### T

**Core antitrust laws are economy wide**

Gerber 20 --- David J Gerber, Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology; Oxford Scholarship Online, Competition Law and Antitrust”, Ch. 1, page 15, 2020, https://oxford.universitypressscholarship.com/view/10.1093/oso/9780198727477.001.0001/oso-9780198727477-chapter-2

C. **A Core Definition**

The Guide uses the **term**s “competition law” and “antitrust law” to refer to **a general domain of law** whose object is to deter **private restraints** on **competitive conduct**. We look more closely at the terms:

1**. “General”—**The laws included are those that are **applicable throughout an economy** and thereby provide a framework for **all market operations** (there are always some exempted sectors). Laws dealing only with **specific markets** (e.g., telecommunication) **do not play that role.**

2. “Domain of Law” here refers to a politically authorized set of norms and the institutional arrangements used to enforce them.

Is it law—or is it policy? The relationship between “competition law” and “competition policy” is not always clear. Often the terms are used interchangeably, but there can be important differences between them. Both can refer to norms used to combat restraints on competition, but they represent two different ways of looking at the relevant laws, and the differences can influence how norms are interpreted and applied. “Law” implies that established methods of interpretation are used to interpret and apply the norms and that established procedures are the sole or primary means of enforcing and changing the norms. In this view, the norms are a relatively stable component of a legal system. Thinking of those same norms as “policy,” on the other hand, implies that they are a tool of whatever government is in power and that it can use and modify them as it wishes.

3. “Restraint” refers to any limitation imposed by one or more private actors that reduces the intensity of competition in a market.

4. “Competition” refers to a process by which firms in a market seek to maximize their profits by exploiting market opportunities more effectively than other firms in the market.

**“Increase” means to become larger or greater in quantity**

**Encarta 6** – Encarta Online Dictionary. 2006. ("Increase" http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861620741)

in·crease [ in krss ]  
transitive and intransitive verb  (*past and past participle* in·creased, *present participle* in·creas·ing, *3rd person present singular* in·creas·es)Definition**:**make or become larger or greater: to become, or make something become, larger in number, quantity, or degree  
noun  (*plural* in·creas·es)

#### Prohibitions must forbid --- Governing standards are distinct

Chanell 90 --- William Chanell, Associate Justice, California Court of Appeals, “CITY OF REDWOOD CITY v. DALTON CONSTRUCTION COMPANY”, Dec 1990, https://caselaw.findlaw.com/ca-court-of-appeal/1769184.html

We agree with the trial court's conclusion. By its plain language, section 35704 exempts certain contractors from the application of an ordinance [221 Cal. App. 3d 1573] adopted pursuant to section 35701. Section 35701 permits cities to prohibit the use of city streets by heavy trucks. (See § 35701, subd. (a).) However, the portion of the city's hauling ordinance at issue in this case does not prohibit street use; it regulates users by requiring them to obtain a permit and pay a fee in order to lawfully drive their heavy trucks over city streets. (See Redwood City Code, §§ 20.62-20.74.) To determine the legislative intent behind a statute, courts look first to the words of the statute themselves. In so doing, we must give effect to the statute according to the usual, ordinary import of its language. (Moyer v. Workmen's Comp. Appeals Bd. (1973) 10 Cal. 3d 222, 230 [110 Cal. Rptr. 144, 514 P.2d 1224].)

To construe section 35704, which specifically creates an exemption from prohibition of use, to exempt the regulation of that use would violate these cardinal rules of statutory construction. [2] The distinction between a regulation and a prohibition is well understood in municipal law. (See San Diego T. Assn. v. East San Diego (1921) 186 Cal. 252, 254 [200 P. 393, 17 A.L.R. 513].) The term "prohibit" means "[t]o forbid by law; to prevent;-not synonymous with 'regulate.' " (Black's Law Dict. (5th ed. 1979) p. 1091, col. 1.) The term "regulate" means "to adjust by rule, method, or established mode; to direct by rule or restriction; to subject something to governing principles of law. It does not include a power to suppress or prohibit [citation]." (In re McCoy (1909) 10 Cal. App. 116, 137 [101 P. 419].) [1b] Therefore, we are satisfied that section 35704 was not intended to apply to ordinances regulating street use, but only to those prohibiting such use.

**Vote neg for limits and ground --- sectors are boundless and create uniqueness and link unpredictability for topic specific disads**

### T

#### Anticompetitive means either collusion or exclusion practices

Salop 06 --- Steven C. Salop, Prof of Law, Georgetown University Law Center, Exclusionary Conduct, Effect on Consumers, and the Flawed Profit-Sacrifice Standard”, 73 Antitrust L.J. 311-374 (2006) , https://core.ac.uk/download/pdf/70373717.pdf

Antitrust law sets standards for the competitive behavior of firms. There are two broad classes of anticompetitive conduct: collusion and exclusion. Collusion involves a group of firms cooperating with one another to restrict their own output. Exclusion involves a firm (or group of firms) raising the costs or reducing the revenues of competitors in order to induce the competitors to raise their prices, reduce output, or exit from the market. Utilizing either collusive or exclusionary practices, the firm (or group of firms) can achieve or maintain market power. Section 2 of the Sherman Act focuses on exclusionary conduct, i.e., conduct that creates or maintains monopoly power by disadvantaging and harming competitors.

#### anti-trust is grounded w/in competition.

Rubinfeld No date – [D. L. Rubinfeld, “Antitrust Policy”, Berkeley Law.https://www.law.berkeley.edu/files/antitrust\_intl.encyclopedia.pdf]

The term antitrust, which grew out of the US trustbusting policies of the late nineteenth century, developed over the twentieth century to connote a broad array of policies that affect competition. Whether applied through US, European, or other national competition laws, antitrust has come to represent an important competition policy instrument that underlies many countries’ public policies toward business. As a set of instruments whose goal is to make markets operate more competitively, antitrust often comes into direct conflict with regulatory policies, including forms of price and output controls, antidumping laws, access limitations, and protectionist industrial policies. Because its primary normative goal has been seen by most to be economic efficiency, it should not be surprising that antitrust analysis relies heavily on the economics of industrial organization. But, other social sciences also contribute significantly to our understanding of antitrust. Analyses of the development of antitrust policy are in part historical in nature, and positive studies of the evolution of antitrust law (including analyses of lobbying and bureaucracy) often rely heavily on rational choice models of the politics of antitrust enforcement. The relevance of other disciplines notwithstanding, there is widespread agreement about many of the important antitrust tradeoffs. Indeed, courts in the US have widely adopted economic analysis as the theoretical foundation for evaluating antitrust concerns. Interestingly, however, antitrust statutes in the European Union also place heavy emphasis on the role of economics. Indeed, a hypothetical conversation with a lawyer or economist at a US competition authority (the Antitrust Division of the Department of Justice or the Federal Trade Commission) or the European Union (The Competition Directorate) would be indistinguishable at first sight While this article provides a view of antitrust primarily from the perspective of US policy, the review that follows illustrates a theme that has worldwide applicability. As our understanding of antitrust economics has grown throughout the past century, antitrust enforcement policies have also improved, albeit sometimes with a significant lag. In this survey the following are highlighted: (a) the early anti-big business period in the US, in which the structure of industry was paramount; (b) the period in which performance as well as structure was given significant weight, and there was a systematic attempt to balance the efficiency gains from concentration with the inefficiencies associated with possible anti-competitive behavior; (c) the most recent period, which includes the growth of high technology and network industries, in which behavior theories have been given particular emphasis.

#### Violation – the aff increases prohibitions on competitive business practices.

#### Limits---there are thousands of regulations that can be done, the topic requires the aff to defend protecting the markets. They allow Enforcement action of the week for action of week reasons that massively overstretches research.

#### Ground---there are no overarching DAs or precedent-based effects to a topic where the aff gets to regulate industries, the core ground is about enforcement for competition.

### T

1. **NEG Interp: The private sector is distinct from the public sector, which is composed of federal, state, and local governmental agencies:**

Thomas **Brock**, 12/25/20**20** (Thomas Brock is a well-rounded financial professional, with over 20 years of experience in investments, corporate finance, and accounting, “Private Sector,” <https://www.investopedia.com/terms/p/private-sector.asp>, Retrieved 8/15/2021)

Private and Public Sector Differences **The private sector** employs workers through individual business owners, corporations or other non-government agencies. Jobs include those in manufacturing, financial services, professions, hospitality, or other non-government positions. Workers are paid with part of the company’s profits. Private sector workers tend to have more pay increases, more career choices, greater opportunities for promotions, less job security, and less comprehensive benefit plans than public sector workers. Working in a more competitive marketplace often means longer hours in a more demanding environment than working for the government. **The public sector** employs workers through the **federal, state or local government**. Typical civil service jobs are in healthcare, teaching, emergency services, armed forces, and various regulatory and administrative agencies. Workers are paid through a portion of the government’s tax dollars. Public sector workers tend to have more comprehensive benefit plans and more job security than private sector workers; once a probationary period concludes, many government positions become permanent appointments. Moving among public sector positions while retaining the same benefits, holiday entitlements, and sick pay is relatively easy while receiving pay increases and promotions is difficult. Working with a public agency provides a more stable work environment free of market pressures, unlike working in the private sector.

1. **Violation: The plan deals with the public sector and not the private sector.**
2. **Standards:**
3. **Limits: They explode the topic to deal with individuals working for the federal government or any state and local government in the US.**

### Con Con CP

#### Pursuant to Article V of the Constitution, at least two-thirds of the States should call a limited constitutional convention and at least three-fourths of the States should ratify a constitutional amendment that prohibit all patents on living organisms including new "compositions of matter"

#### Solves the AFF and avoids the DAs.

Thomas H. Neale 16, Specialist in American National Government, 03-29-2016 (“The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress,” Congressional Research Service, <https://fas.org/sgp/crs/misc/R42589.pdf>)

The Limited Convention

The concept of a limited convention has commanded considerable support in the debate over the Article V alternative. A range of constitutional scholars maintains that, contrary to Charles Black’s assertion, quoted earlier, a convention may be limited to a specific issue or issues contained in state applications; in fact, some observers maintain that it must be so limited. A fundamental assumption from their viewpoint is that the framers did not contemplate a general or large-scale revision of the Constitution when they drafted Article V. The late Senator Sam Ervin, who supported the Article V alternative and championed advance congressional planning for a convention, expounded this point of view: ... there is strong evidence that what the members of the [original constitutional] convention were concerned with ... was the power to make specific amendments.... [The] provision in article V for two exceptions to the amendment power42 underlines the notion that the convention anticipated a specific amendment or amendments rather than general revision.43 Another commentator, championing state authority in the convention issue, asserted that the founders’ intention in establishing the alternative amendment process was to check the ability of Congress to impede proposal of an amendment that enjoyed widespread support. He claimed that a convention limited to an issue specified by the states in their applications would be constitutional, but that a convention could be limited by the states, but not by Congress: Congress may not impose its will on the convention.... The purpose of the Convention Clause is to allow the States to circumvent a recalcitrant Congress. The Convention Clause, therefore, must allow the States [but not Congress] to limit a convention in order to accomplish this purpose.44 The primacy of the states in this viewpoint thus suggests that a convention could be open and general, or limited, depending on the applications of the legislatures. For its part, Congress has historically embraced the limited convention. When considering this question in the past, it has claimed the authority to call the convention, but also asserted a constitutional duty to respect the state application process, and to limit the subject of amendments to the subject areas cited therein. For instance, in 1984, the Senate Judiciary Committee claimed Congress’s power both to set and to enforce limits on the subject or subjects considered by an Article V Convention to those included in the state petitions. The committee’s report on the Constitutional Convention Implementation Act of 1984 (S. 119, 98th Congress), stated: Under this legislation, it is the States themselves, operating through the Congress, which are ultimately responsible for imposing subject-matter limitations upon the Article V Convention.... the States are authorized to apply for a convention “for the purpose of proposing one or more specific amendments.” Indeed, that is the only kind of convention within the scope of the present legislation, although there is no intention to preclude a call for a “general” or “unlimited” convention.45

### Non-Antitrust CP

#### Next off – Non-Antirust CP

#### Text:

#### The United States Supreme Court should hold that its decisions in *Myriad Genetics* and *Prometheus* apply to all patents on living organisms and that violations are illegal under criminal code because they violate the “product of nature” and “laws of nature” exceptions to Section 101 of the Patent Act. The Court will clarify that statutory language permitting “compositions of matter” does not apply to living organisms.

#### The CP solves and tests “antitrust key” -

Conley ‘19

John Conley, Author at The Privacy Report - “What’s Going On with Patentable Subject Matter?” – The Privacy Report -AUGUST 05, 2019 - #E&F - https://theprivacyreport.com/2019/08/05/whats-going-on-with-patentable-subject-matter/

Patentable subject matter (often called patent eligibility) is the first hurdle an invention must clear on the road to patentability. Section 101 of the Patent Act provides, “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” In other words, if an invention falls into one of the enumerated categories—processes (or methods), machines, manufactures or compositions of matter—it will be patent-eligible if it meets the other criteria specified by the Act. The most important of those are novelty, utility and nonobviousness; the inventor also has to meet demanding standards pertaining to the description of the invention and the drafting of claims.

For most of the history of patents in the United States, just about everything passed the subject matter test. The courts created three major exceptions: you couldn’t patent products of nature (sometimes called natural phenomena), such as minerals or naturally occurring plants; laws of nature, like the law of gravity; or abstract ideas, like simple methods of doing business. The courts have repeatedly emphasized that these exceptions are narrow. For example, whereas natural laws are patent-ineligible, inventions that apply natural laws may be patentable. Consequently, these exceptions were rarely invoked by the courts or the Patent Office (the USPTO) to invalidate patents. The work of winnowing out bad patents was usually left to the doctrines of novelty (section 102) and nonobviousness (103). (Section 101 also requires utility, but that’s easy to satisfy in almost all cases.)

This all began to change in 2012 when the Supreme Court decided the first of three subject matter cases, Mayo v. Prometheus. The Court held that Prometheus’ patent on a method for adjusting the dose of an autoimmune drug amounted to nothing more than a claim on the natural law correlating the drug’s metabolite level in the body with the proper dose. Next came AMP v. Myriad Genetics (2013), where the Court held that genes that are merely isolated from the body are not patentable subject matter because they’re products of nature. The third case in the trilogy was Alice Corp. v. CLS Bank, in which the Court invalidated a patent on a method for using a computer system as an intermediary to monitor the performance of the parties to a financial exchange transaction. The Court found that the concept of a third-party intermediary is an abstract idea and simply implementing that idea on a generic computer doesn’t elevate it to patentable subject matter.

Reaction in the Federal Circuit

The Myriad decision has proven to be the least controversial of the three. The case invalidated patents only on isolated gDNA (natural genomic DNA), and patents on synthesized cDNA and methods of using DNA for drug testing were left untouched. In any event, most single-gene patents, whether in gDNA or cDNA form, were already subject to obviousness attacks under a 2009 Federal Circuit decision called In re Kubin.

### Section 5

#### Text:

#### The FTC should issue enforcement guidance that the presently-existent phrase “unfair methods of competition in or affecting commerce” in Section 5 of the FTCA includes all patenting on living organisms including new “compositions of matter”. FTC should release a clear statement and data sets that reflects this and enforce accordingly.

#### The cplan solves. It also competes – the FTC interprets current authority, instead of creating new prohibitions.

Kahn ‘21

et al; This is a recent joint statement released by the five Federal Trade Commissioners. The Chair of the Federal Trade Commission is Lina Khan - an Associate Professor of Law at Columbia Law School. Also on the Commission is Rohit Chopra – who was previously The Assistant Director of the Consumer Financial Protection Bureau, as well as Rebecca Slaughter - an American attorney who was previously the acting chair of the Federal Trade Commission. Two others also sit on the Commission. “STATEMENT OF THE COMMISSION On the Withdrawal of the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act” - July 9, 2021 - #E&F – modified for language that may offend - https://www.ftc.gov/system/files/documents/public\_statements/1591706/p210100commnstmtwithdrawalsec5enforcement.pdf

Section 5 of the Federal Trade Commission Act prohibits “unfair methods of competition in or affecting commerce.”1 In 2015, the Federal Trade Commission under Chairwoman Edith Ramirez published the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act (hereinafter “2015 Statement”), which established principles to guide the agency’s exercise of its “standalone” Section 5 authority.2 Although presented as a way to reaffirm the Commission’s preexisting approach to Section 5 and preserve doctrinal flexibility,3 the 2015 Statement contravenes the text, structure, and history of Section 5 and largely writes the FTC’s standalone authority out of existence. In our ~~view~~ (perspective), the 2015 Statement abrogates the Commission’s congressionally mandated duty to use its expertise to identify and combat unfair methods of competition even if they do not violate a separate antitrust statute. Accordingly, because the Commission intends to restore the agency to this critical mission, the agency withdraws the 2015 Statement.

I. Background

On August 13, 2015, the Federal Trade Commission issued the 2015 Statement, which announced that the Commission would apply Section 5 using “a framework similar to the rule of reason,” by only challenging actions that “cause, or [are] likely to cause, harm to competition or the competitive process, taking into account any associated cognizable efficiencies and business justifications[.]”4 The 2015 Statement advised that the Commission is “less likely” to raise a standalone Section 5 claim “if enforcement of the Sherman or Clayton Act is sufficient to address the competitive harm.”5

In a statement accompanying the issuance of these principles, the Commission explained that its enforcement of Section 5 would be “aligned with” the Sherman and Clayton Acts and thus subject to “the ‘rule of reason’ framework developed under the antitrust laws[.]”6 In a speech announcing the statement, Chairwoman Ramirez noted that she favored a “common-law approach” to Section 5 rather than “a prescriptive codification of precisely what conduct is prohibited.”7 She also acknowledged that the Commission’s policy statement was codifying an interpretation of Section 5 that is more restrictive than the Commission’s historic approach and more constraining than the prevailing case law.8 She added, “[W]e now exercise our standalone Section 5 authority in a far narrower class of cases than we did throughout most of the twentieth century.”9

With the exception of certain administrative complaints involving invitations to collude, the agency has pled a standalone Section 5 violation just once in the more than five years since it published the statement. 10

II. The Text, Structure, and History of Section 5 Reflect a Clear Legislative Mandate Broader than the Sherman and Clayton Acts

By tethering Section 5 to the Sherman and Clayton Acts, the 2015 Statement negates the Commission’s core legislative mandate, as reflected in the statutory text, the structure of the law, and the legislative history, and undermines the Commission’s institutional strengths.

