, regulations under consideration in the U.S. will push them away. “We would be making it difficult just at a time when everyone else is trying to make it attractive” to be an entrepreneur in their country, she said. According to the NVCA, the U.S. has seen its share of global venture capital fall from 84% to 52% in the last 15 years. That’s why lawmakers shouldn’t rest on their laurels that U.S. venture capital can keep up with the rest of the world under new arduous regulations, VCs contend. But Chakravorti disagreed the merger laws would push investment outside the U.S., as many alternatives are worse. “There are very few alternative locations,” he said. Exits in China would come with heightened scrutiny, and Europe is known for a more heavy-handed approach on business regulation. Still, Brown said, should stricter merger laws pass, he would have to consider casting a wider net for potential buyers when it comes time to exit an investment. That could include more international buyers than he’d otherwise consider. Nakache said should merger reforms pass, she may consider investing more heavily in start-ups whose potential acquirers wouldn’t be impacted by the laws. For example, if enterprise platforms like Salesforce or Oracle didn’t meet the threshold for stricter merger enforcement, VCs might shift spending from areas like search and social media to software as a service. Open to some reforms Some of the VCs interviewed by CNBC felt existing antitrust laws were adequate, but others acknowledged that reforms outside of mergers could be beneficial. Restrictions on platforms leveraging data they collect to compete with businesses that rely on them is one example that could help level the playing field if done correctly, Nakache suggested. Mitchell said the most helpful change would be to create more consistency in enforcement of the antitrust laws, particularly from one administration to the next. Mask, the Keap CEO, said he’s not opposed to Congress taking some action to curb Big Tech companies’ power, but that most entrepreneurs recognize those firms overall “are good for the ecosystem.” “Those Big Tech companies are helpful in driving a lot of the momentum of the overall sector,” he said. “And I think to have them broken up in some kind of extreme aggressive way I’m not sure is a great thing either.”

### 1NC — No Impact

#### No impact or inev — Kroenig says 5G, Quantum Computing, Hypersonics — aff only solves AI

#### Emerging tech won’t tip the balance of power.

Gilli 19, Senior Researcher in the Research Division, NDC. (Andrea, Feb. 2019, “Preparing for ‘NATO-mation’: the Atlantic Alliance toward the age of artificial intelligence”, *NDC Policy Brief*, No. 4, pg. 3, Accessible at: http://nato-70.upt.pt/wp-content/uploads/2019/04/Preparing\_NATO\_mation.pdf)

Military transformation and emerging technologies

A second, and related, issue is the risk that, in the age of intelligent machines, AI, ML and BD may easily enable any actor to catch up, or even outpace, its adversaries in military terms. Here too, skepticism is warranted. First of all, these two concerns logically contradict each other. If we are witnessing a military transformation based on dual-use, general-purpose technologies such as AI, ML and BD that can be easily exploited in battle, then no actor can achieve a significantly enduring military advantage – at the tactical, operational or strategic level – as competitors can quickly catch up or deploy effective counter-systems.8

Next, military power is more than hardware. Tactical fluency and operational competence are in fact extremely important for victory on the battlefield – along with other variables. There is no reason to believe that this will change anytime soon, as warfare, war and by extension strategy are inherently adversarial: winners succeed because they defeat their adversaries – i.e., they neutralize enemy counter-measures, tactics, systems and innovations. Possessing capable hardware is thus, per se, not sufficient and, at times, not even necessary for winning. Commercial technologies offer great potential but are easily vulnerable to even basic counter-measures as they are not designed for combat.

By the same token, emerging technologies – whether developed for commercial or military applications – face performance trade-offs that constrain their immediate military utility. The French Marine Nationale’s mid-19th century bid to offset British naval superiority is telling: the steam engine granted independence from wind but suffered from limited endurance; iron hulls could not keep afloat when hit; and, explosive shells had shorter ranges than solid shots. When mature, these technologies ultimately transformed naval warfare, but it took almost a century for this to happen.9

There is no reason to believe that with AI, ML and BD things will be different. When it comes to software, in fact, even subtle and apparently minor details lead to catastrophic failure: because of simple mistakes in data gathering or processing such as automatic path control, military platforms may end up exceeding their maximum depth or altitude ceilings and thus expose themselves to almost certain mission failure. Software already represents the primary source of procurement delays and cost overruns. As software becomes more central in weapon systems, the problems it creates can only exponentially increase. Additionally, through generative adversarial networks (GNAs), actors can increasingly feed compromised data into enemy systems to negatively affect tactical performance or operational success. Competent armed forces will thus deploy intelligent machines only in so far as the risks, problems and constraints they face are, slowly and progressively, addressed.

This brings us to a final consideration. In order to address these very risks, problems and constraints, investments in a broad range of fields are also needed so as to counterbalance investments by enemies and adversaries. Improving all the underlying technologies related to AI, ML and BD, learning about their potential, integrating them into existing military platforms and exploiting them for maximum strategic, operational or tactical effectiveness require time, human capital, institutional backing, technological competence and financial resources. In other words, the idea that countries can quickly exploit the technologies of the fourth Industrial Revolution for building military power seems exaggerated.10

# 2NC

## T — Per Se

#### It’s a distinction with a difference---‘rule of reason’ and ‘per se’ have precise meanings AND access literature with completely different base assumptions.

Beschle 87 (Donald L. Beschle- Associate Professor of Law, The John Marshall School of Law. B.A., 1973, Fordham University; J.D., 1976, New York University School of Law; LL.M., 1983, Temple University School of Law. March. CURRENT TOPIC IN ANTITRUST: "What, Never? Well, Hardly Ever": Strict Antitrust Scrutiny as an Alternative to Per Se Antitrust Illegality., 38 Hastings L.J. 471)

In response to recent attacks on per se rules, courts have clung to the term and to its absolutism by steadily narrowing the definitions of the types of behavior subject to those rules. The result has been not only much confusion, with words being used to designate things far narrower than their commonly understood meanings, but also the application of permissive rule of reason treatment to some behavior which, while not meriting absolute prohibition, clearly deserves careful antitrust analysis.

The proper response to this confusion is to retain the valid insight of per se jurisprudence, that certain types of behavior should be treated as more suspect than others, while abandoning the indefensible absolutism of the term "per se." However, since terms carry with them not only precise meanings, but also more general attitudes, "per se" must be replaced with a term which does not carry the permissive connotations which have become associated with the "rule of reason."

The best available term for this new test is strict antitrust scrutiny. The use of such a term, and the type of analysis it suggests, is well known in constitutional law, where it by no means is associated with leniency. When faced with conduct which would traditionally be labelled per se illegal under the antitrust laws, courts should apply strict antitrust scrutiny. They should ask whether the defendant can carry the heavy burden of demonstrating that its conduct is narrowly tailored to achieve a procompetitive end. By replacing a system which places absolute prohibitions on types of conduct which can be defined so narrowly as to be irrelevant with a system which places, not absolute prohibitions, but heavy negative presumptions, on a larger set of behaviors, strict scrutiny should, on the whole, lead to more vigorous antitrust enforcement.

#### Per se is akin speed limit whereas the rule of reason is akin to weighing whether a driver drove unreasonably fast and if that had negative effects

Sucke 9, Associate Professor of Law @ U-Tenn (Maurice, “Does the Rule of Reason Violate the Rule of Law?,” UC Davis Law Review, Lexis)

But who has created this predicament? The Supreme Court. Over the past ninety years, the Court has supplied the Sherman Antitrust Act’s legal standards. In determining the legality of restraints of trade, the Supreme Court generally employs either a per se or rule-of-reason standard.10 Under the Court’s per se illegal rule, certain restraints of trade are deemed illegal without consideration of any defenses. These restraints are so likely to harm competition and to lack significant procompetitive benefits that, in the Court’s estimation, “they do not warrant the time and expense required for particularized inquiry into their effects.”11 Under the per se rule, once a plaintiff proves an agreement among competitors to engage in the prohibited conduct, the plaintiff wins.12 But the Court evaluates all other restraints under the rule of reason. This standard involves a flexible factual inquiry into a restraint’s overall competitive effect and “the facts peculiar to the business, the history of the restraint, and the reasons why it was imposed.”13 The rule of reason also “varies in focus and detail depending on the nature of the agreement and market circumstances.”14 “Under this rule the fact finder weighs all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition.”15 Despite its label, the rule of reason is not a directive defined ex ante (such as a speeding limit).16 Instead, the term embraces antitrust’s most vague and open-ended principles, making prospective compliance with its requirements exceedingly difficult.