In 1914, Congress enacted the Federal Trade Commission Act to reach beyond the Sherman Act and to provide an alternative institutional framework for enforcing the antitrust laws. 11 After the Supreme Court announced in Standard Oil that it would subject restraints of trade to an open-ended “standard of reason” under the Sherman Act, lawmakers were concerned that this approach to antitrust delayed resolution of cases, delivered inconsistent and unpredictable results, and yielded outsized and unchecked interpretive authority to the courts.12 For instance, Senator Newlands complained that Standard Oil left antitrust regulation “to the varying judgments of different courts upon the facts and the law”; he thus sought to create an “administrative tribunal … with powers of recommendation, with powers of condemnation, [and] with powers of correction.”13 Likewise, a 1913 Senate committee report lamented that the rule of reason had made it “impossible to predict” whether courts would condemn many “practices that seriously interfere with competition, and are plainly opposed to the public welfare,” and thus called for legislation “establishing a commission for the better administration of the law and to aid in its enforcement.”14 These concerns spurred the passage of the FTC Act, which created an administrative body that could police unlawful business practices with greater expertise and democratic accountability than courts provided.15

At the heart of the statute was Section 5, which declares “unfair methods of competition” unlawful.16 By proscribing conduct using this new term, rather than codifying either the text or judicial interpretations of the Sherman Act, the plain language of the statute makes clear that Congress intended for Section 5 to reach beyond existing antitrust law. The structure of Section 5 also supports a reading that is not limited to an extension of the Sherman Act. Notably, the FTC Act’s remedial scheme differs significantly from the remedial structure of the other antitrust statutes. The Commission cannot pursue criminal penalties for violations of “unfair methods of competition,” and Section 5 provides no private right of action, shielding violators from private lawsuits and treble damages. In this way, the institutional design laid out in the FTC Act reflects a basic tradeoff: Section 5 grants the Commission extensive authority to shape doctrine and reach conduct not otherwise prohibited by the Sherman Act, but provides a more limited set of remedies.17

The legislative debate around the FTC Act makes clear that the text and structure of the statute were intentional. Lawmakers chose to leave it to the Commission to determine which practices fell into the category of “unfair methods of competition” rather than attempt to define through statute the various unlawful practices, given that “there were too many unfair practices to define, and after writing 20 of them into the law it would be quite possible to invent others.”18 Lawmakers were clear that Section 5 was designed to extend beyond the reach of the antitrust laws. 19 For example, Senator Cummins, one of the main sponsors of the FTC Act, stated that the purpose of Section 5 was “to make some things punishable, to prevent some things, that cannot be punished or prevented under the antitrust law.”20

The Supreme Court has repeatedly affirmed this view of the agency’s Section 5 authority, holding that the statute, by its plain text, does not limit unfair methods of competition to practices that violate other antitrust laws. 21 The Court, recognizing the Commission’s expertise in competition matters, has given “deference”22 and “great weight”23 to the Commission’s determination that a practice is unfair and should be condemned.

### FTC Independence NB

***Next off is FTC independence:***

**FTC independence in the US key to *global norms* that support agency independence. Vital for *free trade* and *GLO*.**

* United States’ FTC practices are modeled *by several nations* – including South Korea – and *will continue to be modeled* by nations that are still amid transitions towards industrialization;
* Global attentiveness to the United States’ FTC practices *remains ongoing* and - “*to this day*” - are a *central obstacle* to aspired free trade norms;
* The root of the loss of the global public’s confidence in free trade stems from the success of zero-sum strategies. *The root of that* is an interpretation of the FTCA that permits politicized intervention;
* Ambiguity in the United States’ FTCA permit the Act to be exercised *EITHER with a great deal of agency discretion* – *OR* alternatively, *with the perceived influence of external political branches*;
* Current US FTC practices lean away agency independence – and that’s *a central obstacle* to international agencies countering the growth of protectionist mercantilist norms
* More broadly, this hampers *general support for internationalism/GLO*

**Nam ‘18**

Steven S. Nam - Distinguished Practitioner, Center for East Asian Studies, Stanford University. Steven is also a Commission member of the Model International Mobility Treaty Commission under Columbia University's Global Policy Initiative. He is a member of the Antitrust Section of the American Bar Association and earned his B.A. at Yale and his J.D. and M.A. degrees at Columbia – “OUR COUNTRY, RIGHT OR WRONG: THE FTC ACT’S INFLUENCE ON NATIONAL SILOS IN ANTITRUST ENFORCEMENT” – University of Pennsylvania Journal of Business Law, Vol. 20, No. 1, 2018 - #E&F – No text omitted – but the Table of Contents – which comes after the Abstract - was not included – modified for language that may offend - https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1555&context=jbl

ABSTRACT:

The Federal Trade Commission Act of 1914 (“**FTC A**ct”), **a model** for **many other countries** that set up their **own** competition agencies, combines the **control** afforded by presidential appointment and removal powers over FTC commissioners with an **exceedingly discretionary** mandate. This Article contends that the FTC Act’s outmoded openness to **strong presidential direction**, **where adapted abroad**, has helped detract from **antitrust regulator independence.** Even advanced players in the liberal international economic order **such as South Korea** have made use of the United States’ original blueprint for unitary **executive-stamped** **antitrust** enforcement without sharing a long historical evolution of counterbalancing regulatory norms, e.g. the judicial check that was Humphrey’s Executor v. United States, 295 U.S. 602 (1935).

Strong executive direction **in antitrust enforcement** is particularly suited to capitalist economies helmed by administrations with mercantilist policies, **given their belief that the state and big business must coop**erate in the face of zero-sum international competition. South Korean President Lee MyungBak’s term (2008-2013) serves as an apt recent case study, featuring dirigiste calibration of antitrust enforcement against a backdrop of global recession. This Article examines the parallels between the FTC Act and the South Korean Monopoly Regulation and Fair Trade Act (“MRFTA”) before scrutinizing the enabled silo-like enforcement patterns of the Korean Fair Trade Commission under the Lee administration. Increasingly widespread erosion of public confidence in free and competitive trade demands a better understanding of the forces **preventing global convergence** in antitrust enforcement, and of their **roots.**

We have created, in the Federal Trade Commission, a means of inquiry and of accommodation in the field of commerce which ought both to coordinate the enterprises of our traders and manufacturers and to remove the barriers of misunderstanding and of a too technical interpretation of the law. —President Woodrow Wilson, September 1916

[Our companies] are fighting with unfavorable conditions amid competition in the global economy. To do so, they must be allowed to escape various regulations. Let’s take just a half step forward to move beyond the pace of change in the global economy. —South Korean President Lee Myung-bak, March 2008

It is clear that, at the beginning of the 21st century, we cannot afford to operate, to enforce our competition laws, in national or regional silos. We must not remain isolated from what happens in other jurisdictions. Even if markets often remain regional or national in terms of competitive assessment, fostering global convergence in our legal and economic analysis is essential to ensuring effectiveness of our enforcement and creating a level playing field for businesses across our jurisdictions. —Joaquín Almunia, Vice-President of the European Commission for Competition Policy, April 2010

The [U.S.] Agencies do not discriminate in the enforcement of the antitrust laws on the basis of the nationality of the parties. Nor do the Agencies employ their statutory authority to further nonantitrust goals. —The U.S. Department of Justice and the Federal Trade Commission, April 1995

INTRODUCTION

The International Competition Network’s founding in October 2001, with the aim of “formulat[ing] proposals for procedural and substantive convergence” among its stated goals,5 sought to usher in a future with more cosmopolitan and coherent global antitrust enforcement. Although U.S. regulatory leadership maintained that “consistently sound antitrust enforcement policy cannot be defined and decreed for others by the U.S., the EU, or anyone else,” many countries (turned) ~~looked~~ to the U.S. **as a role model** while developing their **competition** regimes.6 It is ironic, **then,** that **to this day** a **central obstacle** to the aspired international “culture of competition” **can be found in none other than the influence of the U.S.’s own FTC A**ct.7

American **antitrust** priorities around the time of the legislation’s passage oscillated between tempering trusts and shepherding business to further national economic strength, all towards the domestic interest. They shaped a regulatory environment that **would reemerge abroad** in **many** later-developing countries.

The deepening global retreat from **internationalism** ***and*** free market principles in the present day, with the specter of **trade wars looming**, is exacerbated by nationalist competition regimes that **are derivative of a U.S. model** predating the modern world economy. Domestic critics of open markets often overlook the U.S.’s own past vis-à-vis protectionist governments today. Illiberal or nominally liberal, they walk the kind of dirigiste path once treaded by the American School through the early twentieth century.8

**Globally, independence of antitrust agencies will prove key – checks spiraling economic nationalisms that’ll crush liberal peace.**

**Nam ‘18**

Steven S. Nam - Distinguished Practitioner, Center for East Asian Studies, Stanford University. Steven is also a Commission member of the Model International Mobility Treaty Commission under Columbia University's Global Policy Initiative. He is a member of the Antitrust Section of the American Bar Association and earned his B.A. at Yale and his J.D. and M.A. degrees at Columbia – “OUR COUNTRY, RIGHT OR WRONG: THE FTC ACT’S INFLUENCE ON NATIONAL SILOS IN ANTITRUST ENFORCEMENT” – University of Pennsylvania Journal of Business Law, Vol. 20, No. 1, 2018 - #E&F – https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1555&context=jbl

National antitrust silos are not a novel phenomenon. Former European Commissioner for Competition Joaquín Almunia warned of them years ago,152 and scholarship touching upon the furtherance of nationalist goals by various antitrust agencies dates back decades.153 However, a **creeping** loss of public confidence in open markets—**coupled with** the obstacles to coherent global antitrust enforcement that bear the FTC Act’s influence, **as illustrated in this Article**—risks amplifying the problem. As anti-free trade agendas continue to garner more mainstream popularity for formerly counter-establishment parties, a proliferation of **protectionist** silos could tempt even governments that, for the most part, had moved past them. Why, American officials may ask, should the U.S. continue championing the liberal international economic order when an illiberal China or an ostensibly liberal South Korea bends regulatory rules to disadvantage American companies, workers, and consumers? Skepticism towards a liberal democratic “end of history”154 in general, and failures of economic liberalism in particular, are threatening to motivate political circles accordingly. Even **perennial norms** and conventions of **the U.S. competition regime** which evolved to safeguard regulator independence at home are no longer above disruption; the ambiguous statutory articulations that **carried over abroad** to empower strong executives are likewise playing a paper tiger role domestically of late.155

Protectionist policies designed to compromise market competition—for all its documented excesses and inadequacies—would sap its creative vitality and the concurrent **liberal peace**156 **often taken for granted**. Economic liberalism ails not so much from the intrinsic failings of core tenets, but from their more egregious nation-state and corporate violators. Proposals for greater accountability and harmonization have ranged from presumption of an underlying coordination scheme in antitrust investigations of a culpable country’s companies,157 to an international competition regime binding on member states in at least some areas of antitrust.158 Each has associated costs, but their very debate harnesses polycentric dialogue lacking in nationalist regulatory agendas and calls for “our country, right or wrong” protectionist silos. It should be emphasized to policymakers and politicians collectively that lasting convergence in antitrust enforcement is unachievable without global coherence in regulator autonomy, and the FTC Act’s **formative influence** is not above scrutiny or reproach. **Still-elusive** realization of the liberal economic international order’s intended form will **require** an expanded constellation of **independent competition regulators** empowered to enforce antitrust laws consistently.

**Global free trade reversals will cause *multiple existential impacts*.**

* Arctic conflict
* Space conflict;
* Global nuclear prolif;
* Structural wars;
* Climate;
* Geo-engineering;

**Langan-Riekhof ‘21**

et al; Maria Langan-Riekhof is the Lead Author and is the new Director of the Strategic Futures Group at the National Intelligence Council, leading the Intelligence Community’s assessment of global dynamics and charged with producing the quadrennial Global Trends product for the incoming or returning administration. She has spent more than 27 years in the intelligence community as both a senior analyst and manager, serving at the CIA and on the NIC. She brings a background in Middle East studies and has spent more than half her career analyzing regional dynamics. Her leadership roles include: Chief of the CIA’s Red Cell, founder and director of the CIA’s Strategic Insight Department, and research director for the Middle East. She was one of the DNI’s Exceptional Analysts in 2008-09 and the Agency’s fellow at the Brookings Institution in 2016-17. She is a member of the Senior Analytic Service and the Senior Intelligence Service and hold degrees from the University of Chicago and the University of Denver - National Intelligence Council - Global Trends 2040 – Form the section: “Scenario Four – Separate Silos” - MARCH 2021 - #E&F - https://www.dni.gov/files/ODNI/documents/assessments/GlobalTrends\_2040.pdf

With the trade **and financial** connections that defined the prior era of globalization disrupted, economic and security blocs formed around the United States, China, the EU, Russia, and India. Smaller powers and other states joined these blocs for protection, to pool resources, and to maintain at least some economic efficiencies. Advances in AI, energy technologies, and additive manufacturing helped some states adapt and make the blocs economically viable, but prices for consumer goods rose dramatically. States unable to join a bloc were left behind and cut off.

Security links did not disappear completely. States threatened by powerful neighbors sought out security links with other powers for their own protection or accelerated their own programs to **develop nuclear weapons**, as the ultimate guarantor of their security. Small conflicts occurred at the edges of these new blocs, particularly over scarce resources or emerging opportunities, like **the Arctic** and **space**. Poorer countries became increasingly unstable, and with no interest by major powers or the United Nations in intervening to help restore order, **conflicts became endemic**, exacerbating other problems. Lacking coordinated, multilateral efforts to mitigate emissions and address **climate changes**, little was done to slow greenhouse gas emissions, and some states experimented with **geoengineering with disastrous consequences**.

### Overstretch DA

#### Antitrust enforcement resources determine commitment to ongoing GAFA litigation – plan’s broadened agenda fatally overstretches

Kantrowitz 20 (Alex Kantrowitz, journalist covering Big Tech, Founder at Big Technology, independent newsletter and podcast, former Senior Technology Reporter at BuzzFeed, BA Industrial and Labor Relations, Cornell University, Special Student, Political Science and International Relations, Boğaziçi University, Istanbul; **internally citing former DOJ and FTC employees**; “‘It’s Ridiculous.’ Underfunded FTC and DOJ Can’t Keep Fighting the Tech Giants Like This,” Big Technology, 9-17-2020, - #E&F - https://bigtechnology.substack.com/p/its-ridiculous-underfunded-us-regulators)

“The agencies are severely resource-constrained,” Michael Kades, an-ex FTC trial lawyer who spent 11 years at the agency, told Big Technology.

The Federal Trade Commission and Department of Justice’s antitrust division have a combined annual budget below what Facebook makes in three days. The FTC runs on less than $350 million per year, the DOJ’s antitrust division on less than $200 million. Facebook made $18 billion last quarter alone.

The funding disparity between the tech giants and their regulators leads to an unbalanced fight, current and ex-staffers said: The agencies can’t investigate the tech giants to the extent they’d like. They might shy away from complex cases fearing a resource-draining battle. And when they investigate the tech giants, they often see former colleagues with intricate knowledge of their strategy and ability to act (or lack thereof) representing these companies. Without significant budget increases, the tech giants may well continue to act unrestrained with little fear of repercussions.

“DOJ is under-resourced, FTC it’s ridiculous,” one ex DOJ-staffer told Big Technology.

This doesn’t mean these agencies are entirely hamstrung; they can typically marshall the resources to bring a clear-cut case. “They want to win,” one ex-FTC official said. “If it's really egregious, and they find that in discovery, the attorneys are going to put a case together and go after it.” But when you can only take up a limited number of cases due to resource constraints, things inevitably slip through.

“When I was there, the privacy wing had maybe 50 people, and that's probably generous. That's lawyers, support staff, everyone,” Justin Brookman, the former policy director at the FTC’s office of technology research and investigation, told Big Technology. “If they were to bring a case, that would tie up half the resources of the group. And they had two litigations ongoing and that took up most of everyone's time.” The agency’s budget has barely increased since Brookman left in 2017, while the tech giants have added trillions of dollars to their market caps.

Inside the FTC and DOJ, employees are aware of the tech giants’ ability to fight, and the corporations’ budgets tend to live inside their heads. “Facebook will have the ability to raise every single issue, if they want to,” Kades said. “It doesn't have to be a winner, doesn't have to be close to winner. If they wanted to take this position in litigation, they can make every procedural maneuver difficult, they can not cooperate on discovery, they can fight on scheduling, they don't have to win even half of those, but it would just suck up resources.” The ability to do this, not even the action itself, can impact regulators’ thinking.

Agency staffers are typically mission-driven and knowingly work for salaries below private-sector rates, but the resource-rich tech giants are now poaching directly from agencies at a rate remarkable even for Washington’s revolving door between the private and public sector.

Kate Patchen, a DOJ antitrust chief, went directly to Facebook in 2018. Bryson Bachman, a high-ranking attorney in the DOJ's antitrust division, became a senior counsel at Amazon in 2018. Scott Fitzgerald, who worked in the DOJ’s antitrust division for nearly 13 years, became a corporate counsel working on regulation for Amazon this May. At the FTC, senior attorney Laura Berger moved to Microsoft in 2018 to become a privacy director for LinkedIn. And Nithan Sannappa, a well-regarded attorney in the agency’s division of privacy and identity protection left for Twitter in 2017 and is now a lawyer for Google.

The FTC declined to comment. The DOJ did not respond to an inquiry.

Hiring this type of talent gives the tech giants a major advantage in their effort to fend off regulation. Ashkan Soltani, a former chief technologist at the FTC, recalled agency lawyers hugging a former colleague who was working for the tech giants as an outside counsel as they prepared to face off in court. “They would have a really personal relationship with staff, which is kind of awkward,” he said. “And they'd know, in detail, all of the cases that the agency has currently and would be able to advise their clients whether to push hard on an issue or not.”