#### They say they meet because they increase scope — It also isn’t logical; for instance: Write a new aff by at least cutting cards—if you cut a new disad that doesn’t meet—here’s ev

Weyer 18 (Frank Michael Weyer-attorney @ TECHCOASTLAW ; Lead Counsel for Patent Owner. PATENT OWNER'S REPLY TO PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO AMEND in FACEBOOK, INC. v. EVERYMD, 2018 Pat. App. Filings LEXIS 13880, \*7-8. Lexis accessed online via KU libraries, date accessed 1/3/22)

It is inappropriate for Schmand, a purely technical expert, to attempt to provide an interpretation of the ordinary word "by." "By" is not a technical term. It is a common, everyday word. Schmand does not have any expertise in the English language or English grammar and is not competent to provide a claim [\*8] construction opinion for the word "by."

More importantly, Schmand's interpretation is clearly wrong. Consider the example from a common everyday activity that has the same structure as the language in the claim:

Hitting by a batter a baseball by swinging a bat at the baseball

Under Facebook/Schmand's interpretation and reasoning, the mere act of swinging a bat at the baseball fulfills the requirement of actually hitting the ball because of the use of the word "by." That clearly is nonsense. Swinging a bat at a ball does not fulfill the requirement of actually hitting the ball unless the bat actually hits the ball. Similarly, simply associating a URLs with a member in a database by a server system does not accomplish the requirement of allotting the URL to the member by the server system unless the URL is in fact allotted by the server and not chosen by the member.

#### Their evidence concedes that legal tests are NOT per se, but the prohibition in between legality AND near per se — we read blue

Mark S. 2AC Popofsky, Antitrust Partner at Ropes and Gray, Served as Senior Counsel to DOJ Antitrust Division, Adjunct Professor of Advanced Antitrust Law and Economics at Harvard Law School and the Georgetown University Law Center, 2016, Section 2 and the Rule of Reason: Report from the Front, CPI Antitrust Chronicle March 2016 (1)

Courts remain, in the words of one observer, mired in an “exclusionary conduct ‘definition’ war.”2 Applying Section 2’s broad prohibition on “monopolizing” conduct requires courts to select a governing legal test. Section 2 legal tests run the spectrum from rules of per se legality to rules of near per se illegality.3 Courts, nonetheless, largely apply two dominant paradigms. The first consists of legal tests based on bright-line rules or safe harbors. Familiar examples include the Brooke Group4 below-cost price test for analyzing predatory pricing claims and the Aspen/Trinko5 “profit sacrifice” test for refusals to deal. Developing bright-line rules for Section 2, proponents argue, promotes business certainty and reduces the risk of chilling otherwise procompetitive conduct. The second paradigm is rule of reason balancing. Arguably the default Section 2 legal test,6 courts and commentators have described Section 2’s rule of reason in various ways: as mandating a step-wise approach, as requiring a balancing of pro- and anticompetitive effects, or (to borrow from Section 1) a framework for generating the enquiry “meet for the case.”7 However the rule of reason is expressed, its champions contend, its flexibility and fact-intensive approach permits courts to identify anticompetitive conduct without the under-inclusion that is an admitted feature of safe harbors and other bright-line rules.

**Only per se illegality forbids practices---rules of reason forbid acts which fail a balancing test.**

**Beschle 87** (Donald L. Beschle-Associate Professor of Law, The John Marshall School of Law. B.A., 1973, Fordham University; J.D., 1976, New York University School of Law; LL.M., 1983, Temple University School of Law. March. CURRENT TOPIC IN ANTITRUST: "What, Never? Well, Hardly Ever": Strict Antitrust Scrutiny as an Alternative to Per Se Antitrust Illegality., 38 Hastings L.J. 471)

None of these positions has been accepted by the courts, possibly due to the apparent intent of Congress to maintain strict sanctions against resale price maintenance. 145 However, if antitrust theorists continue to criticize the anomaly of treating only one form of vertical restraint as per se illegal, the most likely way this conflict will be resolved is by the Supreme Court reversing its position on vertical price fixing. With respect to **tying** arrangements, legislative support of **unwavering prohibition** is **less recent**, if not less clear, and the Court has already come **close** to **abandoning the per se concept**. Four Justices already support rule of reason treatment for such practices. 146 Given the likely changes in the composition of the Court in the near future, **rule of reason** analysis may be adopted as the test for tying arrangements as well as other vertical restraints. 147

Less attention has been paid in recent literature to per se rules involving boycotts and horizontal market division. With respect to boycotts, this sanguinity may reflect the perception that the surviving per se rule is so limited that it has relatively little impact on antitrust enforcement. 148 Few significant cases have involved **horizontal** market division, unaccompanied by price fixing, since the unambiguous classification of such **practices** as per se illegal in 1972. 149 Still, some have criticized the application of **per se rules** in these cases. Topco remains, in the view of some, a classic example of how horizontal market division can occasionally have procompetitive results. 150

Only with respect to the classic per se offense, horizontal price fixing, has criticism been rare. Nevertheless, an occasional voice has been raised to argue that per se analysis should be abandoned even with respect [\*500] to this "hard core" Sherman Act violation. 151 Although there is little reason to believe that courts will seriously reconsider the designation of horizontal price fixing as per se illegal, the mere existence of such arguments indicates the strength of the movement against per se analysis. Even when criticism of per se rules does not lead to their explicit abandonment, it helps to create an atmosphere in which the surviving per se rules are continually narrowed through judicial circumscription. The expanded use of the **rule of reason** leads, then, to **more permissive** judicial **treatment** for those types of conduct **once** treated as **clearly anti-competitive**. 152

Of course, the critics of per se analysis have not had the field entirely to themselves. Those advocating strict application of the Sherman and Clayton Acts have counterattacked, putting forward both relatively narrow defenses of particular per se rules 153 and broad defenses of the concept of per se illegality. 154 Some advocates of broad application of per se rules argue that economic efficiency is the dominant goal of antitrust analysis and attempt to demonstrate that efficiency is not promoted by practices traditionally labelled per se illegal. 155 Others contend that efficiency must yield to, or at least share the spotlight with, other values that call for strict application of antitrust prohibitions even in the face of possible efficiency losses from such enforcement. 156

It is not surprising that defenders of the per se concept are losing ground, both in the academic literature and in the courts. This situation, however, is much less a reflection of any defect in the general position advocating vigorous antitrust enforcement than an indication of a fundamental flaw in the concept chosen to implement that position. From the earliest days of antitrust, advocates of vigorous enforcement have made strong and appealing arguments for listing certain types of conduct as [\*501] clearly and invariably forbidden. 157 Not only would this categorization make enforcement of the antitrust laws quicker and more certain, it would also serve to deter far more anticompetitive behavior. Certainty and judicial economy are no doubt valid concerns, and vigorous enforcement of the antitrust laws is certainly consistent with the spirit of the public and the legislators who adopted them. 158

But the use of the concept of per se illegality has been unfortunate. To the extent that the term means what it says -- that certain practices will invariably be illegal -- it is difficult to defend. If a practice is to be classified as invariably illegal, it should be so designated only upon a showing that it will always (or at least almost always) cause harm outweighing any benefits which it may produce. Some courts have so held, stating that the per se label will be reserved for practices which will always, or almost always, fail the standard test of antitrust analysis, the rule of reason. 159

Absolutes, however, even when qualified with the word "almost," are hard to prove. In an area as complex as the effect of concerted business practices on competition, numerous counterexamples, both hypothetical and actual, may be advanced to rebut the contention that any such practice invariably injures competition. To defend per se illegality, then, is to defend something almost inevitably indefensible. The only possible way to defend the concept effectively is to resort to the course currently being taken by the Supreme Court: to narrow the categories so far as to make the question of categorization almost as complex as full rule of reason analysis. At that point, the defense of the per se concept becomes merely an exercise in semantics.

If the concept of per se illegality is indefensible, except when so refined as to make it largely irrelevant, why continue to defend it at all? Why not simply abandon the field to the rule of reason? It seems clear that the battle over the per se rules is **less** a clash over those **specific rules** than a battle over **basic attitudes toward antitrust enforcement**. For better or worse, per se rules have become linked in most minds with **vigorous** enforcement; to **favor one** is to **favor the other**. The **rule of reason**, on the other hand, is associated with a **tolerant** attitude toward antitrust defendants. Rule of reason analysis often -- perhaps **usually** -- leads to a [\*502] finding of **no liability**. Its complexity and uncertainty can deter plaintiffs from even attempting to challenge behavior which many would say should be challenged. Since, to so many, rule of reason analysis means a type of antitrust enforcement under which **much anticompetitive activity** will be **permitted**, per se analysis is defended, not so much for its own virtues, but rather because of fears of the permissive nature of its sole obvious rival.

**B---The central controversy in antitrust now is whether or not to return to per se prohibitions---there’s plenty of AFF ground but dividing the topic in this way is the only way we get link uniqueness and avoid bidirectionality.**

**Lipsky Jr. 21** (Abbott B. Lipsky Jr.-Adjunct Professor, Antonin Scalia Law School, George Mason University. "Biden Administration Antitrust" <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nh243> )

Given these historic economic and technical achievements, the consensus U.S. approach to antitrust that has prevailed since the time of General Dynamics and Sylvania deserves a victory lap. Paradoxically, however, the long-standing and solid consensus in favor of the post-Sylvania approach to antitrust now finds itself subject to hostile challenge on several fronts. Toward the end of the Obama administration, a Report of the **C**ouncil of **E**conomic **A**dvisers [242] suggested that U.S. competition was in decline. In June 2019 the House Judiciary Committee began an “Investigation of Competition in Digital Markets,” which resulted (inter alia) in the issuance of a Majority Staff Report and Recommendations (“MSRR”) on October 6, 2020. [243] Although the Committee took no official action on any of the MSRR’s long list of specific legislative proposals, the MSRR is essentially a Cassandra-style assessment of the present state of U.S. competition policy, bemoaning the allegedly **weak and declining** state of U.S. competition, attributing this to unsound **judicial reasoning** and failures of prosecutorial **conviction** at the federal **antitrust** agencies, and concluding with a long list of **suggestions** for action that would essentially **return U.S. antitrust** enforcement to its pre-1974 status, **with heavy use of per se rules**, structural presumptions, **and a long list of specific prohibitions** on the activities of the digital technology leaders (e.g., structural separation of distinct platform activities, line-of-business restrictions). Unsurprisingly, the thrust of the MSRR was **echoed** by a Democrat think tank report authored by veterans of the **Clinton** and **Obama** administration antitrust agencies. The latter report, Restoring Competition in the United States: A Vision for Antitrust Enforcement for the Next Administration and Congress, [244] begins with the bold but unsupported and largely immaterial assertion that, “Excessive market power plagues the U.S. economy.” (Unsupported because the analysis cited is notably unpersuasive, and because whether such power is “excessive” can only be judged in relation to the competitive merits of the underlying conduct. Immaterial because market power resulting from breakthrough innovation that meets immense competitive success based on rapid and widespread consumer acceptance should not be reprehended under any responsible understanding of sound antitrust doctrine.) Broadly speaking, “Restoring Competition” echoes the analysis and many of the prescribed remedies offered by the MSRR.

8. The antitrust record of the **Biden** administration should be judged **primarily** on the strength and success of its resistance to the unsupported analysis and generally inappropriate recommendations of **these** two **reports**. Given the obvious current tension between radical and moderate elements of the Democrat Party, it is **anyone’s guess** as to how the White House will perceive and deal with these proposals to reject the unmistakable lessons of more than a century of antitrust enforcement history. The most promising course would be for the incoming administration to make agency leadership appointments and adopt policies reinforcing the clear and basic lessons of the ill-starred mid-century experiment (1943–1973) with structural presumptions, **per se rules** and willful ignorance of economic analysis. The worst-case scenario would be for the administration to create—by act or omission—any opening for a return to the primitive antitrust aggression that grew out of the New Deal. Finally, the Biden administration should recognize that many elements of the discredited formalistic antitrust approaches of the mid-20th century U.S. are now being promoted by antitrust authorities around the world. To ensure the integrity and success of the legal and regulatory environment for continuing U.S. innovation leadership, the Biden administration should encourage and assist foreign antitrust regimes in avoiding the same misguided enforcement instincts that overcame the U.S. antitrust system during the days of the per se/structuralist craze.

#### Wrong — per se is a stable mechanism that sets al imit on what affs happen — their c/I evidence concedes they are unpredictable — they could imply numerous tests — we read blue

Popofsky, Antitrust Partner at Ropes and Gray, Served as Senior Counsel to DOJ Antitrust Division, Adjunct Professor of Advanced Antitrust Law and Economics at Harvard Law School and the Georgetown University Law Center, ‘06

(“Defining Exclusionary Conduct: Section 2, The Rule Of Reason, and the Unifying Principle Underlying Antitrust Rules,” Antitrust Law Journal , 2006, Vol. 73, No. 2 (2006), pp. 435-482)

The first step in detecting an underlying principle for crafting Section 2 legal tests is to examine the comparatively few circumstances in which the legality of conduct under Section 2 is relatively clear.30 What is striking is that courts do not implement Section 2 through a single legal test. Rather, Section 2 courts often apply different liability tests to different conduct. Moreover, these liability tests (either express or implied) are "interventionist" to varying degrees. Certain conduct is unlawful only in very specific circumstances or not at all; the applicable doctrine is relatively less interventionist. For other conduct, the applica- ble test allows for illegality in a broader set of circumstances, and the test is more interventionist. At the extreme, certain conduct is virtually per se illegal under Section 2.

## CP — Advantage

#### EU can’t solve conflict---Nagorno-Karabakh proves.

Popescu 20, director of the Wider Europe programme at the European Council of Foreign Relations. (Nicu, 11-11-2020, "Russia’s win in Nagorno-Karabakh is EU’s loss", *POLITICO*, https://www.politico.eu/article/russia-win-eu-loss-in-nagorno-karabakh/)

After six weeks of fighting over the disputed region of Nagorno-Karabakh — and several failed cease-fires — Russia has mediated a deal between Armenia and Azerbaijan that appears likely to hold. With the conflict now officially re-frozen, the situation has yielded two clear winners: Russia and Turkey, who flexed their muscle in the region while the European Union sat on the sidelines, appearing increasingly irrelevant in its own neighborhood. Unless the EU rethinks its strategy in the region, it seems relegated to observing as others take charge. The Russia-brokered deal bears striking resemblance to what Armenia, Azerbaijan and the international community agreed would be a reasonable compromise, under the so-called Madrid Principles a decade ago. The main difference is that it is being implement [implemented] by military force, not diplomats or politicians. As part of the deal, Russia will deploy some 2,000 peacekeepers, ensuring that Nagorno-Karabakh will have a Russian-protected land connection to Armenia, and that Azerbaijan will have Russian-protected communication lines and transport links through Armenia to the Azeri exclave of Nakhchivan. But if Azerbaijan might seem the victor and Armenia the loser, the situation is more complicated for both. For Baku, this is more of a Faustian bargain than a victory. Azerbaijan acquired seven territories around Nagorno-Karabakh, previously occupied by Armenia, and will get to keep the territorial gains it made in the enclave, but will have to accept constraints on its future foreign policy and security. With Russian military presence on what is internationally recognized as Azerbaijan’s territory, and Russian security personnel ensuring Azerbaijani access to its exclave in Nakhchivan, Moscow suddenly acquires much more security leverage in the country. Nagorno-Karabakh will now look more like Georgia’s secessionist regions of Abkhazia and South Ossetia before 2008. Georgia’s two separatist regions have long been geopolitically convenient conflict zones that allowed Russia to raise or lower the security temperature to influence domestic politics and the security situation in Georgia. Azerbaijan has joined the club now. In the short term, this will lead to an Azeri-Russian honeymoon but could become a source of future instability and acrimony in Moscow-Baku relations. Armenia, meanwhile, retains de facto control of part of Nagorno-Karabakh, and the deployment of Russian peacekeepers on the ground makes the country less vulnerable to future conflagrations. As a result, however, Armenia finds itself in the much more difficult situation of having dramatically increased its already high dependence on Moscow, with what remains of Armenian-controlled Nagorno-Karabakh now indefensible without Russia. Yerevan now faces the possibility that Russia will push it even harder into making painful concessions in domestic or foreign policy. The real winners of the latest flare-up over Nagorno-Karabakh, ultimately, are Turkey and Russia. Moscow has tightened the screws of its control of Armenia and the country’s domestic and foreign policies. It also has much more military and security leverage on future developments in Azerbaijan. Turkey also has cause for celebration. Its ally Azerbaijan re-acquired its seven districts and part of Nagorno-Karabakh thanks in large part to Turkish support. The Turkish military and Turkish-made drones got good publicity, as did Turkey’s credibility as a power that truly supports its allies (unlike Russia). And despite Turkey’s bold military maneuvering, Ankara and Moscow’s capacity to remain on good terms remained unshaken. None of the above bodes well for the EU’s own foreign policy and international profile. Foreign policymaking in the EU’s wider neighborhood has become increasingly militarized. The key players in the region are not EU countries; instead Turkey, Russia and now Azerbaijan increasingly see bold military action as an efficient and sure way to success, from the South Caucasus to Syria and Libya. As long as the EU continues to focus almost exclusively on diplomatic and economic means to exercise its power in its neighborhood, this trend will continue. There is no quick way out of this irrelevance for the EU. Still, short of sending military troops and inserting itself into every military imbroglio on its periphery, there is another possible way forward.