#### Winning GAFA breakups is key to transatlantic tech alliance

Muscolo et al 21 (Gabriella Muscolo, Commissioner, Italian Competition Authority, Rome, Fellow of the Centre of European Law of King's College London, lecturer of Company Law at the School of Specialization for Legal Professionals at the University of Rome – La Sapienza; and Alessandro Massolo, Economic advisor of Commissioner Gabriella Muscolo, Italian Competition Authority, Rome, teaching assistant at Luiss University of Rome, PhD Law and Economics, Luiss University, MA European Law and Economic Analysis, College of Europe; “WILL THE BIDEN PRESIDENCY FORGE A DIGITAL TRANSATLANTIC ALLIANCE ON ANTITRUST?“ Concurrences, #1, February 2021, - #E&F - https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#muscolo)

1. After the Trump era and in the midst of the Covid-19 pandemic, the Biden presidency will inherit a country that—as the recent riot on the US Capitol building harshly demonstrated—is politically divided, weakening and, most importantly and consequently, in danger of losing its global leadership to China.

2. Indeed, the international community expects the Biden administration to re-establish the USA’s political and economic global leadership, especially in international fora such as the World Health Organization or the Paris Climate Agreement, as it did after the Second World War.

3. The pillars of Biden’s foreign policy can be summed up by three Ds: Domestic, Deterrence and Democracy. [246] As to the first, in order to revive the US economy and catch up on high technology, Biden’s policy cannot deviate much from that of Trump’s “America First.” Thus, massive investment is also expected in infrastructure, innovation, technology and education.

4. At the same time, US foreign policy will be guided by the principle of deterrence which characterized the Cold War period. This policy will have to be adapted to the new context and, especially, to the strategies adopted by the United States’ main counterparts such as China, Russia, North Korea and Iran, which no longer rely on missiles but on the information and communication technologies (ICTs).

5. Finally, the deterrence principle will catalyse the third pillar. Democracy will in fact be the main criterion for choosing US partners in order to consolidate the West against the expansion of the East.

6. Within this context, the digital economy represents an extremely important battlefield for the US to regain world leadership. The USA is well placed when it comes to digital competition—indeed, almost all the prominent Western online platforms are American.

7. However, over the last decade, Google, Amazon, Facebook, Apple and Microsoft (hereinafter “GAFAM”) have come under severe antitrust and regulatory scrutiny, starting in the European Union and ending in the United States. A “break-up” sentiment is spreading on both sides of the Atlantic and this will certainly represent one of the main issues on Biden’s agenda. Indeed, GAFAM’s huge market power is perceived as a threat to Western democracies and has been accused of hampering competition and innovation. Both the USA and the EU know that it is fundamental to shape global standards in order to face security and privacy concerns posed by the rise of Eastern tech giants. [247] Moreover, there is a growing feeling that the growth of big tech, combined with non-democratic governments, could lead to “techno-authoritarianism.” [248]

8. Therefore, will there be a transatlantic unity when clamping down on online giants in the name of protecting and strengthening Western “techno-democracies?” A digital transatlantic alliance shall not be taken for granted.

9. Indeed, over the last decade, the EU has markedly shaped its own way of building a European data market and of facilitating the emergence of European tech companies.

10. The White Paper on Artificial Intelligence and the Communication on data strategy have made it clear that the EU has put its own digital infrastructure and assets in place, catching up with international competition in order to become one of the leaders in the digital realm. This aim is the result of a long stream of actions which started in the second half of the 1990s with the need to tackle more specific and disparate needs, such as guaranteeing that consumer data is processed fairly, lawfully and with a specific purpose [249]; providing legal protection to databases, such as copyright protection and sui generis rights. [250]

11. Furthermore, at the beginning of the new century, the European Union issued the e-Commerce Directive [251] with the aim of removing obstacles to cross-border online services in the EU. Indeed, since 2010, there has been a significant change of pac e; due to the evolution of the digital paradigm, the European Union started to adopt a more strategic view. In that year, the European Commission launched its Digital Agenda, which, among other things, gave birth to the creation of a Digital Single Market that aimed primarily to promote e-commerce within the EU.

12. In 2015, the EU made it clear that the EU Digital Single Market was a priority and released a new strategy aiming at improving access to digital goods and services, building an environment where online networks and services could prosper, exploiting it as a driver for growth.

13. A well-functioning and dynamic data economy requires the flow of data in the internal market to be enabled and protected. This is why the European Union issued the 2016 General Data Protection Regulation and developed the “European data economy strategy.” Through the latter, the European Commission proposed a series of policies and legislative initiatives to unlock the potential for re-use of different types of data and create a common European data space. In particular, it adopted the measures put forward in the European Commission’s 2018 communication Towards a common European data space, in which it proposed: (i) a review of the Directive on the re-use of public sector information (PSI Directive); (ii) an update of the 2012 Recommendation on access to and preservation of scientific information; (iii) guidance on sharing private sector data in B2B and B2G contexts. A new EU Regulation on the free flow of non-personal data was also adopted.

14. Moreover, in 2019, in order to foster the growth of the EU Digital Single Market, the European Union published another regulation in order to promote fairness and transparency for business users of online intermediation services. [252]

15. The long European legislative excursus described above concluded with the latest new regulatory package published by the European Commission at the end of 2020. The package included the Data Governance Act (DGA), [253] the Digital Services Act (DSA) [254] and the Digital Markets Act (DMA). [255] Regarding the former, the European Commission aims to provide a legal framework in order to unlock unused data, increase data accessibility and share data. The DSA builds on the e-Commerce Directive and provides a set of rules for digital service providers in order to guarantee transparency and accountability and advocates for effective obligations to tackle illegal content online. As for the DMA, it is the result of a decade of EU antitrust public enforcement and EU studies on the digital economy.

16. Indeed, the European Commission has launched several cases against online giants. Suffice it now to mention the Google saga (i.e., Google Shopping, Android and AdSense cases) and the ongoing Amazon ones. These lawsuits were all abuses of dominant positions characterized mainly by self-preferencing conducts. Despite the high sanctions imposed, the Google cases were criticized because of the lengthy and complex investigations and ineffective remedies imposed. [256]

17. This contributed to fuelling scepticism that competition law alone would not be sufficient to restore competition within digital markets. [257] As a matter of fact, the European Commission issued the DMA in order to restore contestability and fair play in EU digital markets .

18. In a nutshell, the DMA identifies a list of “core platform services” which are characterized, among other things, by extreme economies of scale, strong network and lock-in effects, almost zero marginal costs and lack of multi-homing. For instance, online search engines and social networking services can be considered core platform services.

19. The DMA defines “gatekeepers” as large online platforms which provide these kinds of services and other specific criteria. Due to their strong economic and/or intermediation position, which is entrenched and durable, gatekeepers must comply with a list of “dos” and “don’ts.” For instance, gatekeepers shall “allow third parties to inter-operate with the gatekeeper’s own services in certain specific situations” and “their business users to access the data that they generate in their use of the gatekeeper’s platform.” If the gatekeepers do not comply with these obligations, they may incur fines (up to 10% of the worldwide turnover) or periodic fines (up to 5% of the average daily turnover). In case of systematic infringement, additional remedies may be imposed. If necessary and as a last resort, non-financial penalties can be imposed, which may include behavioural and structural measures, e.g., the divestiture of (parts of) a business.

20. Thus, following these new regulations, it seems that GAFAM—who are, indeed, the main providers of core platform services in the EU digital markets—will most likely be under the European spotlight in the coming years.

21. Besides antitrust and regulations, the EU has also demonstrated its strong desire for digital independency by taking the decisive step of setting its own agenda for transatlantic cooperation, even before Biden has been sworn in. [258] Indeed, the agenda proposes a tech alliance to shape technologies, their use and their regulatory environment. In particular, on data governance, the European Union advocates cooperation “to promote regulatory convergence and facilitate free data flow with trust on the basis of high standards and safeguards.” [259] Furthermore, as for online platforms, the European Union suggests strengthening cooperation between competent authorities for antitrust enforcement in digital markets, particularly, by setting common views in market distortions. Therefore, the European Union seems to be putting itself forward as a “worldwide factory of digital rules.” [260]

22. However, this may not necessarily mean a strengthening of the digital industry in Europe. For instance, Europe’s financial system appears to be biased towards bank lending rather than equity capital, which should be more suitable for risky tech start-ups. [261

23. Moreover, the “Brussels’ effect” should not be taken for granted either. Indeed, even if the European Union confirms its new regulatory proposal, especially the DMA, GAFAM still earn 51% of their revenues in America versus 25% in Europe. Therefore, they may most likely prefer to run their European branches under local rules instead of adopting EU rules globally. [262]

24. On the other side of the Atlantic, the strategy against online behemoths seems narrower and backwards-looking. [263] Indeed, as we have introduced, in the USA we are witnessing a “Sherman Act momentum” [264] strongly advocated by the new Brandeis movement. [265]

25. During the Trump administration, GAFAM were scrutinized by American antitrust authorities. Indeed, the Department of Justice (DoJ) filed a civil antitrust lawsuit in the US District Court for the District of Columbia to prevent Google from unlawfully maintaining monopolies through anticompetitive and exclusionary practices in the internet searches and search advertising markets and to remedy competitive harm. Furthermore, the Federal Trade Commission (FTC) has also filed a lawsuit against Facebook accusing it of engaging in a systematic strategy to eliminate threats to its monopoly. [266]

26. In both cases, reference is made to possible “break-ups.” In particular, in the DoJ’s case, the deputy attorney general made specific reference to historic antitrust cases such as Standard Oil (1911) and AT&T (1982), and in the FTC’s case, permanent injunctions are explicitly advanced which require, inter alia, the divestiture of Facebook’s assets, including Instagram and WhatsApp.

27. Most recently, the Texas attorney general filed a lawsuit, accusing Google of entering into an unlawful agreement that gave Facebook special privileges in exchange for promising not to support a competing ad system in the online advertising markets. [267]

#### Only way to avoid existential risks from hegemonic competition, democratic backsliding from BOTH techno-authoritarianism AND racial capitalism, failing multilateral coop, splinternet, and unregulated AI and quantum computing

Kop 21 (Mauritz Kop, Stanford Law School TTLF Fellow, Managing Partner at AIRecht, technology consultancy firm, studied intellectual property law, labor law, and contract law at Stanford Law School, Maastricht University and VU University Amsterdam, “Democratic Countries Should Form a Strategic Tech Alliance,” Stanford - Vienna Transatlantic Technology Law Forum, Transatlantic Antitrust and IPR Developments, Stanford University, Issue No.1, 2021, https://www-cdn.law.stanford.edu/wp-content/uploads/2021/04/Mauritz-Kop\_Democratic-Countries-Should-Form-a-Strategic-Tech-Alliance\_Stanford.pdf)

Just like we embed our own values in our hi-tech systems, the authoritarian regimes do the same. With authoritarianism I mean autocratic governments that have a culture with less political participation, less checks and balances and less civil liberties.15 Societies with social norms, democratic standards and ethical priorities that are incompatible with our own system.

Subsequently, the regimes export their undemocratic ideology to our society through the construction, dissemination and functionality of their technology. 16 Main contributors to this spread of culture and ideology through technology are the Belt & Road Initiative, Confucius Institutes and Chinese multinationals. 17 I am referring here to central 4IR technologies such as 5G infrastructures, AI, big data and quantum computing. 18 Excesses involve automated social profiling systems that monitor and hinder online dissidence. This process of exporting an incompatible political ideology through technology holds the danger of permanently weakening the health of our democracy, including the rights and freedoms we care so deeply about. We should prevent that from happening.

It is important to note that we do not intend to exclude the people who are living in authoritarian or even totalitarian regimes such as China, Russia, Iran and North Korea, nor the companies that are willing to abide to democratic technological standards. Instead, our strategy should be to avoid the ideas of the regimes that are incorporated in their technology, which is never neutral.

3. The Response

What needs to be done and who should do it?

Democratic Countries Should Form a Strategic Tech Alliance. That’s the first, foundational step. The US and its democratic allies should establish a strong, broadly scoped Strategic Tech Alliance with countries that share our digital DNA. An Alliance built on strategic autonomy, mutual economic interests and shared democratic & constitutional values. Main purpose of the Strategic Tech Alliance is to win the race / stay ahead of the competition.

Multilateral cooperation with any country that has matched concerns about the outcome of the race for AI & quantum dominance in view of democratic values, is paramount. A natural starting point for a geopolitical dialogue on disruptive technology that is also in the focus of President Biden, is Transatlantic cooperation.19 In addition to the US, EU, UK & Canada, countries such as India, Israel, Japan, South-Korea, Taiwan and Australia would be great candidates to join the cause. The Strategic Tech Alliance could also connect with existing structures such as NATO.

Moreover, it is crucial and urgent that democratic countries set worldwide technology standards together. This includes the development of globally accepted benchmarks and certification. Standards based on safety, security and interoperability, with respect for our common Humanist moral values.20 Values in which the rule of law and human dignity play a leading part.

Consequently, AI & quantum products and services made within the territory of the Strategic Tech Alliance or elsewhere in the world, should adhere to specific safety and security benchmarks, before they qualify for market authorization. These should follow the high technical, legal and ethical standards that reflect Responsible, Trustworthy AI & quantum technology core values. Ex ante certification comparable to the USA Compliance Marking or the European CE-marking should be mandatory before AI and quantum infused products and services are eligible to enter the Transatlantic markets.21

In this vision, the Strategic Tech Alliance should regulate transformative technology in a harmonized way across member countries. Using a risk-based approach that incentivises sustainable innovation. For example, the Strategic Tech Alliance would share core horizontal rules that govern the production and distribution of transformative tech systems. Think of universal, overarching guiding principles of Trustworthy and Responsible AI & quantum technology that are in line with the distinctive physical characteristics of quantum mechanics.22 Technology that gained the trust of the general public has significant marketing advantages.

To preserve pre-pandemic life as we knew it, we must bake our norms, standards, principles and values into the design of our advanced hi-tech-systems.23 From the first line of code. We can accomplish this by pursuing responsible, Trustworthy tech: by actually building socially & ethically aligned AI and quantum architectures and infrastructures. 24 We should incorporate our values en bloc and make our uniform design standards and (inter)operational requirements mandatory by law. A Strategic Tech Alliance could be the engine.

4. Political Feasibility

Let us discuss arguments against the formation of a democratic, value-based Strategic Tech Alliance that will set global technology standards. First, is establishing an Alliance that opposes the authoritarian tech agenda a realistic, politically feasible scenario or mere naive utopian thinking? Will the ambition of harmonized, global technology standards be limited by a cold shorter-term sum of costs and benefits? Will Realpolitik make it fade away in beauty?

Let’s start with the United States. After the Democrats recently recaptured Senate majority, progressive policies might regain momentum. But still, forming an Alliance and setting joint tech governance goals would require a bipartisan, bicameral effort. It would require large majorities to prevent legislative filibusters. Moreover, President Biden’s primary policy objectives are battling COVID-19 together with relief measures, Medicare for All, rebuilding the country’s infrastructure and fighting climate change. Regulating Big Tech and its impact on society might have less priority. However, winning the race for AI & quantum ascendancy should be high on any president’s agenda.25

Then the EU. In recent years, the European Commission has been very active and progressive in the field of legal-ethical frameworks for emerging tech, including the conception of responsible AI and data governance models. Since it has become clear that MAGA (Make America Great Again) will no longer be the leading ideology in America for the next 4 years, Ursula von der Leyen’s Team has not missed a single opportunity to strengthen transatlantic ties and inject political momentum into the relationship. With the main goal of implementing a mutual tech governance agenda, and jointly managing the geopolitics of exponential technology.

An exception to this rule was the recent EU-China deal, which raised quite a few eyebrows in Washington.26 This trade deal makes clear that economic interests of Western democratic countries in China, in this case prompted by commercial interests of the German car industry and the Silk Road Initiative, may stand in the way of the targeted team effort needed to achieve the envisaged Strategic Tech Alliance.27 As of 2020, the EU has surpassed the US as China's largest trading partner (numbers). The economic interests are gigantic and vary widely from one Member State to another.28 For example, the Netherlands, a country of 17 million people, has an annual trade deficit with China of no less than 70 billion euros. Therefore, one might think that the EU will be less likely to ‘turn away’ from China and choose sides.

It is to be hoped that Europe has not been lulled into blissful sleep by the Chinese Siren Song of smart partnerships, better working conditions, respect for intellectual property and fair trade & investment opportunities.29 The idea that the Chinese Party apparatus will allow more openness is a strategic misconception.30 The opposite of openness, reliability, honesty and a fair level playing field happens every day before our eyes in Hong Kong.31 And it doesn't get any better. Entirely in line with the autocratic paradigms of systematic repression, inequality, arbitrariness, state surveillance and control. 32 It is not expected that the political situation and civil liberties & human rights in China will change in the short or medium term. We are competing with a political ideology that is fundamentally at odds with our own system.33

In addition, internal divisions within the EU Member States may delay the rollout of progressive political initiatives.34 Facing the portrayed challenges, Europe should speak with one voice. Further, it is to be hoped that European ambitions towards strategic autonomy and data sovereignty will not stand in the way of transatlantic partnerships in the field of AI and quantum computing, quantum sensing and the quantum internet.

Second, is there sufficient political will, enough common ground between the various continents and countries to forge such an Alliance, comparable to the foundation of the United Nations in 1945 after World War II? There currently seem to be diverging opinions between the US and the EU on antitrust, digital tax and digital trade35, and consensus on IP policy, ethics, cybersecurity and the need for global value-based standards that respect democratic freedoms, human rights and the rule of law. On the other hand, it can be quite healthy to have mutual differences, and a varied pallet of perspectives within a partnership.

Moreover, who are we to pursue worldwide, culturally sensitive norms and standards? Could this be perceived by other countries as undesirable technologically expansionist behaviour? Will excessive standardization, certification and benchmarking have ramifications on rapid innovation, global competition and consumer welfare?

Brexit has made it painfully clear how difficult it is to agree on even the most trivial affairs. The question is whether the barriers to cooperation will be removed, just because a new wind is blowing from White House.36

In conclusion: political support to realize our ideal is a precondition for success. Preferably not in a weakened compromise form, but in a manner that reflects the power of the technology and the interests at stake. Instead of an isolationist MAGA approach, policy makers on both sides of the spectrum need to see the bigger picture and the urgency of the issues at hand. And reach out to nations that historically share our values and that demonstrably meet the democratic conditions set by the Alliance to qualify for membership.

With existential challenges ahead of us, normative choices must be made. We cannot get there with transactional politics and trade deals alone. We have to bring the best of both worlds together. A combination of normative choices - which are contextual, culturally sensitive and in constant flux - and Realpolitik is the key. Making the right choices today can result in the lasting partnerships we need to respond to the big questions we face. Partnerships based on mutual trust, strategic autonomy and shared sovereignty.37 Partnerships that acknowledge the need for regulatory cooperation and a values-based approach.

5. Are We Democratic Enough Ourselves?

Let's see if we can approach this matter from other, sociocritical perspectives.

First, are the Chinese the real threat, or is it us? Are we really democratic enough ourselves?38 Is making the distinction between the democratic and the authoritarian model the correct line of thinking, the proper approach for our proposed response to the identified challenges? Are technology and data capitalism coupled with the wrong kind of self-regulation causing filter bubbles, fake news and racial bias?39 In other words, could technology that originated from Western online platforms such as Facebook, Amazon, Google and Twitter be the real source of danger? Are the behemoth platforms, with market dominance and lobbying power greater than countries, menacing our democracy? In general, absent regulation, the tech platforms have corporate social responsibility and should adopt an Apollonian mindset towards responsible entrepreneurial ideology, world view and philosophy of life, instead of a Dionysian attitude. 40

One can argue whether the harmful societal influence of the social platforms was caused by naive idealism from Silicon Valley, or by unrealistic price and profit expectations of Wall Street.41 Or by a combination thereof. In this view, the algorithms42 have become less democratic not so much as a consequence of the wrong corporate ideology, but because of the increasing pressure that shareholders are putting on tech companies.43 Thus, the system is to blame.

But can you be a role model for the rest of the world this way? Are the dangers of our privatized technology governance model not as threatening, or even more dangerous to our society than the predictable authoritarian technology governance model could ever be? Is there an enemy within, that stands at the cradle of excesses like the Capitol Insurrection? 44 Is the privatized power over the digital world a similar existential challenge, for which solutions must be developed? The answer appears to be in the affirmative. Democratic countries themselves have serious internal problems.

Moreover, there is no empirical evidence that AI will endanger democracy and reinforce authoritarianism, totalitarianism or even fascism, since AI is ideologically neutral.45 That said, shouldn’t we better use machine values instead, since human values create biases in data and algorithms, fake news and conspiracy theories?46

Be that as it may, from a higher level, a strategic democratic alliance can provide a counterbalance to both the free-market capitalism based privatized digital governance model, and the authoritarian model. In the duel for AI dominance and the battle to be the first to build a functioning multi-purpose quantum computer, the West desperately needs the Tech Giants from the Silicon Valley and Massachusetts innovation clusters.

6. Two Dominant Tech Blocks

Currently, two dominant tech blocks exist: the US and China. The blocks have incompatible political systems. It is a battle between ideologies.47 Liberal democracy versus authoritarianism. Free market capitalism versus surveillance capitalism. Europe stands in the middle, championing a legal-ethical approach to tech governance. Its Member States often divided when it comes to Beijing: 12 of them participate in Xi Jinping’s Belt and Road program.

It is of crucial strategic importance to proactively consider potential alternative scenarios.48 Future scenarios in which our desired coalition of democratic countries did not materialize for whatever reason. We can use scenario planning for this. Scenario planning, or scenario analysis, is the development, comparison and anticipation of probable future scenarios, together with short- and longer-term transitions. 49 Impending scenarios meant to be used as thinking instruments.

Alternatives to the creation of a strong democratic Strategic Tech Alliance are no alliance or different alliances. Each scenario could bring both (trade) war and peace to the world. Please note that establishing a league of like-minded democratic countries does not guarantee winning the race for AI and quantum supremacy. Moreover, competition and rivalry between blocks could incentivize exponential innovation. The race for AI supremacy is not a zero-sum game.

Does one rule out the other? Could the US or the EU be both a partner and rival of China through smart partnerships? In theory, it is a position that both the US and the EU could take. In tandem with bolstering alliances with our allies, we should -to a certain extent- be open to dialogue and cooperation with the regimes. We also have to consider an unthinkable alliance of EU-China-Russia ‘against’ a pact between countries like US/Canada/UK/Israel/Australia/India/South-Korea/Japan.50

Another scenario is a protracted Cold War for AI Supremacy with no winner between the US and China.51 A no winner takes all scenario would eventually mark the Splinternet.52 On the one hand a China led internet, characterized by a top-down approach to tech. It would comprise of countries that adopt Chinese apps. Its rival would be a US influenced internet, including countries that adopt US built platforms and apps. From the server level, cloud computing and AI all the way down to the phone operating system level. Cyberbalkanization could result in two parallel worlds, each with distinct divisions regarding technology, trade and ideology. In practice, this implies two opposing ecosystems would exist, each using its own standards and architectures that are incompatible with one other.

In the event China wins the race for AI and quantum, it will have the power to overthrow the EU and the US.53 The world would see a new era of authoritarian surveillance capitalism. In the case that a strategic partnership of democratic countries led by the US and the EU will prevail, it may well coerce China to adopt Humanist values.

To prevent China Standards 2035, 54 we need a coalition of democratic countries that bakes its values into its technology and that sets worldwide interoperability standards for telecommunications, AI & quantum infrastructures.

### Debt DA

#### Biden’s PC is key to pass debt ceiling through reconciliation

Hartmann 9-30-21 (Thom Hartmann, writing fellow with the Independent Media Institute, #1 progressive talk-show host, carried on SiriusXM, Pacifica, radio stations nationwide, Free Speech TV, author of "The Hidden History of Monopolies: How Big Business Destroyed the American Dream," and more than 25 other books in print, “GOP Suicide Bombers Threaten Debt-Ceiling Sabotage of US Economy,” City Watch, 9-30-2021, https://www.citywatchla.com/index.php/375-voices/22694-gop-suicide-bombers-threaten-debt-ceiling-sabotage-of-us-economy)

There's plenty of coverage about how worried Treasury Secretary Janet Yellen is about how severe the impact an American default—or even a pause in issuing Treasuries, which are essential to the smooth functioning of the international monetary system—would be.

"I think there would be a financial crisis, and a calamity," Yellen told reporters yesterday.

But left unsaid was why Republicans would want such a "crisis" and "calamity." What's possibly in it for them?

After all, raising the debt ceiling has, on its face, nothing to do with Democrats' plans to spend $3.5 trillion or so on infrastructure over the next decade; that would be dealt with in future debt ceilings.

Why would the Republicans filibuster the debt ceiling, forcing the Democrats to burn through their one-reconciliation-bill-a-year?

Perhaps that question answers itself, although it is possible under Senate filibuster rules to have a separate reconciliation bill just to raise the debt ceiling; the problem is that doing so makes the entire reconciliation process for other things even more complicated.

So what do they want? Why the suicide vests?

When McConnell last tried this, then against President Obama eight years ago, the GOP had a list of demands that Must Be Met to stop them from blowing up the country along with themselves: cut taxes on the morbidly rich, turn Medicare into a welfare program, and make it easier for big refineries and coal mines to pollute our air and rivers.

This time it appears their goal is to stop President Biden's Build Back Better legislation, also known as the $3.5 trillion reconciliation bill, a failure which will damage the Democrats politically both with their base and with independent voters for 2022 and 2024.

In other words, it's all about splitting the Democratic base against itself while making President Biden look impotent so Republicans can regain control of the House and Senate and set up Donald Trump (or equivalent) to run for president in three years.

Reconciliation is a complex and time-consuming process, and if McConnell's threat works and Democrats have to come up with an entirely new reconciliation bill to raise the debt ceiling it'll burn through precious time and political capital needed to pass Biden's signature legislation.

Even if they roll the debt ceiling and funding the government into that larger bill, it'll take a startling amount of Senate floor time that gives giant special interests more time to carpet bomb TV and other media with propaganda opposing the $3.5 trillion Build Back Better legislation while they dangle ever more money and future income opportunities in front of wavering Democrats.

And, as a bonus, the American media will fail to blame this on the GOP: they'll go along with McConnell's line that it's all the Democrats fault, even though it was the Republicans who invoked the filibuster that forces reconciliation.

Just that sentence is complex enough that our media will default to a "Democrats Fail Again" headline instead of "Republican Suicide Bombers Threaten America with Such Damage That Democrats Kill Their Own Legislation To Save the Country."

#### Plan necessarily drains PC – trading off with unrelated agenda items.

Carstensen ‘21

Peter C. Carstensen - Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School, M.A., Yale University; LL.B., Yale Law School; former attorney at the Antitrust Division of the United States Department of Justice, where one of his primary areas of work was on questions of relating competition policy and law to regulated industries. He is a Senior Fellow of the American Antitrust Institute – “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST” – Concurrences – #1 - Feb 15, 2021 - #E&F - https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen

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

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

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

#### Collapses global finance

Hanlon 9-13-21 (Seth Hanlon, senior fellow for Economic Policy at the Center for American Progress, former special assistant to the president for economic policy at the White House National Economic Council, where he coordinated the Obama administration’s tax policy, JD Yale Law School, BA Harvard University, “Congressional Republicans Must Not Play Political Games With the Debt Limit,” Center for American Progress, 9-13-2021, https://www.americanprogress.org/issues/economy/news/2021/09/13/503720/congressional-republicans-must-not-play-political-games-debt-limit/)

Ten years ago, the Republican leaders of the U.S. House of Representatives risked an unthinkable economic catastrophe in a reckless attempt to gain leverage in budget negotiations. They threatened to block an increase in the U.S. debt limit—a routine and necessary step that enables the government to make ongoing payments required by law without defaulting. The crisis was averted, but the episode caused significant harm to the economy.

The debt limit needs to be raised again this fall, most likely in October. But in recent weeks, 106 Republican House members and 46 Republican senators, including Senate Minority Leader Mitch McConnell (R-KY), have said they will not vote for a debt limit increase. They claim that President Joe Biden and the congressional majority bear sole responsibility for taking the necessary action to avoid default. These members of Congress’ position is deeply hypocritical: As this column explains and Figure 1 helps illustrate, many of their own actions and policies have made the debt limit increase necessary. Their position is also terribly irresponsible because failing to raise the debt limit would cause catastrophic harm to the entire country.

Figure 1

[FIGURE 1 OMITTED]

Raising the debt limit is needed to preserve the full faith and credit of the United States

One of the bedrocks of the U.S. and world economy is the full faith and credit of the United States: the secure expectation that the U.S. government will pay its obligations in full and on time. The United States’ rock-solid credit allows financial markets to function and the country to pay low interest, or even negative real interest, to bondholders based on the certainty that they will be paid interest and principal on time. It also gives Americans, such as Social Security beneficiaries, veterans, military and federal civilian employees, beneficiaries of federal programs, and countless others, the security of knowing that they will receive the payments they rely on and are entitled to.

The United States has never defaulted on its obligations. The closest thing was a minor technical snafu in 1979 that was quickly fixed.

From time to time, Congress must raise the debt limit to prevent the country from defaulting. The debt limit is a 104-year-old provision that places a dollar cap on the total amount of outstanding debt that the Treasury Department can have to finance the government’s ongoing legal obligations. The debt limit is an unnecessary historical relic; almost no other comparable countries have one. The actual public debt is determined not by the debt limit but by the substantive spending and revenue laws that Congress passes.

In practice, the debt limit serves little function other than to potentially enable factions in Congress to force the United States to default on obligations it has already incurred—if they are reckless enough to do so.

The debt limit debacle of 2011 must not be repeated

Before 2011, parties in Congress never seriously threatened to force the United States into default to extract concessions. But then, the House Republicans’ reckless gambit brought the country to the brink of disaster. Even though the United States narrowly avoided default, the episode raised costs of borrowing for the government, private businesses, and homebuyers, and it slowed the already struggling economic recovery by undermining consumer and business confidence.

No good came out of the 2011 crisis. The resulting agreement produced an ill-conceived budget “sequester” that further slowed the economic recovery and resulted in chronic underfunding of key priorities.

Since 2011, every time the debt limit has needed to be raised, Congress has raised or suspended it without incident and on a bipartisan basis. Congress did so on a bipartisan basis seven times since that year: in 2013 (twice), 2014, 2015, 2017, 2018, and 2019.\* Then-President Barack Obama took the position after 2011 that he would never again negotiate over the debt limit. Similarly, the Trump administration repeatedly urged Congress to pass “clean” debt limit increases—that is, debt limit increases without conditions.

A majority of Senate Republicans, including then-Majority Leader McConnell, supported suspending the debt limit all three times it was needed under Trump.\* The most recent time, in 2019, McConnell explained:

[The debt limit suspension] ensures our federal government will not approach any kind of short-term debt crisis in the coming weeks or months. It secures our nation’s full-faith and credit and ensures that Congress will not throw this kind of unnecessary wrench into the gears of our job growth and thriving economy.

Raising the debt limit is just as imperative now as it was in 2019. The only difference in 2021 is that a Democrat sits in the White House.

A U.S. default would be catastrophic

When the United States reaches the debt limit, the Treasury Department cannot issue additional debt and therefore risks running out of cash. With the debt at the limit, the Treasury is now buying time through previously used accounting moves known as “extraordinary measures.” Unfortunately, those measures will probably only last into October, according to Treasury Secretary Janet Yellen. At that point, the government will not be able to meet its ongoing legal obligations. It would default. And while no one knows precisely what that could mean, the consequences could entail:

* Social Security checks stopping, putting the livelihoods of millions at risk
* The military and federal workers not receiving their paychecks
* Providers such as hospitals and doctors not being paid for services provided under Medicare and Medicaid
* People filing taxes on extension this fall not getting the refunds they are owed, and monthly child tax credit payments ceasing
* Countless families and businesses being thrown into turmoil as they are stiffed on many other kinds of payments
* Critical government services shutting down

In addition, a U.S. default would cause chaos in global financial markets. Treasury bonds set the benchmark for the risk-free interest rate—and if the government suddenly defaults on the payments on those bonds, the financial system would be fundamentally uprooted. The financial system could melt down even worse than it did in 2008, drying up credit and grinding commerce to a halt.

As Treasury Secretary Yellen told Congress in June:

Failing to increase the debt limit would have absolutely catastrophic economic consequences. It would be utterly unprecedented in American history for the United States government to default on its legal obligations. I believe it would precipitate a financial crisis. It would threaten the jobs and savings of Americans, and at a time when we are still recovering from the COVID pandemic.

Mark Zandi, chief economist at Moody’s Analytics, said: “It would be financial Armageddon. It’s complete craziness to even contemplate the idea of not paying our debt on time.” And JPMorgan Chase CEO Jamie Dimon said that a U.S. default “could cause an immediate, literally cascading catastrophe of unbelievable proportions and damage America for 100 years.” The American Enterprise Institute’s Michael Strain emphasized, “Even edging close to defaulting is dangerous,” and with as much as a temporary default, the “unthinkable might happen.”

#### Cascades to multiple intersecting existential risks – including nuclear wars, environmental destruction, and critical infrastructure – AND turns case – including implementation and enforcement capacity, alliances and authoritarianism

--VUCA = volatility, uncertainty, complexity, and ambiguity

--JIT = just in time

Maavak 21 (Mathew Maavak, consultant at Risk Foresight, specializing in Strategic Foresight, Contingency Planning, Perception/Crisis Management, Energy and Resource Geopolitics, Defense and Security Analysis, PhD policy studies, Universiti Teknologi Malaysia, MA International Communication, University of Leeds, “Horizon 2030: Will Emerging Risks Unravel Our Global Systems?” Salus Journal, 9(1), 2021, https://salusjournal.com/wp-content/uploads/2021/04/Maavak\_Salus\_Journal\_Volume\_9\_Number\_1\_2021\_pp\_2\_17.pdf)

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid-2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity

[FIGURE 1 OMITTED]

Figure 1: Systemic Emergence of Global Risks

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabria-based ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; fundamentalist-driven implosion in the Islamic world; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interaction-adaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

### Case

#### No impact to bio-d loss

Kareiva 12 (Peter Kareiva et. al, – Chief Scientist and Vice President of the Nature Conservancy, Michelle Marvier, Robert Lalasz, “Conservation in the Anthropocene Beyond Solitude and Fragility”, The Breakthrough, http://thebreakthrough.org/index.php/journal/past-issues/issue-2/conservation-in-the-anthropocene/)

2.

As conservation became a global enterprise in the 1970s and 1980s, the movement's justification for saving nature shifted from spiritual and aesthetic values to focus on biodiversity. Nature was described as primeval, fragile, and at risk of collapse from too much human use and abuse. And indeed, there are consequences when humans convert landscapes for mining, logging, intensive agriculture, and urban development and when key species or ecosystems are lost.

But ecologists and conservationists have grossly overstated the fragility of nature, frequently arguing that once an ecosystem is altered, it is gone forever. Some ecologists suggest that if a single species is lost, a whole ecosystem will be in danger of collapse, and that if too much biodiversity is lost, spaceship Earth will start to come apart. Everything, from the expansion of agriculture to rainforest destruction to changing waterways, has been painted as a threat to the delicate inner-workings of our planetary ecosystem.