## Adv — Platforms

#### Prolif would turn Iran into a pariah---they want economic relief, not war.

Axe 21, Forbes writer. Citing Jeffrey Lewis, an arms-control expert at the Middlebury Institute of International Studies (David Axe, 2-9-2021, "Iran Is Close To Getting An Atomic Bomb—But It Could Still Choose To Stop", *Forbes*, https://www.forbes.com/sites/davidaxe/2021/02/09/iran-is-close-to-getting-an-atomic-bomb-but-it-could-still-choose-not-to/?sh=4281e2c9565f)

The administration of President Joe Biden is working to bring Iran back to compliance with the 2015 accord limiting the country’s nuclear-weapons development. Ultimately, it’s up to the regime in Tehran to make a choice. Go nuclear—or don’t. It’s not a foregone conclusion that Iran’s leaders will choose nuclearization. There’s precedent for a country to develop all the key technologies for atomic weapons and still opt not to field them. In the late 1960s, Japan faced the same choice Iran faces today ... and ultimately said no to nukes. “Iran might end up like North Korea with a growing nuclear arsenal, but if we are lucky it might prefer to be more like Japan—satisfied with the capability in its back pocket,” said Jeffrey Lewis, an arms-control expert at the Middlebury Institute of International Studies in California. The Joint Comprehensive Plan of Action—the deal the administration of President Barack Obama negotiated with Iran, China, France, Germany, Russia, the United Kingdom and the European Union back in 2015—capped Iran’s nuclear-weapons development in exchange for relief from economic sanctions. The JCPOA was working when, in 2018, President Donald Trump unilaterally withdrew the United States from the agreement as part of a broader assault by Trump’s administration on arms-control regimes and Obama’s diplomatic legacy. Trump reimposed the sanctions on Iran that Obama had lifted. With the JCPOA slowly collapsing, Iran resumed work on its nukes. In early January, Iranian foreign minister Mohammad Javad Zarif announced that the country’s scientists had enriched uranium to 20 percent. That’s one stage of enrichment below what’s required to produce weapons-grade uranium. The JCPAO allows Iran to enrich uranium no higher than four percent, a level adequate to fuel a nuclear power plant. A few weeks later, Iran’s Revolutionary Guard Corps launched its first Zuljanah space launch vehicle, an 84-foot, three-stage rocket with a new solid-fuel engine in its first and second stages and a liquid-fuel engine in its third stage. The rocket can loft a 500-pound payload as high as 310 miles, according to the Iranian government. If you bent the Zuljanah’s trajectory, aiming for distance rather than height, you could carry a one-ton warhead as far as 3,100 miles, Lewis estimated. A weaponized Zuljanah could strike targets as far away as China and the United Kingdom. The enrichment move and the Zuljanah launch together amount to a naked attempt by officials in Tehran to leverage their emerging nuclear technology for sanctions-relief. “Our measures are fully reversible upon full compliance by all,” Zarif stated. In other words, Iran has signaled it will halt its nuclearization effort ... if the United States lifts the Trump-era sanctions. The Biden administration’s position is clear. It wants to restore the JCPOA and stop Iran from getting an atom bomb. “We would like to make sure that we reestablish some of the parameters and constraints around the program that have fallen away over the course of the past two years,” said Jake Sullivan, Biden’s national security advisor. But Biden wants Tehran to make the first move. “If Iran comes back into full compliance with the obligations under the JCPOA ... the United States would do the same, and then use that as a platform to build a longer and stronger agreement that also addresses other areas of concern,” Jen Psaki, the White House press secretary, said on Friday. Consider it a game of diplomatic chicken. Which party will move first—and risk weakening its negotiating position? It’s not inconceivable that Iran might budge first. Countries rarely surrender—or even freeze—major new strategic technologies once they’ve developed them. That’s why North Korea, a nuclear state since 2006, has proved to be such a vexing diplomatic problem for the rest of the world. There are exceptions, of course. One of them, Japan, could illuminate the current crisis. Japan, the first and so-far-only target of an atomic attack, might seem like an unlikely nuclear power. But in the late 1960s, Tokyo considered developing atomic weapons. Technically, it wouldn’t have been difficult. Japan already possessed all the key technologies—the fruits of a strong domestic nuclear-power and rocket industries. But there were, and still are, strong cultural and political impulses against atomic weapons in Japan. And besides, as long as Japan and the United States are close allies, America’s own nuclear deterrent helps to protect Japan. Tokyo decided not to go nuclear. But every few years, the nuclear question reappears in Japanese media—a healthy reminder that politics, not technology, keeps Japan out of the atomic camp. There’s reason to hope Iran might follow the same path Japan did. Despite having developed all the key technologies for a nuclear weapon, Tehran could stop short of actually building one. Going nuclear this late in the atomic age can have deep and lasting economic effects, as the world isolates and contains rogue atomic powers by way of permanent sanctions. Look at what has happened to North Korea. Yes, the regime in Pyongyang has nukes. But it also is a pariah state with minimal access to global markets. As long as Iran stops short of full nuclearization, it can hope to rejoin the world economy some day—and end up more like Japan than North Korea. There are hints that key members of the Iranian regime favor the former. Consider that Ali Khamenei, Iran’s supreme leader, ordered the military to limit the range of its most powerful rockets to just 1,250 miles—and also directed the IRGC to deploy its new solid-fuel engine in a space launcher rather than a weapon. As with Japan, it might be enough for Iran that it can develop nukes. If Tehran is inclined to trade warheads for economic benefits, then the Biden administration can afford to stand firm and wait for Iran to move first toward compliance with the 2015 deal. After all, Tehran—jealously eyeing Tokyo’s trade ties—might actually prefer compliance.

#### Won’t prolif.

Indyk 20, Distinguished fellow at the Council on Foreign Relations. He served as U.S. special envoy for Israeli-Palestinian negotiations in the Obama administration and as U.S. ambassador to Israel and assistant secretary of state for Near Eastern affairs in the Clinton administration. (Martin, 1-17-2020, "The Middle East Isn’t Worth It Anymore", *WSJ*, https://www.wsj.com/articles/the-middle-east-isnt-worth-it-anymore-11579277317)

That leaves Iran’s nuclear program. Preventing a nuclear arms race in the Middle East does remain a vital U.S. interest—the one current case where the U.S. might need to resort to war. But we should be wary of those who would rush to battle stations.