The fragility trope dates back, at least, to Rachel Carson, who wrote plaintively in Silent Spring of the delicate web of life and warned that perturbing the intricate balance of nature could have disastrous consequences.22 Al Gore made a similar argument in his 1992 book, Earth in the Balance.23 And the 2005 Millennium Ecosystem Assessment warned darkly that, while the expansion of agriculture and other forms of development have been overwhelmingly positive for the world's poor, ecosystem degradation was simultaneously putting systems in jeopardy of collapse.24

The trouble for conservation is that the data simply do not support the idea of a fragile nature at risk of collapse. Ecologists now know that the disappearance of one species **does not** necessarily lead to the extinction of any others, much less all others in the same ecosystem. In many circumstances, the demise of formerly abundant species can be inconsequential to ecosystem function. The American chestnut, once a dominant tree in eastern North America, has been extinguished by a foreign disease, yet the forest ecosystem is surprisingly unaffected. The passenger pigeon, once so abundant that its flocks darkened the sky, went extinct, along with countless other species from the Steller's sea cow to the dodo, with no catastrophic or even measurable effects.

These stories of resilience are not isolated examples -- a thorough review of the scientific literature identified 240 studies of ecosystems following major disturbances such as deforestation, mining, oil spills, and other types  of pollution. The abundance of plant and animal species as well as other measures of ecosystem function recovered, at least partially, in 173 (72 percent) of these studies.25

While global forest cover is continuing to decline, it is rising in the Northern Hemisphere, where "nature" is returning to former agricultural lands.26 Something similar is likely to occur in the Southern Hemisphere, after poor countries achieve a similar level of economic development. A 2010 report concluded that rainforests that have grown back over abandoned agricultural land had 40 to 70 percent of the species of the original forests.27 Even Indonesian orangutans, which were widely thought to be able to survive only in pristine forests, have been found in surprising numbers in oil palm plantations and degraded lands.28

Nature is so resilient that it can recover rapidly from even the most powerful human disturbances. Around the Chernobyl nuclear facility, which melted down in 1986, wildlife is thriving, despite the high levels of radiation.29 In the Bikini Atoll, the site of multiple nuclear bomb tests, including the 1954 hydrogen bomb test that boiled the water in the area, the number of coral species has actually increased relative to before the explosions.30 More recently, the massive 2010 oil spill in the Gulf of Mexico was degraded and consumed by bacteria at a remarkably fast rate.31

Today, coyotes roam downtown Chicago, and peregrine falcons astonish San Franciscans as they sweep down skyscraper canyons to pick off pigeons for their next meal. As we destroy habitats, we create new ones: in the southwestern United States a rare and federally listed salamander species seems specialized to live in cattle tanks -- to date, it has been found in no other habitat.32 Books have been written about the collapse of cod in the Georges Bank, yet recent trawl data show the biomass of cod has recovered to precollapse levels.33 It's doubtful that books will be written about this cod recovery since it does not play well  to an audience somehow addicted to stories of collapse and environmental apocalypse.

Even that classic symbol of fragility -- the polar bear, seemingly stranded on a melting ice block -- may have a good chance of surviving global warming if the changing environment continues to increase the populations and northern ranges of harbor seals and harp seals. Polar bears evolved from brown bears 200,000 years ago during a cooling period in Earth's history, developing a highly specialized carnivorous diet focused on seals. Thus, the fate of polar bears depends on two opposing trends -- the decline of sea ice and the potential increase of energy-rich prey. The history of life on Earth is of species evolving to take advantage of new environments only to be at risk when the environment changes again.

The wilderness ideal presupposes that there are parts of the world untouched by humankind, but today it is impossible to find a place on Earth that is unmarked by human activity. The truth is humans have been impacting their natural environment for centuries. The wilderness so beloved by conservationists -- places "untrammeled by man"34 -- never existed, at least not in the last thousand years, and arguably even longer.

#### They can’t access their impacts – getting rid of seed patents can’t resolve colonialism – land is still stolen, reservations are still getting chemicals dumped on them, etc.

#### This evidence is a critique of settler fiction literature that invokes extinction *as a metaphor* and uses it to describe the loss of the settlers dominance over colonized communities. It *does not* indict the *validity of our scenarios*, nor means that we should not take our impacts into consideration.

Dalley, Assistant Professor of English. B.A. University of Otago, 2016

Hamish “The deaths of settler colonialism: extinction as a metaphor of decolonization in contemporary settler literature” https://doi.org/10.1080/2201473X.2016.1238160

I explore this question with reference to examples of contemporary literary treatments of extinction from select English-speaking settler-colonial contexts: South Africa, Australia, and Canada.15 The next section of this article traces key elements of extinction narrative in a range of settler-colonial texts, while the section that follows offers a detailed reading of one of the best examples of a sustained literary exploration of human finitude, Margaret Atwood’s Maddaddam trilogy (2003–2013). I advance four specific arguments. First, extinc- tion narratives take at least two forms depending on whether the ‘end’ of settler society is framed primarily in historical-civilizational terms or in a stronger, biological sense; the key question is whether the ‘thing’ that is going extinct is a society or a species. Second, bio- logically oriented extinction narratives rely on a more or less conscious slippage between ‘the settler’ and ‘the human’. Third, this slippage is ideologically ambivalent: on the one hand, it contains a radical charge that invokes environmentalist discourse and climate-change anxiety to imagine social forms that re-write settler-colonial dynamics; on the other, it replicates a core aspect of imperialist ideology by normalizing whiteness as equivalent to humanity. Fourth, these ideological effects are mediated by gender, insofar as extinction narratives invoke issues of biological reproduction, community protection, and violence that function to differentiate and reify masculine and feminine roles in the puta- tive de-colonial future. Overall, my central claim is that extinction is a core trope through which settler futurity emerges, one with crucial narrative and ideological effects that shape much of the contemporary literature emerging from white colonial settings. The forms of extinction narrative: historical-civilizational vs. biological annihilation Settler-colonial extinction narratives take two broad forms, depending on whether the end they depict is framed in historical-civilizational or biological terms (though the two overlap). The latter type is my primary focus in this article, but I will first briefly consider the former to provide contrast for the biologically inflected narrative. Historical-civiliza- tional visions of the end of settler colonialism invoke classical notions of the rise and fall of societies, plotting the white world’s development within a cyclical temporality that makes inevitable its eventual demise. Such narratives challenge the faith in progress found in stadial theories of development (such as those promulgated by Scottish Enlight- enment figures like Adam Ferguson16) and draw instead on parallels between the fate of modern and classical empires. Gibbon’s History of the Decline and Fall of the Roman Empire becomes a model not only of the past, but also the future. The passage from Schreiner’s African Farm cited above belongs within this tradition, offering a vision of an empty, indif- ferent land (‘the stones will lie on’) populated by waves of humans (the ‘yellow face[d]’ Bushmen; the Boers; the English), each of which gives way to the other until a future in which none are left. J.M. Coetzee’s Waiting for the Barbarians (1980), published at the height of the struggle against white domination in South Africa, makes this narrative even more explicit. With a title drawn from the neo-classicist poet C.P. Cafavy that invokes the late-Roman parallel,17 Coetzee allegorizes apartheid South Africa as ‘the Empire’, a dying institution that can neither protect its own borders from ‘barbarian’ encroachment nor maintain the veneer of ideological consistency that would justify its violence. As the novel’s protagonist, the Magistrate, contemplates his society’s demise, he comes to realise how the problem of ends is intrinsic to the temporality of settler colonialism: What has made it impossible for us to live in time like fish in water, like birds in air, like chil- dren? It is the fault of Empire! Empire has created the time of history. Empire has located its existence not in the smooth recurrent spinning time of the cycle of the seasons but in the jagged time of rise and fall, of beginning and end, of catastrophe. Empire dooms itself to live in history and plot against history. One thought alone preoccupies the submerged mind of Empire: how not to end, how not to die, how to prolong its era.18 Within this temporality, the future can be glimpsed in the past, as a repetition of previous cycles of destruction and supersession, more or less deferred. The Magistrate thus finds evidence for his fate in archaeology, when he uncovers remnants of a lost civilization that both predates his own and portends its future: ‘Perhaps ten feet below the floor lie the ruins of another fort, razed by the barbarians, peopled with the bones of folk who thought they would find safety behind high walls.’19 As this example implies, historical-civilizational extinction narratives express ambiva- lence about endings that emerges from their affective register. Extinction becomes a fate to be contemplated with fear, but also resignation; because the future is a recapitula- tion of the past, the tone is elegiac rather than apocalyptic, and death becomes a matter of nostalgia more than terror. In Nadine Gordimer’s July’s People (1981), the white family that flees the collapse of apartheid understands its journey into black-dominated rural South Africa as a repeat of the interminable pattern of African history: they follow one of ‘hun- dreds of tracks used since ancient migrations (never ended; her family’s was the latest)’.20 This return to primordial nomadism thrusts Gordimer’s characters into circum- stances of material and agential deprivation, returning them to a condition preceding their accession to racial privilege. They must give up not only the physical comforts accorded by apartheid, but also the capacity to make meaningful decisions about their fate – decisions now made by their erstwhile black servant-turned-protector. This inversion allows the white protagonist Maureen to approach an understanding of how apartheid might have been experienced by its victims; she achieves some insight when she realizes that the historical rupture means she is no longer ‘in possession of any part of her life’.21 From this point of view, the overthrow of settler colonialism becomes an opportunity for settlers’ moral regeneration and subjective transformation. Since history is cyclical, the guilt and inauthenticity generated by settler colonialism becomes incidental to whiteness – once the structures that enshrined his or her control are destroyed, the settler is liberated into a no longer ethically compromised identity. Thus even as Coetzee’s Magistrate finds it ‘as hard as ever to believe that the end is near’,22 he also relishes with ‘elation’ the idea that, were he no longer part of the apparatus of empire, he would be a ‘free man’ who had attained ‘salvation’.23 Historical-civilizational narratives of extinction thereby literally enact what Tuck and Yang call a ‘move to innocence’. By looking beyond the end of settler colonialism, they imagine futures in which ‘settler guilt and complicity’ will be washed away, and the settler him- or herself will metamorphose into a liberated subjectivity.24 Many settler-colonial narratives operate purely within this historical-civilizational regis- ter. However, extinction becomes truly interesting when the metaphor’s biological impli- cations are unlocked. Hints of this can be found in Waiting for the Barbarians. While the Magistrate sees the overthrow of empire as an inevitable expression of the cyclical nature of history, he also finds society’s fate written in local ecology. The ‘barbarians’ are materially impoverished but live lightly on the land; the settlers’ wealth, by contrast, is predicated on an agriculture that is unsustainable in the long term: Every year the lake-water becomes a little more salty. [...] The barbarians know this fact. At this very moment they are saying to themselves, ‘Be patient, one of these days their crops will start withering from the salt, they will not be able to feed themselves, they will have to go.’ That is what they are thinking. That they will outlast us.25 Thus the historical-civilizational pattern of rise and fall – which amounts to a theory of world history that explains and to some extent exonerates settler colonialism – is reinforced by an environmental narrative of decay. The settlers will lose, eventually, because their mode of production is at odds with nature: a fact that violence can delay but never alter. An even more explicit example of such thinking can be found in Alex Miller’s Journey to the Stone Country (2002), a novel that explores the fate of settler colonialism in contemporary Australia. The story begins when the protagonist, Annabelle, is left by her husband and returns from Melbourne to her place of birth, near Townsville in Northern Queensland. Unlike the cosmopolitan metropolis, here Annabelle finds Australia’s settler-colonial dynamics intrusively apparent: ‘Here the past could not be ignored, was not covered over and obscured by the accretions of city life, but was laid bare, the open wounds still visible.’26 The land itself reveals these signs, marks made by the Indigen- ous Australians who are ‘a scattered population [that] had been dispersed and murdered long ago’.27 That visibility forces Annabelle to confront her identity as a settler, one whose existence is predicted on dispossession and for whom it would therefore be legitimate ‘to be hated [... f]or what we’ve stolen from them’.28 In confronting the truth of frontier gen- ocide, Annabelle has to consider the possibility of an end to settler dominion, for she has arrived at a moment when the Indigenous population is resurgent. The change in power relations is represented through a struggle for control of Ranna Station, a pastoral estate owned for five generations by the Biggs family – archetypal colonial settlers committed to the idea of themselves as builders of white civilization – but which has recently been bought by a consortium of Aboriginal groups. In other words, Annabelle is witnessing a historical reversal, the moment at which settler power is broken and control of the land reverts to its Indigenous inhabitants.Miller frames this ‘unimaginable revolution’ in ‘the great wheel of history’29 within the language of biological extinction, inverting its typical application to a presumed Aboriginal past by making it a prophecy of the settlers’ future. Thus Bo Rennie, an Aboriginal surveyor who becomes Annabelle’s lover, gleefully repurposes the language of settler triumph to describe the Biggs clan as having ‘died out’ – ‘Them Biggs turned out to be a vanishing race’, he observes on several occasions.30 The Aboriginal leader Les Marra is even more ambitious. His plan is to dam the valley and flood Ranna Station, obliterating all traces of settler presence and, in so doing, creating an exploitable water resource to fund future projects of Aboriginal enhancement. Marra’s goal is a ‘thousand year plan’ of anti- colonial resistance predicated on the belief that all Aboriginal people have to do to defeat the settlers is to wait for them to die out: This story’s not over yet. The old people not finished yet! That Les Marra and my Arner here, they gonna fight this war for another thousand years. Where’s the white feller gonna be in a thousand years? He’s the one gotta worry about that, not us. We still gonna be here.31 The thousand-year plan (with its ironic invocation of Hitler’s millennium of Aryan supremacy) frames settler colonialism within the radically extended temporality of ecological survival. From this perspective, the material aspects of settler domination are of little importance when compared to the enduring nature of biological life – to which Aboriginal people, by virtue of their 50,000 plus years of residence in Australia, are presumed to be better adapted. This ‘biological’ view of inevitable white extinction forces Annabelle to confront, for the first time, the full implications of the end of settler colonialism: She knew, with a little shock of dismay, with a feeling of personal affront, that Les Marra’s vision of the future would never be reconciled to her existence or to the decency of her own past, the lives of her parents and grandparents. Her existence, indeed, was of no conse- quence to him. There could be no place for her, or for her kind, in the victory he envisaged. Secretly she hoped Les Marra’s crusade would fail, but she knew it would not fail. For Les Marra had only to persist. He had forever. There was no time limit to his strategy.32 The trope of extinction thereby challenges the liberal belief in ‘reconciliation’ as a way out of the structural conflict between settlers and Aborigines.33 Annabelle is in many ways a model settler: she is normatively antiracist, respectful of Aboriginal ways, and self-aware about how she has benefitted from colonialism. But the biological connotations of extinc- tion render such moral-affective qualities irrelevant. The narrative Miller sets in motion frames settler colonialism as an unequal social relationship taking place over the longue durée, within a material, ecologically defined context. From this point of view, individual settlers’ desires and beliefs mean nothing; what matters is that settler colonialism is doomed to fail because it is not attuned to nature.

#### High magnitude, low probability first – extinction eliminates future potential and math swamps appeals to low risk – no bias – uncertainty can artificially deflate risk – discount appeals to empirics because of the nature of \*new\* risks

Bostrom 13 ---- Nick, Philosopher and professor (Oxford), Ph.D. (LSOE), director of The Future of Humanity Institute and the Programme on the Impacts of Future Technology, “Existential Risk Prevention as Global Priority,” Global Policy, Vol 4, Issue 1, <http://www.existential-risk.org/concept.html>

1. The maxipok rule 1.1. Existential risk and uncertainty An existential risk is one that threatens the premature extinction of Earth-originating intelligent life or the permanent and drastic destruction of its potential for desirable future development (Bostrom 2002). Although it is often difficult to assess the probability of existential risks, there are many reasons to suppose that the total such risk confronting humanity over the next few centuries is significant. Estimates of 10-20% total existential risk in this century are fairly typical among those who have examined the issue, though inevitably such estimates rely heavily on subjective judgment.1 The most reasonable estimate might be substantially higher or lower. But perhaps the strongest reason for judging the total existential risk within the next few centuries to be significant is the extreme magnitude of the values at stake. Even a small probability of existential catastrophe could be highly practically significant (Bostrom 2003; Matheny 2007; Posner 2004; Weitzman 2009). Humanity has survived what we might call natural existential risks for hundreds of thousands of years; thus it is prima facie unlikely that any of them will do us in within the next hundred.2 This conclusion is buttressed when we analyze specific risks from nature, such as asteroid impacts, supervolcanic eruptions, earthquakes, gamma-ray bursts, and so forth: Empirical impact distributions and scientific models suggest that the likelihood of extinction because of these kinds of risk is extremely small on a time scale of a century or so.3 In contrast, our species is introducing entirely new kinds of existential risk — threats we have no track record of surviving. Our longevity as a species therefore offers no strong prior grounds for confident optimism.
2. Consideration of specific existential-risk scenarios bears out the suspicion that the great bulk of existential risk in the foreseeable future consists of anthropogenic existential risks — that is, those arising from human activity. In particular, most of the biggest existential risks seem to be linked to potential future technological breakthroughs that may radically expand our ability to manipulate the external world or our own biology. As our powers expand, so will the scale of their potential consequences — intended and unintended, positive and negative. For example, there appear to be significant existential risks in some of the advanced forms of biotechnology, molecular nanotechnology, and machine intelligence that might be developed in the decades ahead. The bulk of existential risk over the next century may thus reside in rather speculative scenarios to which we cannot assign precise probabilities through any rigorous statistical or scientific method. But the fact that the probability of some risk is difficult to quantify does not imply that the risk is negligible. Probability can be understood in different senses. Most relevant here is the epistemic sense in which probability is construed as (something like) the credence that an ideally reasonable observer should assign to the risk's materializing based on currently available evidence.4 If something cannot presently be known to be objectively safe, it is risky at least in the subjective sense relevant to decision making. An empty cave is unsafe in just this sense if you cannot tell whether or not it is home to a hungry lion. It would be rational for you to avoid the cave if you reasonably judge that the expected harm of entry outweighs the expected benefit. The uncertainty and error-proneness of our first-order assessments of risk is itself something we must factor into our all-things-considered probability assignments. This factor often dominates in low-probability, high-consequence risks — especially those involving poorly understood natural phenomena, complex social dynamics, or new technology, or that are difficult to assess for other reasons. Suppose that some scientific analysis A indicates that some catastrophe X has an extremely small probability P(X) of occurring. Then the probability that A has some hidden crucial flaw may easily be much greater than P(X).5 Furthermore, the conditional probability of X given that A is crucially flawed, P(X|¬A), may be fairly high. We may then find that most of the risk of X resides in the uncertainty of our scientific assessment that P(X) was small (figure 1) (Ord, Hillerbrand and Sandberg 2010).

#### “Probability first” inverts the error – has its own biases, fails to teach about worst case scenarios, ignores trends towards disasters/population concentration, and struggles to be applied to governments

Clarke 8 ---- Lee, member of a National Academy of Science committee that considered decision-making models, Anschutz Distinguished Scholar at Princeton University, Fellow of AAAS, Professor Sociology (Rutgers), Ph.D. (SUNY), “Possibilistic Thinking: A New Conceptual Tool for Thinking about Extreme Events,” Fall, Social Research 75.3, JSTOR \*\*\*Modified for ableist language

In scholarly work, the subfield of disasters is often seen as narrow. One reason for this is that a lot of scholarship on disasters is practically oriented, for obvious reasons, and the social sciences have a deep-seated suspicion of practical work. This is especially true in sociology. Tierney (2007b) has treated this topic at length, so there is no reason to repeat the point here. There is another, somewhat unappreciated reason that work on disaster is seen as narrow, a reason that holds some irony for the main thrust of my argument here: disasters are unusual and the social sciences are generally biased toward phenomena that are frequent. Methods textbooks caution against using case stud- ies as representative of anything, and articles in mainstreams journals that are not based on probability samples must issue similar obligatory caveats. The premise, itself narrow, is that the only way to be certain that we know something about the social world, and the only way to control for subjective influences in data acquisition, is to follow the tenets of probabilistic sampling. This view is a correlate of the central way of defining rational action and rational policy in academic work of all varieties and also in much practical work, which is to say in terms of probabilities. The irony is that probabilistic thinking has its own biases, which, if unacknowledged and uncorrected for, lead to a conceptual neglect of extreme events. This leaves us, as scholars, paying attention to disasters only when they happen and doing that makes the accumulation of good ideas about disaster vulnerable to issue-attention cycles (Birkland, 2007). These ~~conceptual blinders~~ [myopic approaches] lead to a neglect of disasters as "strategic research sites" (Merton, 1987), which results in learning less about disaster than we could and in missing opportunities to use disaster to learn about society (cf. Sorokin, 1942). We need new conceptual tools because of an upward trend in frequency and severity of disaster since 1970 (Perrow, 2007), and because of a growing intellectual attention to the idea of worst cases (Clarke, 2006b; Clarke, in press). For instance, the chief scientist in charge of studying earthquakes for the US Geological Service, Lucile Jones, has worked on the combination of events that could happen in California that would constitute a "give up scenario": a very long-shaking earthquake in southern California just when the Santa Anna winds are making everything dry and likely to burn. In such conditions, meaningful response to the fires would be impossible and recovery would take an extraordinarily long time. There are other similar pockets of scholarly interest in extreme events, some spurred by September 11 and many catalyzed by Katrina. The consequences of disasters are also becoming more severe, both in terms of lives lost and property damaged. People and their places are becoming more vulnerable. The most important reason that vulnerabilities are increasing is population concentration (Clarke, 2006b). This is a general phenomenon and includes, for example, flying in jumbo jets, working in tall buildings, and attending events in large capacity sports arenas. Considering disasters whose origin is a natural hazard, the specific cause of increased vulnerability is that people are moving to where hazards originate, and most especially to where the water is. In some places, this makes them vulnerable to hurricanes that can create devastating storm surges; in others it makes them vulnerable to earthquakes that can create tsunamis. In any case, the general problem is that people concentrate themselves in dangerous places, so when the hazard comes disasters are intensified. More than one-half of Florida's population lives within 20 miles of the sea. Additionally, Florida's population grows every year, along with increasing development along the coasts. The risk of exposure to a devastating hurricane is obviously high in Florida. No one should be surprised if during the next hurricane season Florida becomes the scene of great tragedy. The demographic pressures and attendant development are wide- spread. People are concentrating along the coasts of the United States, and, like Florida, this puts people at risk of water-related hazards. Or consider the Pacific Rim, the coastline down the west coasts of North and South America, south to Oceania, and then up the eastern coast- line of Asia. There the hazards are particularly threatening. Maps of population concentration around the Pacific Rim should be seen as target maps, because along those shorelines are some of the most active tectonic plates in the world. The 2004 Indonesian earthquake and tsunami, which killed at least 250,000 people, demonstrated the kind of damage that issues from the movement of tectonic plates. (Few in the United States recognize that there is a subduction zone just off the coast of Oregon and Washington that is quite similar to the one in Indonesia.) Additionally, volcanoes reside atop the meeting of tectonic plates; the typhoons that originate in the Pacific Ocean generate furiously fatal winds. Perrow (2007) has generalized the point about concentration, arguing not only that we increase vulnerabilities by increasing the breadth and depth of exposure to hazards but also by concentrating industrial facilities with catastrophic potential. Some of Perrow's most important examples concern chemical production facilities. These are facilities that bring together in a single place multiple stages of production used in the production of toxic substances. Key to Perrow's argument is that there is no technically necessary reason for such concentration, although there may be good economic reasons for it. The general point is that we can expect more disasters, whether their origins are "natural" or "technological." We can also expect more death and destruction from them. I predict we will continue to be poorly prepared to deal with disaster. People around the world were appalled with the incompetence of America's leaders and orga- nizations in the wake of Hurricanes Katrina and Rita. Day after day we watched people suffering unnecessarily. Leaders were slow to grasp the importance of the event. With a few notable exceptions, organi- zations lumbered to a late rescue. Setting aside our moral reaction to the official neglect, perhaps we ought to ask why we should have expected a competent response at all? Are US leaders and organiza- tions particularly attuned to the suffering of people in disasters? Is the political economy of the United States organized so that people, espe- cially poor people, are attended to quickly and effectively in noncri- sis situations? The answers to these questions are obvious. If social systems are not arranged to ensure people's well-being in normal times, there is no good reason to expect them to be so inclined in disastrous times. Still, if we are ever going to be reasonably well prepared to avoid or respond to the next Katrina-like event, we need to identify the barriers to effective thinking about, and effective response to, disas- ters. One of those barriers is that we do not have a set of concepts that would help us think rigorously about out-sized events. The chief toolkit of concepts that we have for thinking about important social events comes from probability theory. There are good reasons for this, as probability theory has obviously served social research well. Still, the toolkit is incomplete when it comes to extreme events, especially when it is used as a base whence to make normative judgments about what people, organizations, and governments should and should not do. As a complement to probabilistic thinking I propose that we need possibilistic thinking. In this paper I explicate the notion of possibilistic thinking. I first discuss the equation of probabilism with rationality in scholarly thought, followed by a section that shows the ubiquity of possibilis- tic thinking in everyday life. Demonstrating the latter will provide an opportunity to explore the limits of the probabilistic approach: that possibilistic thinking is widespread suggests it could be used more rigorously in social research. I will then address the most vexing prob- lem with advancing and employing possibilistic thinking: the prob- lem of infinite imagination. I argue that possibilism can be used with discipline, and that we can be smarter about responding to disasters by doing so.

# 2NC

## CP – FTC

#### And, their args don’t assume the 1NC distinctions in our CP Text. Our planks about *policy statements* and *data sets* mean CP avoids politics and rollback.

* Assumes rollback efforts from either Political and Judicial actors.
* Empirical examples of FTC rollback go *Neg* – those episodes DID NOT include policy statements or data sets.

Kovacic ‘15

et al; William E. Kovacic - Global Competition Professor of Law and Policy, George Washington University Law School; Non-Executive Director, United Kingdom Competition and Markets Authority. From January 2006 to October 2011, he was a member of the Federal Trade Commission and chaired the agency from March 2008 to March 2009. - “The Federal Trade Commission as an Independent Agency: Autonomy, Legitimacy, and Effectiveness” - 100 Iowa L. Rev. 2085 (2015) - #E&F - https://ilr.law.uiowa.edu/print/volume-100-issue-5/the-federal-trade-commission-as-an-independent-agency-autonomy-legitimacy-and-effectiveness/

Longevity for its own sake is hardly a worthy aim. There is little evident value in preserving a competition agency that ensures its survival by committing itself to unobtrusive law enforcement and declining to confront important and potentially controversial market failures. If a competition agency is to retain an economically significant enforcement role, one must ask how the agency is to perform that role without: (a) succumbing to pressure that undermines its capacity to make merits-based decisions about how to exercise its power to bring and resolve cases or use other instruments in its policy-making portfolio; and (b) losing the accountability and effectiveness that requires some connection to and engagement with the political process. What measures might enable a competition agency to resist suggestions that it undertake fundamentally flawed initiatives? How can one protect meritorious enforcement programs from political attack and intervention by political branches of government as such programs come to fruition? Presented below are some possible solutions.

A. Greater Specification of Authority

One approach is to avoid extremely open-ended grants of authority which application invites objections that the agency has overreached its mandate or inspires political demands that it use seemingly elastic powers to address all perceived economic problems. A fuller specification of powers and elaboration of factors to be considered in applying the agency’s mandate can supply a more confident basis for the authority’s exercise of power and a stronger means to resist arguments that it enjoys unbounded power.

B. More Transparency, Including Reliance on Policy Statements and Guidelines

Greater transparency in operations can increase the agency’s perceived legitimacy and supply a useful barrier to destructive political intervention. The foundations of a strong transparency regime include the compilation and presentation of complete data sets that document agency activity and matter-specific transparency devices, such as the preparation of statements that explain why the agency closed a specific investigation.

Competition agencies can usefully rely extensively upon policy statements and guidelines to communicate their enforcement intentions and delimit the intended application of their powers. One purpose of such statements is to suggest how the agency defines the bounds of the more open-ended and inevitably ambiguous grants of authority its enabling statutes. For example, the FTC’s policy statements in the early 1980s concerning consumer unfairness and deception were important steps towards defining how the agency intended to apply its generic consumer protection powers. By articulating the bases upon which it would challenge unfair or deceptive conduct, the Commission strengthened external perceptions (within the business community and within Congress) that it would exercise its powers within structured, principled boundaries, and it increased, as well, its credibility before courts. The FTC has never issued a policy statement concerning its authority to ban unfair methods of competition, and the failure to do so has impeded the effective application of this power.

A second important use of policy statements is to introduce plans for innovative enforcement programs. Before embarking upon a new series of initiatives, the competition agency would issue a policy statement that identifies conduct it intends to examine and, in stated circumstances, proscribe. Here, again, the FTC’s experience provides a useful illustration. Policy statements would be useful when the agency seeks to use section 5 of the FTC Act to reach beyond existing interpretations of the Sherman and Clayton Acts, or to apply conventional antitrust principles to classes of activity previously undisturbed by antitrust intervention. By issuing a policy statement before commencing lawsuits, the FTC would give affected parties an opportunity to comment upon the wisdom of the agency’s proposed course of action and to adjust their conduct. Such an approach would likely increase confidence within industry and within Congress that the Commission is acting fairly and responsibly, and it could well make courts more receptive to the FTC’s application of section 5 as well.

#### Aff Rollback args don’t assume the FTC’s recent recission of 2015 guidance *OR* our Cplan plank that sets a clear interpretation.

Salop ‘21

et al; Steven C. Salop, Professor of Economics and Law, Georgetown University Law Center “A New Section 5 Policy Statement Can Help the FTC Defend Competition” – Public Knowledge – July 19th - #E&F - https://publicknowledge.medium.com/a-new-section-5-policy-statement-can-help-the-ftc-defend-competition-a76451eacb39

We generally agree with the Federal Trade Commission’s decision to rescind its 2015 Section 5 Policy Statement. Just as the Department of Justice and Federal Trade Commission Merger Guidelines are regularly updated on the basis of agency experience, legal and economic developments, so should this type of policy statement. Rescinding the old statement is particularly relevant in light of the growing recognition of the hurdles preventing effective antitrust enforcement.

Calls for reform have not come solely from Neo-Brandeisian commentators (including both FTC Chair, Lina Khan, and Tim Wu, now a member of the National Economic Council). The need for reform and a varied set of proposals has also been expressed by economics-oriented commentators, including this group of former Justice Department enforcers, Jonathan Baker and Herbert Hovenkamp, among others. Chair Khan in her statement suggested that the Commission would next consider replacing the Policy Statement with a new statement explaining how they plan to use Section 5 to increase competition. We think this would be a valuable way to show parties and courts what is coming. This article provides several suggestions that would be useful to consider and possibly include in the revised Section 5 Policy Statement. It should not be taken as an exhaustive list; there certainly may be other approaches to a revised statement that could also be effective.

A revised Policy Statement should make it clear that Section 5 is not identical to the Sherman and Clayton Act and that conduct can be challenged as an unfair method of competition under Section 5 even if it would not violate these other antitrust laws. In fact, even the original 2015 Policy Statement explicitly made this point. But the distinction between Section 5 and these other statutes is often ignored or suppressed by commentators who object to more vigorous antitrust enforcement by the FTC. Eventually, the FTC’s cases and rules under Section 5 will likely face the scrutiny of the courts. At that time, it may be particularly helpful to have a clear Policy Statement of how the FTC is interpreting Section 5. This can help maximize the impact the FTC can have, while assuaging concerns of detractors who say there is no limiting principle.

#### Our *Guidance distinction* means no rollback

* Agencies can issue *“Guidance”* (and enforce) – or they can create *“Rulemaking”* – both have legal force, but the latter tends to encounter more judicial review/resistance.

Raso ‘10

CONNOR N. RASO – J.D., Yale Law School expected 2oo; Ph.D., Stanford University Department of Political Science expected 2010 - “Strategic or Sincere? Analyzing Agency Use of Guidance Documents” – Yale Law Journal – v. 119:782 - #E&F - https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=5196&context=ylj

5. Judicial Challenge

Agencies concerned that the courts will invalidate their policy decisions will be motivated to use guidance documents more frequently relative to legislative rules. Guidance documents are advantageous because they are less likely to be challenged. Even if challenged, agencies have a reasonable probability of winning on ripeness or finality grounds.

#### Prefer SCOTUS *precedent* AND *empirics dipped from when the Court’s ideology was most aligned with the Chicago School*.

Dagen ‘10

Richard – Formerly, Adjunct Professor Boston University School of Law (Aug 2005 - Dec 2006) specializing in Antitrust; former Kramer Fellow - Harvard Law School. At the time of this writing, the author served as Antitrust, High Tech and Antitrust Special Counsel to the Director, Bureau of Competition, Federal Trade Commission “RAMBUS, INNOVATION EFFICIENCY, AND SECTION 5 OF THE FTC ACT” – BOSTON UNIVERSITY LAW REVIEW - Vol. 90 - #E&F - http://www.bu.edu/law/journals-archive/bulr/documents/dagen.pdf

The FTC enforces Section 5, which makes unlawful “unfair methods of competition.”118 In FTC v. Sperry & Hutchinson Co., the Supreme Court held that Section 5 “empower[s] the Commission to define and proscribe an unfair competitive practice, even though the practice does not infringe either the letter or the spirit of the antitrust laws.”119 Many believe that the interpretation of Section 5 as broader than the Sherman Act is a remnant of a bygone era. But even during the Chicago School era, the Supreme Court reaffirmed its understanding that Section 2 and Section 5 differed. For example, in Copperweld Corp. v. Independence Tube Corp., while attempting to limit the reach of the Sherman Act, the Reagan antitrust team, led by Assistant Attorney General William Baxter, and FTC Chairman James Miller, submitted an amicus brief highlighting that “[t]he courts have held that some forms of less dangerous, but nonetheless anticompetitive, unilateral conduct may be subject to Section 5 of the Federal Trade Commission Act.”120 The Court thereafter explained that single firm conduct was governed not only by Section 2 but also by Section 5.121 In 1986, the Court more specifically and directly referenced the “spirit” of Section 5, stating that Section 5 “encompass[es] not only practices that violate the Sherman Act and other antitrust laws, . . . but also practices that the Commission determines are against public policy for other reasons.”122

#### Rollback assumes Core Antitrust *at present* – it’s less likely precisely because the Aff *expands beyond* current core understandings.

Dagen ‘10

Richard – Formerly, Adjunct Professor Boston University School of Law (Aug 2005 - Dec 2006) specializing in Antitrust; former Kramer Fellow - Harvard Law School. At the time of this writing, the author served as Antitrust, High Tech and Antitrust Special Counsel to the Director, Bureau of Competition, Federal Trade Commission “RAMBUS, INNOVATION EFFICIENCY, AND SECTION 5 OF THE FTC ACT” – BOSTON UNIVERSITY LAW REVIEW - Vol. 90 - #E&F - http://www.bu.edu/law/journals-archive/bulr/documents/dagen.pdf

In Part III, I provide a more comprehensive analysis of Section 5. I begin with a general discussion of the breadth of Section 5 and then address the concern that using Section 5 to fill in gaps in the antitrust laws will cause mayhem. Although some maintain that the FTC should not use Section 5 because three different appellate courts chastised the FTC in the 1980s for trying to expand the antitrust laws, those defeats involved core competition practices that the courts protect the most. As the conduct moves away from either the core or the essential, authority under both the Sherman Act and the FTC Act is broader.

#### This isn’t contrived- the FTC is learning how to minimize rollback. Aff examples won’t contextualize to a more contemporary deployments of the Cplan.