Unlike North Korea or Pakistan, Iran doesn’t have nuclear weapons. U.S. sanctions are choking Iran’s economy, and the regime faces growing internal dissent and regional opposition. Mr. Trump unwisely pulled out of the 2015 Iran nuclear deal, but Iran’s leaders have already expressed a willingness to return to the negotiating table and clearly want to avoid an escalating conflict

## Adv — Conduct

#### Uncertainty alone checks.

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. 29, <https://www.jstor.org/stable/resrep22408.8?seq=1#metadata_info_tab_contents>)

This upper bound on cyber attack is affected by the likelihood of attribution. If an attacker was confident that it could avoid having the attack attributed to it, the risk of retaliation would be reduced, making some attacks more attractive. Uncertainty about attribution capabilities, particularly American capabilities, combined with uncertainty about the effectiveness of cyber attack, creates caution. Public expressions of uncertainty about attribution are not shared by opponents, who know when they have been caught. Over the last decade, the United States has made a major effort to improve its attribution capabilities and has succeeded to the point where no opponent can be confident about anonymity and this, if linked to truly credible threats to impose consequences, may finally produce the cyber deterrence so long sought by the United States.

The implicit threshold governing cyber attack is the line between force and coercion. With very few exceptions, states have avoided cyber actions that could be judged as the use of force, based on international understandings on what actions qualify as the use of force or armed attack. Opponents have engaged in cyber actions below this implicit threshold with impunity, but they are reluctant to cross it for fear of creating a situation that they cannot control. In this, cyber incidents are more like border incursions or bandit raids than attacks.

Public sources suggest that at least seven countries have used cyber tools for coercive purposes. However, they have been careful to avoid anything that could be interpreted as the use of force, and they have avoided physical destruction or casualties. This suggests that countries prefer actions that advance their strategic goals without creating unmanageable risk of escalation into armed conflict. Opponents calculate the advantage they would gain from an attack against the potential cost. Miscalculation is possible, but if anything, opponents appear more likely to overestimate the risk of retaliation.

#### 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 — Russia

#### Turns advantage 3 — Failure to check Russia leads to Chinese takeover of Taiwan

Walsh 2-26-2022 (Bryan, “The war in Ukraine could portend the end of the “long peace”,” Vox, <https://www.vox.com/2022/2/26/22951016/russia-ukraine-long-peace-nuclear-weapons-global-development>)

That was implicit in Russia’s decision to exercise its strategic nuclear forces in the leadup to the invasion, in Putin’s absurd casus belli claim that Ukraine was going to develop its own nuclear weapons, in his threat that countries that interfered with Russian actions would face “consequences you have never seen.” As Roger Cohen pointed out in the New York Times, Putin’s speech “seemed to come closer to threatening nuclear war than any statement from a major world leader in recent decades.” The irony is that one of the reasons Ukraine was vulnerable to a Russian invasion is that it does not possess nuclear weapons. It agreed in 1994 to give up Soviet nukes that had been left in its territory after the USSR’s breakup in exchange for an agreement that the US, the UK, and Russia would guarantee its security. And one of the reasons that Putin could invade knowing that international opposition would be largely limited to diplomatic and financial tools was that Russia still possesses the world’s largest nuclear arsenal. It has also retained strategic ambiguity about just when and why it would use those weapons, including the possibility it would threaten a nuclear strike if it were on the losing side of a conventional conflict with NATO. As Vox’s Zack Beauchamp writes, what we’re seeing is an illustration of the “stability-instability paradox” of nuclear weapons. As the chance of nuclear conflict declines, the theory holds, the risk of conventional war increases, and as the likelihood of nuclear conflict increases, the risk of conventional war declines. That in turn helps explain another paradox: why the decades following the introduction of nuclear weapons — weapons that, in their most maximalist effect, could conceivably bring an end to human civilization — also saw a historic fall in the number of war-related deaths around the world. These decades go by another name: “the long peace.” The name can be a bit misleading — for much of the world, these years have been anything but peaceful, with the number of discrete conflicts beginning to rise in the 1960s and staying high ever since. These ranged from large conflicts like America’s decade in Vietnam and the 1980s Iran-Iraq war to countless small skirmishes, often conflicts within countries, that barely penetrated the international media. But compared to the blood-stained decades that marked the first half of the 20th century — which saw more than 100 million deaths in World Wars I and II combined — let alone humanity’s tremendously violent past, these years have indeed been a holiday from history. And if the invasion of Ukraine marks a decisive end to that holiday, as some experts have suggested, we risk losing far more than peace. The wages of peace When Future Perfect was launched in 2018, Vox’s Dylan Matthews laid out a founding question: “What topics would we write about if our only instruction was to write about the most important stuff in the world?” The years that followed provided some of the answers: the battle against global poverty and the common diseases that still kill too many of the world’s poorest; the growth of effective altruism and the rigorous movement to do the most good per dollar; the expansion of moral concern from tribe and nation to all of humanity and even non-human species; and yes, occasionally, the existential threat of superintelligent AI. What these topics have in common is that they all flourish best in peace. The last half-century or more hasn’t just seen a historic reduction in the casualties of war. It’s also witnessed an unprecedented expansion in human prosperity, as measured in health, wealth, and education. It’s an expansion that is far from perfect and far from complete, but one that has opened the door, even just a crack, to a future that truly could be perfect. That progress, I would argue, depends on peace. Unchecked war is the great destroyer of human value. One estimate from 2019 put the economic impact of violence and conflict at $14.4 trillion that year, equivalent to more than 10 percent of gross global GDP. But dollar figures are only one way of counting the destruction. A world where borders can once again be remade with force, where countries and their citizens no longer feel secure from better-armed neighbors, is one where the broader goals Future Perfect covers (and values) will be harder to achieve, where the circle of moral concern could shrink rather than grow. It is a return to barbarity. Fighting back Understanding the value of peace doesn’t mean the world should do nothing as Russian troops and arms pour into Ukraine — far from it. A Russian takeover of Ukraine at the point of a gun doesn’t merely destabilize its European neighbors; it potentially opens the door for other increasingly authoritarian countries to take what they can by force. Today Kyiv, tomorrow Taipei.

#### Turns add-on — Russian victory in Ukraine shreds EU capacity and leadership

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If Russia achieves its political aims in Ukraine by military means, Europe will not be what it was before the war. Not only will U.S. primacy in Europe have been qualified; any sense that the European Union or NATO can ensure peace on the continent will be the artifact of a lost age. Instead, security in Europe will have to be reduced to defending the core members of the EU and NATO. Everyone outside the clubs will stand alone, with the exception of Finland and Sweden. This may not necessarily be a conscious decision to end enlargement or association policies; but it will be de facto policy. Under a perceived siege by Russia, the EU and NATO will no longer have the capacity for ambitious policies beyond their own borders. The United States and Europe will also be in a state of permanent economic war with Russia. The West will seek to enforce sweeping sanctions, which Russia is likely to parry with cyber-measures and energy blackmailing, given the economic asymmetries. China might well stand on Russia’s side in this economic tit for tat. Meanwhile, domestic politics in European countries will resemble a twenty-first-century great game, in which Russia will be studying Europe for any breakdown in the commitment to NATO and to the transatlantic relationship. Through methods fair and foul, Russia will take whatever opportunity comes its way to influence public opinion and elections in European countries. Russia will be an anarchic presence—sometimes real, sometimes imagined—in every instance of European political instability. Eastern member states would have NATO troops permanently on their soil. Cold War analogies will not be helpful in a world with a Russianized Ukraine. The Cold War border in Europe had its flash points, but it was stabilized in a mutually acceptable fashion in the Helsinki Final Act of 1975. By contrast, Russian suzerainty over Ukraine would open a vast zone of destabilization and insecurity from Estonia to Poland to Romania to Turkey. For as long as it lasts, Russia’s presence in Ukraine will be perceived by Ukraine’s neighbors as provocative and unacceptable and, for some, as a threat to their own security. Amid this shifting dynamic, order in Europe will have to be conceived of in primarily military terms—which, since Russia has a stronger hand in the military than in the economic realm, will be in the Kremlin’s interest—sidelining nonmilitary institutions such as the European Union.