Dagen ‘10

Richard – Formerly, Adjunct Professor Boston University School of Law (Aug 2005 - Dec 2006) specializing in Antitrust; former Kramer Fellow - Harvard Law School. At the time of this writing, the author served as Antitrust, High Tech and Antitrust Special Counsel to the Director, Bureau of Competition, Federal Trade Commission “RAMBUS, INNOVATION EFFICIENCY, AND SECTION 5 OF THE FTC ACT” – BOSTON UNIVERSITY LAW REVIEW - Vol. 90 - #E&F - http://www.bu.edu/law/journals-archive/bulr/documents/dagen.pdf

It is generally conceded that Section 2 does not cover all potential anticompetitive conduct.124 Caselaw and legislative history support the use of Section 5 to fill these gaps.125 Nonetheless, many in the antitrust bar have criticized the FTC’s use of Section 5 beyond the Sherman Act. One well-known antitrust practitioner opined: “Section 5 enforcement is unnecessary. Section 5 enforcement is dangerous. Section 5 enforcement is highly likely to be harmful to the American economy.”126 I recently moderated a Commission hearing on Section 5’s history and future where even the former FTC Chairman – who presided over a revival of Section 5 at the FTC – urged caution in this area.127 Similarly, then-Chairman Kovacic expressed some concern about the FTC’s likelihood of success under Section 5.128

The critics maintain that the intent of the “framers” of the FTC Act should be disregarded because today’s world is very different from the world of 1914. Foremost among these changes is the incorporation of more economic analysis into Sherman Act cases, and a rejection of populism. Thus, some would say, Section 5 should similarly evolve, and so construed, there is no reasonable basis for use of Section 5 outside the Sherman Act.

The critics think that no sound economic and policy reasons can justify extending Section 5 beyond the Sherman Act. They point to the trilogy of Section 5 cases that the FTC lost on appeal during the 1980s.129 They also note that the Court’s recent Section 2 cases warn about the dangers of overinclusive antitrust enforcement. For these and other reasons, the critics maintain that the FTC should not venture down the Section 5 road again.

The criticism is provocative but ultimately without foundation. Caution is always prudent in antitrust, but probably less applicable to Section 5 than to Section 2.130 Section 2 is amorphous. In Microsoft, a Section 2 case, the D.C. Circuit observed that “the means of illicit exclusion, like the means of legitimate competition, are myriad.”131 And different tests govern different conduct: tying, exclusive dealing, predation, bundling, sham litigation, and other conduct can all violate Section 2, but the analytical frameworks for each type of conduct, like the means of illicit exclusion, are myriad.

Despite the vagaries of monopolization law, the bipartisan Antitrust Modernization Commission, created in 2004 to analyze the state of U.S. antitrust jurisprudence, “judge[d] the state of the U.S. antitrust laws as ‘sound’” and concluded that Section 2 standards are “appropriate.”132 Breadth and vagueness, then, are not sufficient grounds on which to criticize Section 5 as worse than Section 2.133 Neither Section 2 nor Section 5 is a model of clarity. As Professor Crane noted at the FTC’s Section 5 Workshop: “Unfair methods of competition, just like restraint of trade or monopolization, is not a textually determinant set of words. We’re not going to get anywhere by talking about what the words mean on paper.”134

The critics are right that Section 5 should be based on sound economics, but wrong to believe that the Sherman Act will catch all – or “enough” – economically sound prosecutions. The Section 5 cases of the 1980s may have overreached, but the lesson of these cases is not that Section 5 has no role beyond the Sherman Act. The critics correctly note that the Supreme Court has recognized that an overly broad application of Sections 1 or 2 can discourage competition, but they incorrectly assert that Section 5 prosecutions will, almost by necessity, overreach. Section 5 can be based on sound economic principles without being subject to the criticisms heaped upon the FTC in the 1980s or even today. After all, if a standard can be crafted from the Sherman Act’s rudderless “no agreement in restraint of trade” and “do not monopolize” phrases, a proper standard can be drawn from Section 5’s prohibition of “unfair methods of competition.”135

#### Previous overrules related FTC *pricing restrictions*. That’s a narrow example afforded far more protection than the Aff.

Dagen ‘10

Richard – Formerly, Adjunct Professor Boston University School of Law (Aug 2005 - Dec 2006) specializing in Antitrust; former Kramer Fellow - Harvard Law School. At the time of this writing, the author served as Antitrust, High Tech and Antitrust Special Counsel to the Director, Bureau of Competition, Federal Trade Commission “RAMBUS, INNOVATION EFFICIENCY, AND SECTION 5 OF THE FTC ACT” – BOSTON UNIVERSITY LAW REVIEW - Vol. 90 - #E&F - http://www.bu.edu/law/journals-archive/bulr/documents/dagen.pdf

The Commission’s Section 5 defeats in the 1980s involved conduct that resembled essential elements of the competitive process. Thus, for example, in Ethyl Corp., the Commission challenged (1) advance notice of prices; (2) base point pricing; and (3) most favored nation (“MFN”) clauses.140 Boise Cascade Corp. v. FTC, like Ethyl, involved base point pricing.141 The Commission found that these unilaterally-adopted practices would likely lead to anticompetitive effects by reducing uncertainty regarding rival pricing strategies and facilitating supracompetitive pricing. The Commission concluded that these unilateral practices violated Section 5 and therefore issued a cease-and-desist order.

At the most general level, each of these challenged practices involves pricing and is therefore subject to the highest degree of solicitude. One could question whether base point pricing and most favored customer clauses are transactional necessities or otherwise necessary components of competition,142 but they do facially involve unilateral pricing decisions.

While reversing the Commission’s finding of liability, the Second Circuit in Ethyl recognized (albeit in dicta) that certain trade practices of companies can amount to unfair methods of competition in violation of Section 5 even though those same practices do not violate antitrust law.143 The Second Circuit first suggested what it believed to be non-controversial: the Commission could attack “conduct that is either a violation of the antitrust laws or collusive, coercive, predatory, restrictive or deceitful.”144 On the other hand, where the Commission “seeks to break new ground by enjoining otherwise legitimate practices, the closer must be our scrutiny upon judicial review.”145

Thus, the court appeared to take as given that Rambus-type deceitful conduct, which is by no means “legitimate,” can be prohibited as an unfair method of competition.146 Further, the court explained that the FTC may even condemn conduct outside this enumerated list of forbidden conduct: “Section 5 is aimed at conduct, not at the result of such conduct, even though the latter is usually a relevant factor in determining whether the challenged conduct is ‘unfair.’”147

Nonetheless the court reversed in Ethyl because the Commission did not announce a standard whereby “businesses will have an inkling as to what they can lawfully do rather than be left in a state of complete unpredictability.”148 The court further stated that

before business conduct in an oligopolistic industry may be labeled ‘unfair’ within the meaning of § 5[,] a minimum standard demands that, absent a tacit agreement, at least some indicia of oppressiveness must exist such as (1) evidence of anticompetitive intent or purpose on the part of the producer charged, or (2) the absence of a independent legitimate business reason for its conduct.149

The FTC also lost in Official Airline Guides, Inc. v. FTC, in which the FTC questioned a publisher’s choice of which airlines to include in its guide.150 The FTC charged that the publisher arbitrarily refused to provide information about commuter airlines’ connecting flights, while providing connecting flight information for major carriers.151 This choice of reporting format did not affect the respondent’s own business or profitability, but the Commission alleged that the omission did tend to lessen competition in the adjacent market for air transportation.152 The court found that Section 5 could not reach that conduct.153 The publisher’s conduct related to choosing with whom to do business, and the court would not lightly permit government review of such a core unilateral business decision.154 The court added that granting a cease and desist order would allow the FTC to delve into “‘social, political, or personal reasons’ for a monopolist’s refusal to deal.”155

In all of these cases, the courts did not question the proposition that the FTC’s Section 5 authority exceeded the Sherman Act’s reach. In fact, in each case, the courts, at a minimum, recited prior Supreme Court authority endorsing the Commission’s broad latitude. Finally, the fact that the Commission had a losing streak should not be determinative. After all, the agency lost seven straight hospital merger challenges but the FTC has continued forward.156

#### Involvement of external actors *that are political appointees* creates *perceptions* of external influence. That erodes the signal of FTC independence.

* The article outlines a difference between political appointees subject to *at-will* removal by POTUS (serve at the pleasure of the President – i.e. Solicitor General, AG, DOJ, etc) **VIS-A-VIS** *for-cause* agency Committee members. FTC Commissioners – an example in the article - operate on 7 year terms, spanning Administrations, and can solely be removed for-cause.

Kovacic ‘15

et al; William E. Kovacic - Global Competition Professor of Law and Policy, George Washington University Law School; Non-Executive Director, United Kingdom Competition and Markets Authority. From January 2006 to October 2011, he was a member of the Federal Trade Commission and chaired the agency from March 2008 to March 2009. - “The Federal Trade Commission as an Independent Agency: Autonomy, Legitimacy, and Effectiveness” - 100 Iowa L. Rev. 2085 (2015) - #E&F - https://ilr.law.uiowa.edu/print/volume-100-issue-5/the-federal-trade-commission-as-an-independent-agency-autonomy-legitimacy-and-effectiveness/

On March 16, 1915, the Federal Trade Commission (“FTC”) opened for business and began what has proven to be a uniquely compelling experiment in economic regulation. The FTC was the first law enforcement agency to be designed “from the keel up” as a competition agency. One vital consideration in forming the new institution was to define its relationship to the political process. Among other features in the original FTC Act, Congress provided that the agency’s commissioners would have fixed, seven-year terms and that a commissioner could be removed during his or her term only for cause.

Through these and other design choices, Congress created what would come to be known as the world’s first “independent” competition agency. The FTC’s degree of insulation from direct political control supplied an influential model of institutional design and contributed to the acceptance of a norm, evident in modern commentary about competition law, that public enforcement agencies should be politically independent. This Essay examines the relationship of competition agencies to the political process. We use the experience of the FTC to address three major issues. First, what does it mean to say that a competition agency is “independent”? Second, how much insulation from political control can a competition agency achieve in practice? Third, how is the pursuit of political independence properly reconciled with demands that a competition agency be accountable for its decisions—an important determinant of legitimacy—and with the need to engage with elected officials to be effective in performing functions such as advocacy?

In addressing these questions, we seek to develop themes we have addressed in earlier work involving the establishment and operations of the FTC. We approach the topic in the spirit of Professor Herbert Hovenkamp, whose work shows how historical research can improve our understanding of a competition system. Professor Hovenkamp’s scholarship has deeply influenced our approach to this field, and we are honored to participate in a symposium that celebrates his extraordinary contributions to competition law and policy.

II. The Relationship of the Competition Agency to the Political Process: Design Tradeoffs

The suggestion that competition agencies be independent reflects a desire to enable enforcement officials to make decisions without destructive intervention by elected officials or by political appointees who head other government departments. One method of providing the desired independence from these forms of interference is for the law to state that competition agency leaders can be removed by elected officials only for good cause. Political intervention undermines sound policy making when it causes the agency to bend the application of competition law to serve special interests at the expense of the larger society’s well being. As discussed below, because antitrust-relevant behavior (e.g., a merger) can involve large commercial stakes and affect the economic fortunes of individual firms and communities, the decisions of a competition agency can attract close scrutiny by heads of state, legislators, and cabinet officials.

The need for independence arguably varies according to the function that the competition agency is performing. In carrying out some functions, particularly certain law enforcement functions, the agency requires greater insulation from political pressure. For other functions, broader involvement by elected officials in setting the agency’s agenda and determining its choice of projects may be appropriate.

The utmost degree of independence is warranted when a competition agency functions as an adjudicative decisionmaker. Congress gave the FTC authority to use administrative adjudication to develop norms of business conduct. After the agency initiates a formal prosecution and functions as a trade court, the legitimacy of its decisions requires the highest degree of assurance that sound technical analysis, not political intervention, determined the outcome.

#### Aff solvency is a net benefit – CP alone has *better solvency* than the perm.

Hittinger ‘19

et al; Carl W. Hittinger is a senior partner and serves as BakerHostetler’s Antitrust and Competition Practice National Team Leader and the litigation group coordinator for the firm’s Philadelphia office. He concentrates his practice on complex commercial and civil rights trial and appellate litigation, with a particular emphasis on antitrust and unfair competition matters, including class actions. “Antitrust Agency Turf War Over Big Tech Investigations” – The Temple 10-Q - This article is reprinted with permission from the Oct. 4, 2019, edition of The Legal Intelligencer. #E&F - https://www2.law.temple.edu/10q/antitrust-agency-turf-war-over-big-tech-investigations/

As we discussed in June 2018, because the FTC and DOJ have concurrent civil antitrust jurisdiction, they rely on a clearance agreement to coordinate their authority. The current agreement’s Appendix A seeks to prevent disputes by assigning particular industries to each agency. The quasi-independent, consumer-protection-focused FTC generally monitors industries that, as Simons recently put it, “most directly affect consumers and their wallets.” By contrast, the DOJ, an executive branch law enforcement agency, generally oversees less consumer-facing industries and sectors impacting national defense. Because Appendix A is perfunctory, however, disputes frequently arise when a company targeted for investigation falls between Appendix A’s cracks or, more commonly, straddles more than one industry. The clearance agreement lists criteria for resolving these disputes. Emphasizing specialization and conservation of resources, it grants priority to the agency “with expertise in the product or similar products … gained through a substantial antitrust investigation … within the last seven years.” The agreement also enumerates a list of tie-breaking factors; for example, an agency gets more “expertise” credit if a case was litigated to verdict than if it was filed and later settled. While the vast majority of disputes are settled with Appendix A and the tie-breaking criteria, disagreements may also be settled through a neutral evaluator and, ultimately, upon elevation to direct discussion by the FTC chairperson and the assistant attorney general for the Antitrust Division of the DOJ.

Conflicts Over Investigations Into Big Tech:

The agencies’ turf war over Big Tech suggests they may be struggling to apply the aging clearance agreement to companies and business models that were somewhat embryonic when it was drafted in 2002. For example, social media is not explicitly addressed in the agreement, and there appears to be no obvious analogue to it in Appendix A. Although there are reports that the FTC and DOJ struck a new clearance deal concerning Big Tech, there are bound to be hiccups. U.S. Sen. Mike Lee, chairman of the Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights, said last month: “What’s evident from this latest institutional tug of war is that the Antitrust Division of the DOJ and the FTC are now actively battling each other to take the lead in pursuing Big Tech.”

However, the emergence of Big Tech does not fully explain the discord. This summer, the DOJ and FTC publicly clashed in the FTC’s monopolization case against cellular chipmaker Qualcomm—a quarter-century-old enterprise whose product seems to fit neatly within Appendix A’s framework. The case was filed by a divided FTC commission in the waning days of the Obama administration, alleging the company licensed standard essential patents in an anticompetitive fashion. The district court ruled in the FTC’s favor, but, on Qualcomm’s appeal, the DOJ filed an amicus brief siding with Qualcomm’s request for a stay of the lower court’s ruling. It argued: “Immediate implementation of the remedy could put our nation’s security at risk, which is vital to military readiness and other critical national interests.”

More importantly, because the standard for a stay requires a peek at the merits of Qualcomm’s appeal, the DOJ found itself in the unusual position of undermining the FTC’s case: “Qualcomm is likely to succeed on the merits because the district court’s decision ignores established antitrust principles and imposes an overly broad remedy.” The FTC responded in its opposition brief that the DOJ “mischaracterized” the district court’s analysis, that it offered “unsubstantiated concerns” about R&D, and that it essentially asserted that Qualcomm should be immune from antitrust scrutiny.

Given the current political emphasis on a variety of real or perceived controversial competition issues, it is no wonder the FTC and DOJ have prioritized investigatory action over fidelity to the clearance process. As Sen. Amy Klobuchar, ranking member of the Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights, said in a September hearing, “I’d rather have a split investigation between the DOJ and FTC than no investigation.” The clearance agreement itself says: “Each agency nevertheless retains full responsibility and authority for the discharge of its statutory duties.”

September’s Senate Antitrust Oversight Hearing:

As has been widely reported, Big Tech clearance disputes played a role in a Sept. 17 Senate oversight hearing held by the Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights, which was attended by Simons and Delrahim. In opening remarks, Sen. Mike Lee chastised the agencies: “In the past, the agencies have avoided too much mischief because they’ve generally played well together. Recently, this appears quite regrettably to have changed. From what I can tell, clearance disputes have become more frequent, more pronounced, and more prolonged.”

Lee asked Delrahim and Simons whether the FTC and DOJ were still operating under the “clearance system to avoid duplicative efforts or have things broken down on this front?” Simons responded, “for the vast majority of matters, we continue to operate under the existing clearance agreement,” but, upon further questioning, agreed with Lee that “things have broken down at least in part.” Delrahim added: “I cannot deny that there are instances where Chairman Simons’ and my time is wasted on those types of squabbles.”

Lee also quizzed the agency heads whether, hypothetically, if they were asked to provide “advice on setting up an antitrust regime in another country … that didn’t already have one, would you under any circumstances recommend that they follow the U.S. model and that they have two separate agencies responsible for civil antitrust enforcement?” Simons responded flatly: “No, I wouldn’t.” Delrahim remarked, “it would be hard to imagine a system being designed at the first instance like we have today.” He conceded: “It’s not the best model of efficiency.”

The Hazards of Clearance Disputes:

Disputes over clearance can have tangible adverse effects on enforcement. First, some have commented that delays caused by clearance disputes can narrow the efficacy of remedial options, particularly with mergers. As Sen. Richard Blumenthal has commented, “The Big Tech companies are not waiting for the agencies to finish their cases. They are structuring their companies so that you can’t unscramble the egg.” Structural remedies are favored by Delrahim, who has commented that alternative, behavioral remedies should be used sparingly: “The division has a strong preference for structural remedies over behavioral ones. … The Antitrust Division is a law enforcer and, even where regulation is appropriate, it is not equipped to be the ongoing regulator.”

Second, disputes over clearance and, more so, duplicative investigations waste agency resources, threaten to blunt their effectiveness, and can lead to inconsistent and confusing governmental positions. In the Sept. 17 oversight hearing, Simons and Delrahim were both criticized for requesting an increase in funding: “As you both acknowledged, both of you could use, and desperately need, more resources. That being the case, it makes no sense to me that we should have duplication of effort, when that has a tendency inevitably to undermine the effectiveness of what you’re doing.” Duplicative investigations dilute the specialization that is a principal goal of the agencies’ clearance agreement and raise the risk that one agency will take legal positions that undercut the other. No doubt the DOJ’s amicus brief in the Qualcomm case influenced the U.S. Court of Appeals for the Ninth Circuit’s decision to issue a stay pending appeal.