#### Russia’s on the brink of a nuclear war

Hill 2-28-2022, senior fellow @ Brookings, former official at the U.S. National Security Council specializing in Russian and European affairs. She was a witness in the November 2019 House hearings regarding the impeachment inquiry during the first impeachment of Donald Trump (Fiona, “‘Yes, He Would’: Fiona Hill on Putin and Nukes,” interviewed by Maura Reynolds, a senior editor @ Politico, *Politico Magazine*, <https://www.politico.com/news/magazine/2022/02/28/world-war-iii-already-there-00012340>)

Reynolds: And then there’s the nuclear element. Many people have thought that we’d never see a large ground war in Europe or a direct confrontation between NATO and Russia, because it could quickly escalate into a nuclear conflict. How close are we getting to that? Hill: Well, we’re right there. Basically, what President Putin has said quite explicitly in recent days is that if anybody interferes in Ukraine, they will be met with a response that they’ve “never had in [their] history.” And he has put Russia’s nuclear forces on high alert. So he’s making it very clear that nuclear is on the table. Putin tried to warn Trump about this, but I don’t think Trump figured out what he was saying. In one of the last meetings between Putin and Trump when I was there, Putin was making the point that: “Well you know, Donald, we have these hypersonic missiles.” And Trump was saying, “Well, we will get them too.” Putin was saying, “Well, yes, you will get them eventually, but we’ve got them first.” There was a menace in this exchange. Putin was putting us on notice that if push came to shove in some confrontational environment that the nuclear option would be on the table. Reynolds: Do you really think he’ll use a nuclear weapon? Hill: The thing about Putin is, if he has an instrument, he wants to use it. Why have it if you can’t? He’s already used a nuclear weapon in some respects. Russian operatives poisoned Alexander Litvinenko with radioactive polonium and turned him into a human dirty bomb and polonium was spread all around London at every spot that poor man visited. He died a horrible death as a result. The Russians have already used a weapons-grade nerve agent, Novichok. They’ve used it possibly several times, but for certain twice. Once in Salisbury, England, where it was rubbed all over the doorknob of Sergei Skripal and his daughter Yulia, who actually didn’t die; but the nerve agent contaminated the city of Salisbury, and anybody else who came into contact with it got sickened. Novichok killed a British citizen, Dawn Sturgess, because the assassins stored it in a perfume bottle which was discarded into a charity donation box where it was found by Sturgess and her partner. There was enough nerve agent in that bottle to kill several thousand people. The second time was in Alexander Navalny’s underpants. So if anybody thinks that Putin wouldn’t use something that he’s got that is unusual and cruel, think again. Every time you think, “No, he wouldn’t, would he?” Well, yes, he would. And he wants us to know that, of course. It’s not that we should be intimidated and scared. That’s exactly what he wants us to be. We have to prepare for those contingencies and figure out what is it that we’re going to do to head them off.

#### Absent resolution, Ukraine-Russia war goes nuclear

Nichols 2-24-2022, contributing writer at The Atlantic and the author of its newsletter Peacefield (Tom, “How Ukraine Could Become a Nuclear Crisis,” The Atlantic, <https://www.theatlantic.com/ideas/archive/2022/02/how-ukraine-could-become-nuclear-crisis/622915/>)

There are countless opportunities for such errors in the chaos now overtaking Ukraine. The Russians might shoot at NATO aircraft after misidentifying them. Or they might incorrectly believe that Russian aircraft have been attacked by NATO forces. They might suffer a misfire or a targeting error of some kind that puts Russian ordnance on NATO territory. Europe’s a crowded continent, and no place for a jumpy trigger finger, but accidents are an unavoidable part of warfare. Any one of these mishaps could lead the Russians, or the United States, or both, to increase the alert status of their nuclear arsenals. This would mean that nuclear weapons and their crews—in some cases, with missiles that are already capable of being launched in 15 or 20 minutes—would heighten their vigilance and readiness to proceed with their missions. Such alerts are rare, and for good reason: They move us one step closer to nuclear conflict. Finally, there is the frightening possibility that Putin will increase the alert status of his nuclear forces for his own reasons, leaving the Americans no choice but to raise their alert status. The invasion of Ukraine was preceded by the Russian Grom (meaning “thunder”) drills, a regular exercise held by Russia’s strategic nuclear forces. The timing was no accident; Putin relies on Russia’s nuclear deterrent as one of its last claims to superpower status, and he could activate another such exercise, or call for a heightened alert condition, if he thinks things are going poorly for Russia. Perhaps Russian forces, for example, end up taking more casualties than Putin expected, and he wants to blame the West rather than admit the incompetence or errors of his own commanders. He might then use nuclear signaling as a way of creating a narrative for his people that the West is somehow threatening Russia and that he is determined to stand up to Washington. Or he may be paranoid enough to believe that the U.S. and NATO are planning to send forces in to aid the Ukrainians. Or he may simply decide on such an alert merely to bare his teeth if he thinks it might stop the supply of arms and aid to Ukraine. Such tit-for-tat signaling has happened before. In 1973, when the Soviet Union threatened to send troops into the middle of the Yom Kippur War to save Egyptian forces from destruction by the Israelis, the United States raised its level of nuclear preparedness, its DEFCON, or “defense condition,” as a way of indicating American resolve to prevent a Soviet intervention. The Soviets and the Americans for decades poisoned the air and oceans with nuclear tests that were meant to show strength and determination. In an escalating-alert-level scenario, each side will start watching the other intensely for evidence of an impending attack. All of the gremlins of error and miscalculation that are already on the loose in Ukraine now will become existential hazards until the crisis—which at that point will be about the United States and Russia, instead of Ukraine—is somehow sorted out.

#### Russian victory leads to nuclear war in Europe

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Nevertheless, Putin’s cost-benefit analysis seems to favor upending the European status quo. The Russian leadership is taking on more risks, and above the fray of day-to-day politics, Putin is on a historic mission to solidify Russia’s leverage in Ukraine (as he has recently in Belarus and Kazakhstan). And as Moscow sees it, a victory in Ukraine might well be within reach. Of course, Russia might simply prolong the current crisis without invading or find some palatable way to disengage. But if the Kremlin’s calculus is right, as in the end it was in Syria, then the United States and Europe should also be prepared for an eventuality other than quagmire. What if Russia wins in Ukraine?

If Russia gains control of Ukraine or manages to destabilize it on a major scale, a new era for the United States and for Europe will begin. U.S. and European leaders would face the dual challenge of rethinking European security and of not being drawn into a larger war with Russia. All sides would have to consider the potential of nuclear-armed adversaries in direct confrontation. These two responsibilities—robustly defending European peace and prudently avoiding military escalation with Russia—will not necessarily be compatible. The United States and its allies could find themselves deeply unprepared for the task of having to create a new European security order as a result of Russia’s military actions in Ukraine.

#### The plan creates a fierce partisan battle. Any challenge of corporate power alienates GOP.

Serwer 21, Staff Writer at The Atlantic covering politics (Adam, “‘Woke Capital’ Doesn’t Exist,” *The Atlantic*, <https://www.theatlantic.com/ideas/archive/2021/04/dont-buy-conservative-rebellion-against-corporations/618519/>)

As such, the Republican anti-corporate turn is entirely superficial. That’s a shame, because the concentration of corporate power has had a negative effect on American governance, leading to an age of inequality in which economic gains are mostly enjoyed by those in the highest income brackets. Since the 1970s, despite massive gains in productivity, most Americans have seen their wages rise very slowly, while the wealthiest have reaped almost all the gains of economic growth. That outcome was a policy choice, not an inevitability. “Starting in the 1970s, the people in charge of designing and implementing the tax code increasingly favored those at the very top,” the political scientists Jacob Hacker and Paul Pierson wrote in Winner-Take-All Politics. “The rich are getting fabulously richer while the rest of Americans are basically holding steady or worse.” Notably, they argued, this trend “is not obviously related to either the business cycle or the shifting partisan occupancy of the White House.” Economists on the left have concluded that this is because the extremely wealthy have a stranglehold on American politics that prevents policy changes that would more fairly distribute economic gains. And that, in turn, helps explain the seemingly high stakes of the culture war over corporate-branding decisions: The concentration of corporate power means that large companies wield outsize cultural influence, and their policy priorities are more often translated into law than those with broader public support. “One thing that is clear from the emerging evidence is that economic inequality reinforces differences in political and social power, and these in turn affect market outcomes,” the economist Heather Boushey, now a member of President Joe Biden’s Council of Economic Advisers, wrote in Unbound. This diagnosis lends itself to certain solutions, some of which are apparent in the Biden administration’s agenda. Although in the past, Democratic Party policies have exacerbated the problem, in recent years, much of the party has moved left on economic issues and now appears to recognize the threat that extreme inequality represents. The obvious Republican insincerity on deficits, and the depth of the coronavirus crisis, expanded the horizon for Democrats as they contemplated policy changes. The design of generous unemployment provisions, direct-aid payments, and the recently passed child allowance, all of which disproportionately benefit the low-wage workers who have borne the brunt of the pandemic, reflected that new ambition, and Biden has already proposed modestly raising corporate tax rates in his infrastructure plan. But reducing corporate power, and with it the grip of the wealthy on government, will require more than that. Strengthening organized labor through the PRO Act, which would make it easier to unionize, would provide a needed counterbalance to corporations. The Biden administration has also indicated a willingness to use antitrust regulations against tech firms that have amassed a stunning amount of power over Americans’ daily lives in the past few decades. Proposals from the left wing of the party to reestablish postal banking and mandate worker representation on corporate boards would further diminish the influence of the extremely wealthy. Perhaps Republicans don’t like these ideas. They are, after all, liberal and left-wing ideas. But when it comes to breaking the concentration of political and economic power in the hands of the very wealthy, Republicans have no ideas of their own to speak of, beyond issuing colorful threats to employ state coercion against firms that fail to do their bidding. The GOP is unbothered by the concentration of wealth or power as such, which is not only why it opposes all of these measures, but also why the centerpiece of its agenda the last time it controlled both Congress and the White House was a massive and regressive tax cut. What vexes Republicans is the sight of corporations responding to market incentives by making public displays of support for egalitarianism and nondiscrimination, which is not the same as corporations actually supporting those things. Putting out statements supporting Black Lives Matter or adorning their logos with pride colors is very easy for big corporations, but such gestures do not signal a commitment to fair wages, safe working conditions, or a willingness to pay their share in taxes, let alone racial egalitarianism in all but the most cosmetic sense. They are merely brand management. “Woke capital” does not actually exist, only capital—and its interests remain the same as they have always been. Like the Republican turn against democracy, the newfound opposition to the market fundamentalism that conservatives once espoused and the free-speech principles they pretended to revere is superficial and contingent. Free speech, democracy, and free-market capitalism were fine as long as Republicans could expect victory in these arenas. But with public opinion shifting against them on key priorities, their focus has now turned to rigging the rules of the game to their advantage rather than winning over a larger share of the public. They do not seek to achieve a more equitable distribution of either money or power, but to ensure that the present inequities work to their political advantage. An irony is that the era with which the right is enraptured was in part a product of a set of mid-century economic arrangements—higher taxes on the wealthy, greater union density, stronger regulations—that the left is attempting to restore, in some form, while including a novel commitment to racial and gender equality. Republicans have no interest in curtailing corporate power in this fashion—not when they believe that power could be used to reimpose a diminished cultural hegemony. These so-called populist Republicans do not wish to throw the one ring into Mount Doom; they simply want to wield it on their own behalf.

#### The link draws in Congress and ensures a cross-FG fight

Uribe et al 2013 Alicia, Lecturer in Political Science – University of Illinois, PhD University of Washington St. Louis, The Influence of Congressional Preferences on Legislative Overrides of Supreme Court Decisions, Law & Society Review, <http://faculty.ucmerced.edu/thansford/Articles/congress_reaction_to_court.pdf>

Conclusion Congress and the Supreme Court interact in a separation-of-powers framework as each attempts to shape policy. While the broader congressional politics literature provides convincing empirical evidence that legislative preferences have a significant effect on Members’ votes and the passage of legislation (e.g., Poole and Rosenthal 2007), no systematic evidence demonstrates legislative overrides of Supreme Court opinions result from congressional preferences. This lack of empirical support exists despite the widespread application of a spatial modeling approach to understand Congress-Court relations, which assumes overrides occur when Court decisions are ideologically distant from Congress. Our first goal was to show, consistent with existing spatial models in the literature, that Congress is more likely to pass laws overriding Supreme Court decisions the further ideologically removed a decision is from the legislative gridlock interval. Our statistical results, for the first time, demonstrate Congress overrides Court decisions the further ideologically removed it is from them. A two standard deviation shift around the mean of the ideological distance of Congress from a Court decision increases the likelihood of an override by 66.4%. This result indicates Congress takes notice of the policy import of a Court decision and is more likely to reject those it dislikes on ideological grounds. We therefore provide evidence in support of a core part of SOP models, showing Congress does indeed respond to Court decisions based on its preferences. This result is important because it confirms a fundamental component of nearly all SOP explanations of the relationship between Congress and the Court. Future studies can now be confident that their assertion that legislative preferences influence overrides is on a strong empirical footing. We further demonstrate Congress does not act strategically by avoiding legislative overrides when the Court is likely to reject them. The implication is that Congress is motivated by position-taking goals rather than the ultimate effect of its policy actions and the separation-ofpowers. That is, our data suggest Congress cares more about the short-term gains from overriding legislation (e.g., passing the legislation for electoral purposes) than the ultimate shape of the policies it chooses to override. This result suggests the Court may, at least when it concerns the ultimate effect of override legislation, have greater influence on the ultimate location of public policy. Of course, this conclusion is tempered by the fact that Congress and the Court rarely disagree about whether the status quo should be altered; Congress wishes to override a Court decision preferred by the Court only 2.5% of the time in our data. As Dahl (1957) famously declared, the Court is not often out-of-step with the elected branches, and as a result Congress and the Court tend to agree on the desirability of previously decided Court cases. Finally, we show the effect of ideological distance matters for all types of Court decisions, including constitutional ones. Thus, while the Court may, as some suggest (e.g., King 2007), attempt to insulate its decisions from congressional override by using constitutional interpretation, it appears this tactic does not work. When Congress is ideologically distant from a Court decision, regardless of whether the decision is based on constitutional, statutory or common law interpretation, it is more likely to override it. This result is new to the literature, and it means subsequent studies cannot exclusively focus on statutory cases.

#### That’s specifically true of Biden

**Cadelago and Daniels,** 6-28-**21**

(Christopher and Eugene, “Republicans ramp up attacks on Biden on … everything,” accessed 6-28-21, <https://www.politico.com/news/2021/06/28/spray-and-pray-biden-republicans-496660>) JFN

That hasn’t, however, kept Republicans from swinging away. Biden is far and away the GOP’s No. 1 villain on Facebook, according to an analysis conducted by the Democratic-leaning communications agency Bully Pulpit Interactive for POLITICO. Over the last three months, Republicans and affiliated groups and committees have spent nearly $2.5 million trying to paint Biden and his priorities in a negative light. That’s more than three times what they’ve spent on Facebook ads targeting other leading Democrats — from Sen. Bernie Sanders (I-Vt.), House Speaker Nancy Pelosi, Rep. Alexandria Ocasio-Cortez (D-N.Y.) and former President Barack Obama — and issues like socialism, fake news, and “defund the police” combined. POLITICO opted to review the last three months of data, after Facebook lifted the ban on political ads on its U.S. platform. But there has not been a consistent theme to the anti-Biden spots. The attack lines getting pushed most on the right go after Biden’s massive infrastructure push, his call for raising taxes, dark money groups that support his agenda, his position on guns and the rise of gun violence in U.S. cities, according to Bully Pulpit’s analysis. The conservative outfit Americans for Prosperity is leading the online barrage against Biden, with spots on infrastructure, taxes and the American Jobs Plan. The National Rifle Association has run online ads targeting Biden on guns, claiming that the “Biden Political Machine [will] dismantle the 2nd Amendment.” But others running ads go after Biden on wholly different topics. Sen. Ted Cruz (R-Texas) has run spots accusing the president of trying to pack the Supreme Court with “radical leftiest justices” (Biden has only put together a commission to study the composition of the courts).

#### Putin’s watching closely. Perception of bipartisan unity is vital to resolve. Prevents Russian escalation

DN 1-26-2022 (Deseret News, Opinion: Political fights in the U.S. may embolden Russia. It’s time to be unified,” <https://www.deseret.com/opinion/2022/1/26/22899814/utah-washington-conservative-liberal-politics-partisan-fights-hurt-unity-weakness-perception>)

Unity — among politicians in the United States and European allies — is more important now than ever, as the world faces the biggest threat to international peace so far in the 21st century. That’s unfortunate, given how “unity” has become a punchline in the tasteless joke of modern political discourse. But the lack of it sends a dangerous signal. Vladimir Putin’s threat to Ukraine is about more than just a regional dispute or a desire to bring two old Soviet-era states back together, although those issues cannot be ignored. It has been brought to a fever pitch at this moment in history because Russia’s leader likely senses an opportunity based on perceived weaknesses in the West. The United States is obsessed with the false claims of election fraud in 2020, with many people so blinded by hatred and distrust, either for liberals or conservatives, that they can’t see beyond their nation’s borders. Putin, himself, may have something to do with this through internet disinformation campaigns. Meanwhile, President Joe Biden’s disastrous troop withdrawal from Afghanistan signaled weakness and strategic disarray. Some in Washington are drawing connectionsbetween this and the crisis at hand. NATO, meanwhile, has shown its own signs of disunity, with Germany becoming increasingly dependent on cheap gas from Russia. Despite strong warnings to Russia from British Prime Minister Boris Johnson, Europe must do more to rally behind Ukraine. Writing recently for the Wilson Center, Mykhailo Minakov, the Kennan Institute’s senior adviser on Ukraine, made a strong argument that “Ukraine is more important for the security of Europe than Afghanistan.” And yet the West seems caught in a straightjacket of its own internal affairs. In the United States, members of Congress need to unite in a bipartisan effort to pass a bill sponsored by Sen. Bob Menendez, D-N.J., who is chair of the Senate Foreign Relations Committee. Called the “Defending Ukraine Sovereignty Act of 2022,” the bill would impose sanctions both on the Russian banking sector and senior military and government officials, should an attack occur. It would sanction a variety of Russian business and industry concerns and punish transactions on Russian sovereign debt. Perhaps most importantly, it would call on the Department of Defense and the State Department to provide military aid to Ukraine, and it would expand efforts to counter Russia’s internet disinformation campaigns. The bill may not be perfect, but it’s up to members of both parties to work together to craft a version that would send a united message, and to do so quickly. Military aid, in particular, needs to arrive in a timely fashion. Americans may not be prepared to engage personally in the defense of Ukraine (although a NATO quick-response team, possibly reinforced with U.S. soldiers, is moving into place), but Putin is more likely to think twice if the West appears ready to make him pay for his actions. The need for unity cannot be overstated. Writing in Foreign Affairs recently, retired National Security Council official Alexander Vindman and Lawfare Institute research associate Dominic Cruz Bustillos said, “Traditionally, there has been strong bipartisan support for Ukraine. But the Kremlin believes that a lack of U.S. internal cohesion will undermine Washington’s capacity for a strong response. Congress must not lend credence to that belief. “The potency of Menendez’s bill comes not only from its substance but also in the signal it would send about overwhelming bipartisan support for Ukraine.”

We agree. Or, in the words of former British Prime Minister Margaret Thatcher, “This is no time to go wobbly.”

## Advantage 3 — Access

#### No emerging tech impact.

Sechser et al. 19, \*Todd S., Pamela Feinour Edmonds and Franklin S. Edmonds, Jr. Discovery Professor of Politics and Public Policy at the University of Virginia and Senior Fellow at the Miller Center of Public Affairs, \*\*Neil Narang, Associate Professor of Political Science at the University of California, Santa Barbara, \*\*\*Caitlin Talmadge, Associate Professor of Security Studies in the School of Foreign at Georgetown University. ( “Emerging technologies and strategic stability in peacetime, crisis, and war”, *Journal of Strategic Studies*, 42:6, pg. 728-729)

Yet the history of technological revolutions counsels against alarmism. Extrapolating from current technological trends is problematic, both because technologies often do not live up to their promise, and because technologies often have countervailing or conditional effects that can temper their negative consequences. Thus, the fear that emerging technologies will necessarily cause sudden and spectacular changes to international politics should be treated with caution. There are at least two reasons to be circumspect.

First, very few technologies fundamentally reshape the dynamics of international conflict. Historically, most technological innovations have amounted to incremental advancements, and some have disappeared into irrelevance despite widespread hype about their promise. For example, the introduction of chemical weapons was widely expected to immediately change the nature of warfare and deterrence after the British army first used poison gas on the battlefield during World War I. Yet chemical weapons quickly turned out to be less practical, easier to counter, and less effective than conventional high-explosives in inflicting damage and disrupting enemy operations.6 Other technologies have become important only after advancements in other areas allowed them to reach their full potential: until armies developed tactics for effectively employing firearms, for instance, these weapons had little effect on the balance of power. And even when technologies do have significant strategic consequences, they often take decades to emerge, as the invention of airplanes and tanks illustrates. In short, it is easy to exaggerate the strategic effects of nascent technologies.7

Second, even if today’s emerging technologies are poised to drive important changes in the international system, they are likely to have variegated and even contradictory effects. Technologies may be destabilising under some conditions, but stabilising in others. Furthermore, other factors are likely to mediate the effects of new technologies on the international system, including geography, the distribution of material power, military strategy, domestic and organisational politics, and social and cultural variables, to name only a few.8 Consequently, the strategic effects of new technologies often defy simple classification. Indeed, more than 70 years after nuclear weapons emerged as a new technology, their consequences for stability continue to be debated.9

#### Antitrust collapses the only firms willing to work with the DoD, cedes market share to China, and enables espionage

Bateman 19, Senior Fellow, Carnegie Endowment for International Peace. (Jon, 10-22-2019, “The Antitrust Threat to National Security”, *Wall Street Journal*, <https://www.wsj.com/articles/the-antitrust-threat-to-national-security-11571784197>

But there are dangers in restructuring any U.S. industry. One of the most serious remains largely unrecognized: national-security risk. Despite their faults, tech companies contribute directly to American military and intelligence operations. Their titanic scale can itself be an asset. Any responsible antitrust debate must address the national security risks of breaking up Big Tech—and the parallel risks of keeping these companies intact.

Consider cloud computing. The Defense Department is planning a massive global cloud called JEDI. Unlike corporate clouds, the “war cloud” must support life-or-death missions on austere battlefields despite virtual or physical onslaughts. The Pentagon found only two eligible bidders: Amazon and [Microsoft](https://quotes.wsj.com/MSFT). Three defense secretaries, a federal judge and the Government Accountability Office have upheld this bidding process.

It is no coincidence the two eligible bidders have a combined market value of $1.9 trillion. Vast resources were needed to fund global networks of hardened data centers linked by undersea cables. The U.S. military’s unique demands required companies of unique scale. Yet one JEDI bidder faces a concerted breakup campaign (Amazon), and the other was nearly dissolved in 2001 (Microsoft).

Scale also matters in intelligence collection. The Foreign Intelligence Surveillance Act compels U.S. companies to hand over data on suspected foreign agents. U.S. intelligence analysts increasingly rely on FISA to monitor terrorist communications or warn of cyberattacks. Tech giants have particular FISA value because their sheer popularity attracts users from around the world, including hostile actors. The largest tech companies provide some of the fastest-growing intelligence streams.

Splitting up Big Tech would reduce its intelligence value. First, smaller companies would lose global market share to foreign rivals such as Alibaba or Baidu, which can ignore FISA. Small U.S. sites can’t leverage the “network effect,” a gravitational force that helps large sites stay dominant. Intelligence collected from small sites would also be less useful. They see only narrow slices of online activity, whereas tech giants track users across sprawling internet ecosystems. Dismantling these ecosystems would put greater burden on intelligence agencies to “connect the dots” of potential threats.