#### Turf wars also cause imposed re-structuring - crushing FTC independence.

Birnbaum ‘19

Internally quoting William E. Kovacic - Global Competition Professor of Law and Policy, George Washington University Law School; Non-Executive Director, United Kingdom Competition and Markets Authority. From January 2006 to October 2011, he was a member of the Federal Trade Commission and chaired the agency from March 2008 to March 2009. Emily Birnbaum is a Tech lobbying Reporter at Politico - “Antitrust enforcers in turf war over Big Tech” - The Hill - 09/17/19 - #E&F - https://thehill.com/policy/technology/461829-antitrust-enforcers-in-turf-war-over-big-tech

Typically during investigations, the FTC and DOJ will check in with each other and share resources to ensure there is no duplication. But experts are warning their disagreements could make the process more difficult.

Kovacic cautioned that both agencies had an interest in resolving those tensions.

“These kinds of tensions ... create an environment in which public officials begin to consider a basic restructuring of the U.S. system,” Kovacic said.

He said in that case, “Neither agency can be assured that it would be the survivor.”

### Pdcp

#### First, Aff severs *“Law”*

#### We aren’t prohibiting or expanding anything (below);

#### But *if we were*, it’s NOT an expansion of the LAW:

P.O.G.O. ‘15

Project On Government Oversight *- Internally quoting Chief Justice Roberts’ Majority Opinion in US Supreme Court’s 7-2 decision in Department of Homeland Security v. MacLean* (2015) - which dealt largely with statutory interpretation. The Project On Government Oversight (POGO). POGO’s investigators are experts in working with whistleblowers and other sources inside the government who come forward with information that we then verify using the Freedom of Information Act, interviews, and other fact-finding strategies. We publish these findings and release them to the media, Members of Congress and their constituents, executive branch agencies and offices, public interest groups, and our supporters. In addition to quoting the Majority Opinion from the Chief Justice, this article was authored by POGO’s Phillip Shaverdian – who is currently a Judicial Law Clerk within the U.S. District Court System and, at the time of the writing, was an intern within and correspondent on behalf of the Project On Government Oversight - “Agency Rules and Regulations Are Not Laws” - FEBRUARY 10, 2015 - #E&F – modified for language that may offend - https://www.pogo.org/analysis/2015/02/agency-rules-and-regulations-are-not-laws/

Agency Rules and Regulations Are Not Laws

In January, in one of the most riveting cases of the current session, the Supreme Court ruled 7-2 in favor of Transportation Security Administration (TSA) whistleblower Robert MacLean, holding that agency rules and regulations do not equate to laws. Chief Justice John Roberts wrote the majority opinion for the Court. And now that we’ve had time to celebrate the victory for MacLean, it’s time to turn our focus to what Department of Homeland Security v. MacLean may mean for whistleblowers in general.

Current federal whistleblower protection law—the Whistleblower Protection Act (WPA)—protects individuals against backlash from employers for disclosing information about “any violation of any law, rule or regulation” or “a substantial and specific danger to public health or safety” by a federal agency. However, in the same statute there exists an exception for disclosures that are “specifically prohibited by *law*.”

The question the Court sought to answer was whether MacLean’s disclosures were “specifically prohibited by *law*.”

The Homeland Security Act of 2002 states that the TSA’s “Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security” if they decide that the disclosure of that information would “be detrimental to the security of transportation.” The resultant regulations thus prohibit the disclosure of “sensitive security information” (SSI) without the proper authorization. Among the various types of information that could be designated SSI is “information concerning specific numbers of Federal Air Marshals, deployments or missions, and the methods involved in such operations.”

The government argued that MacLean’s disclosures were “specifically prohibited by law” and that the WPA did not offer protection for two reasons: 1) the disclosure was prohibited by specific TSA regulations on SSI; and 2) the Homeland Security Act authorizes the TSA to promulgate the regulations.

The Court addressed and subsequently rejected both arguments, affirming the judgment in favor of MacLean by the U.S. Court of Appeals for the Federal Circuit.

The Court rejected the government’s argument that a disclosure that is prohibited by regulation is also “specifically prohibited by law,” as prescribed by federal whistleblower statute.

The Court elaborates that in the WPA Congress repeatedly used the phrase “law, rule, or regulation,” but did not use the same phrase in the statutory language at question in this case. Instead, Congress used the word “law” alone, suggesting that it meant to exclude rules and regulations from the specific stipulation. Congress’s omission of “rule, or regulation” must be ~~viewed~~ (considered) as deliberate because of the use of “law” and “law, rule, or regulation” in the same sentence, as well as the frequent use of the latter phrase throughout the statute. These “two aspects of the whistleblower statute make Congress’s choice to use the narrower word “law” seem quite deliberate,” opined the Court.

After creating an exception for disclosures “specifically prohibited by law,” the WPA also creates a second exception for information “specifically required by Executive order to be kept secret.” The second exception is limited to actions taken by the President, and thus suggests that the first exception and the use of “law” is limited to actions by Congress.

The Court also reasons that “If ‘law’ included agency rules and regulations, then an agency could insulate itself from the scope of Section 2302(b)(8)(A) merely by promulgating a regulation that ‘specifically prohibited’ whistleblowing.” Instead, “Congress passed the whistleblower statute precisely because it did not trust agencies to regulate whistleblowers within their ranks.” The Court concluded that “it is unlikely that Congress meant to include rules and regulations within the word ‘law’” and that the specificity of the phrase “specifically prohibited by law” was meant to deliberately exclude rules and regulations.

#### Second, Increase prohibition and expand scope---the conduct is already prohibited---that’s 1NC Khan that we’ll include for clarity.

**NOTE**: All highlighted portions (green and blue) of this card were read in the 1NC. The 1NC card made solvency and competition claims – and, to offer context, we’ve used blue highlighting to outline the parts of the ev that augment our perm/competition claims.

Kahn ‘21

et al; This is a recent joint statement released by the five Federal Trade Commissioners. The Chair of the Federal Trade Commission is Lina Khan - an Associate Professor of Law at Columbia Law School. Also on the Commission is Rohit Chopra – who was previously The Assistant Director of the Consumer Financial Protection Bureau, as well as Rebecca Slaughter - an American attorney who was previously the acting chair of the Federal Trade Commission. Two others also sit on the Commission. “STATEMENT OF THE COMMISSION On the Withdrawal of the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act” - July 9, 2021 - #E&F – modified for language that may offend - https://www.ftc.gov/system/files/documents/public\_statements/1591706/p210100commnstmtwithdrawalsec5enforcement.pdf

Section 5 of the Federal Trade Commission Act prohibits “unfair methods of competition in or affecting commerce.”1 In 2015, the Federal Trade Commission under Chairwoman Edith Ramirez published the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act (hereinafter “2015 Statement”), which established principles to guide the agency’s exercise of its “standalone” Section 5 authority.2 Although presented as a way to reaffirm the Commission’s preexisting approach to Section 5 and preserve doctrinal flexibility,3 the 2015 Statement contravenes the text, structure, and history of Section 5 and largely writes the FTC’s standalone authority out of existence. In our ~~view~~ (perspective), the 2015 Statement abrogates the Commission’s congressionally mandated duty to use its expertise to identify and combat unfair methods of competition even if they do not violate a separate antitrust statute. Accordingly, because the Commission intends to restore the agency to this critical mission, the agency withdraws the 2015 Statement.

I. Background

On August 13, 2015, the Federal Trade Commission issued the 2015 Statement, which announced that the Commission would apply Section 5 using “a framework similar to the rule of reason,” by only challenging actions that “cause, or [are] likely to cause, harm to competition or the competitive process, taking into account any associated cognizable efficiencies and business justifications[.]”4 The 2015 Statement advised that the Commission is “less likely” to raise a standalone Section 5 claim “if enforcement of the Sherman or Clayton Act is sufficient to address the competitive harm.”5

In a statement accompanying the issuance of these principles, the Commission explained that its enforcement of Section 5 would be “aligned with” the Sherman and Clayton Acts and thus subject to “the ‘rule of reason’ framework developed under the antitrust laws[.]”6 In a speech announcing the statement, Chairwoman Ramirez noted that she favored a “common-law approach” to Section 5 rather than “a prescriptive codification of precisely what conduct is prohibited.”7 She also acknowledged that the Commission’s policy statement was codifying an interpretation of Section 5 that is more restrictive than the Commission’s historic approach and more constraining than the prevailing case law.8 She added, “[W]e now exercise our standalone Section 5 authority in a far narrower class of cases than we did throughout most of the twentieth century.”9

With the exception of certain administrative complaints involving invitations to collude, the agency has pled a standalone Section 5 violation just once in the more than five years since it published the statement. 10

II. The Text, Structure, and History of Section 5 Reflect a Clear Legislative Mandate Broader than the Sherman and Clayton Acts

By tethering Section 5 to the Sherman and Clayton Acts, the 2015 Statement negates the Commission’s core legislative mandate, as reflected in the statutory text, the structure of the law, and the legislative history, and undermines the Commission’s institutional strengths.

In 1914, Congress enacted the Federal Trade Commission Act to reach beyond the Sherman Act and to provide an alternative institutional framework for enforcing the antitrust laws. 11 After the Supreme Court announced in Standard Oil that it would subject restraints of trade to an open-ended “standard of reason” under the Sherman Act, lawmakers were concerned that this approach to antitrust delayed resolution of cases, delivered inconsistent and unpredictable results, and yielded outsized and unchecked interpretive authority to the courts.12 For instance, Senator Newlands complained that Standard Oil left antitrust regulation “to the varying judgments of different courts upon the facts and the law”; he thus sought to create an “administrative tribunal … with powers of recommendation, with powers of condemnation, [and] with powers of correction.”13 Likewise, a 1913 Senate committee report lamented that the rule of reason had made it “impossible to predict” whether courts would condemn many “practices that seriously interfere with competition, and are plainly opposed to the public welfare,” and thus called for legislation “establishing a commission for the better administration of the law and to aid in its enforcement.”14 These concerns spurred the passage of the FTC Act, which created an administrative body that could police unlawful business practices with greater expertise and democratic accountability than courts provided.15

At the heart of the statute was Section 5, which declares “unfair methods of competition” unlawful.16 By proscribing conduct using this new term, rather than codifying either the text or judicial interpretations of the Sherman Act, the plain language of the statute makes clear that Congress intended for Section 5 to reach beyond existing antitrust law. The structure of Section 5 also supports a reading that is not limited to an extension of the Sherman Act. Notably, the FTC Act’s remedial scheme differs significantly from the remedial structure of the other antitrust statutes. The Commission cannot pursue criminal penalties for violations of “unfair methods of competition,” and Section 5 provides no private right of action, shielding violators from private lawsuits and treble damages. In this way, the institutional design laid out in the FTC Act reflects a basic tradeoff: Section 5 grants the Commission extensive authority to shape doctrine and reach conduct not otherwise prohibited by the Sherman Act, but provides a more limited set of remedies.17

The legislative debate around the FTC Act makes clear that the text and structure of the statute were intentional. Lawmakers chose to leave it to the Commission to determine which practices fell into the category of “unfair methods of competition” rather than attempt to define through statute the various unlawful practices, given that “there were too many unfair practices to define, and after writing 20 of them into the law it would be quite possible to invent others.”18 Lawmakers were clear that Section 5 was designed to extend beyond the reach of the antitrust laws. 19 For example, Senator Cummins, one of the main sponsors of the FTC Act, stated that the purpose of Section 5 was “to make some things punishable, to prevent some things, that cannot be punished or prevented under the antitrust law.”20

The Supreme Court has repeatedly affirmed this view of the agency’s Section 5 authority, holding that the statute, by its plain text, does not limit unfair methods of competition to practices that violate other antitrust laws. 21 The Court, recognizing the Commission’s expertise in competition matters, has given “deference”22 and “great weight”23 to the Commission’s determination that a practice is unfair and should be condemned.

#### Theoretically, Section 5 could already challenge the practice outlined by the Aff.

Federal Register: Rules and Regulations - ‘9

Federal Trade Commission - *16 Code of Federal Regulations*- 255 Guides Concerning the Use of Endorsements and Testimonials in Advertising Federal Acquisition Regulation; *Final Rule* - “Rules and Regulations” - Federal Register - Vol. 74, No. 198 - Thursday, October 15, 2009 - #E&F - https://www.ftc.gov/sites/default/files/documents/federal\_register\_notices/guides-concerning-use-endorsements-and-testimonials-advertising-16-cfr-part-255/091015guidesconcerningtestimonials.pdf

b. Examples 7-9 – New Media Several commenters raised questions about, or suggested revisions to, proposed new Examples 7-9 in Section 255.5, in which the obligation to disclose material connections is applied to endorsements made through certain new media.91 Two commenters argued that application of the principles of the Guides to new media would be inconsistent with the Commission’s prior commitment to address word of mouth marketing issues on a case-by-case basis.92 Others urged that they be deleted in their entirety from the final Guides, either because it is premature for the Commission to add them, or because of the potential adverse effect on the growth of these (and other) new media.93 Two commenters said that industry self-regulation is sufficient.94

The Commission’s inclusion of examples using these new media is not inconsistent with the staff’s 2006 statement that it would determine on a case-by-case basis whether law enforcement investigations of ‘‘buzz marketing’’ were appropriate.95 All Commission law enforcement decisions are, and will continue to be, made on a case-by-case basis, evaluating the specific facts at hand. Moreover, as noted above, the Guides do not expand the scope of liability under Section 5; they simply provide guidance as to how the Commission intends to apply governing law to various facts. In other words, the Commission *could* challenge the dissemination of deceptive representations made via these media regardless of whether the Guides contain these examples; thus, not including the new examples would simply deprive advertisers of guidance they otherwise could use in planning their marketing activities.96

#### The CP has an agency alter its enforcement discretion related to an existing statutory prohibition. That’s not an increase in prohibitions.

Kusserow ‘91

R.P. Kusserow, Inspector General, Department of Health and Human Services - 42 Code of Federal Regulations - Part 1001, RIN 0991-AA49 – “Medicare and State Health Care Programs: Fraud and Abuse; OIG Anti-Kickback Provisions” - Monday, July 29, 1991 (56 FR 35952) - AGENCY: Office of Inspector General (OIG), HHS. ACTION: Final rule - #E&F - https://oig.hhs.gov/fraud/docs/safeharborregulations/072991.htm

I. Background

A. The Medicare Anti-Kickback Statute

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)), previously codified at sections 1877 and 1909 of the Act, provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration in order to induce business reimbursed under the Medicare or State health care programs. The offense is classified as a felony, and is punishable by fines of up to $25,000 and imprisonment for up to 5 years.

This provision is extremely broad. The types of remuneration covered specifically include kickbacks, bribes, and rebates made directly or indirectly, overtly or covertly, or in cash or in kind. In addition, prohibited conduct includes not only remuneration intended to induce referrals of patients, but remuneration also intended to induce the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by Medicare or State health care programs.

Since the statute on its face is so broad, concern has arisen among a number of health care providers that many relatively innocuous, or even beneficial, commercial arrangements are technically covered by the statute and are, therefore, subject to criminal prosecution.

B. Public Law 100-93

Public Law 100-93, the Medicare and Medicaid Patient and Program Protection Act of 1987, added two new provisions addressing the anti-kickback statute. Section 2 specifically provided new authority to the Office of Inspector General (OIG) to exclude an individual or entity from participation in the Medicare and State health care programs if it is determined that the party has engaged in a prohibited remuneration scheme. (Section 1128(b)(7) of the Act, 42 U.S.C. 1320a-7(b)(7)) This new sanction authority is intended to provide an alternative civil remedy, short of criminal prosecution, that will be a more effective way of regulating abusive business practices than is the case under criminal law.

In addition, section 14 of Public Law 100-93 requires the promulgation of regulations specifying those payment practices that will not be subject to criminal prosecution under section 1128B of the Act and that will not provide a basis for exclusion from the Medicare program or from the State health care programs under section 1128(b)(7) of the Act.

C. Notice of Intent

The legislative history of section 14 of Public Law 100-93 indicates that Congress expected the Department of Health and Human Services to consult with affected provider, practitioner, supplier and beneficiary representatives before promulgating regulations. In order to most effectively address issues related to this provision, we published a notice of intent to develop regulations (52 FR 38794, October 19, 1987) soliciting comments from interested parties prior to developing a proposed regulation. As a result of that notice, the OIG received a number of public comments, recommendations and suggestions on generic criteria that can be applied to particular types of business arrangements in order to determine if such arrangements are inappropriate for civil or criminal sanctions.

D. Notice of Proposed Rulemaking

The proposed regulation designed to implement section 14 of Public Law 100-93 was developed by the OIG and published in the Federal Register on January 23, 1989 (54 FR 3088). The regulation sets forth various proposed business and payment practices, or "safe harbors," that would not be treated as criminal offenses under section 1128B(b) of the Act and would not serve as a basis for a program exclusion under section 1128(b)(7) of the Act. As a result of that proposed rulemaking, we received a total of 754 public comments for consideration.

II. Summary of the Proposed Rule

A. Business Arrangements Not Exempt

The proposed regulation indicated that in order for a business arrangement to comply with one of the ten safe harbors, each standard of that safe harbor provision would have to be met. The proposed rule stated that if the business arrangement involves payments for different purposes (for example a single payment for personal services and for equipment rental) then each payment purpose would be analyzed to determine if all the standards of each applicable safe harbor provision have been fulfilled. The proposed rule *further* specified that where individuals and entities have entered into arrangements that are covered by the statute and where they have chosen not to fully comply with one of the exemptions proposed in these regulations, they would risk scrutiny by the OIG and may be subject to civil or criminal enforcement action.

B. Need for Continuing Guidance

Since there may be a need for the Department to respond to changes in health care delivery or business arrangements more quickly and informally than through the regulatory process to keep the industry abreast of our enforcement policy, the proposed rule invited public comment on how we can best achieve the dual goals of keeping the industry aware of our views of particular business practices, and assuring that our regulations remain current with new developments.

C. Notice to Beneficiaries

While we considered including in several of the proposed safe harbor provisions a requirement that a person notify each Medicare or Medicaid patient he or she refers to a related entity of the financial relationship that exists, we indicated that such notice requirements may be unduly burdensome compared with the potential benefits and, therefore, did not include the requirement in the safe harbors in the proposed regulation. Instead, we invited public comments on this issue.

D. Preferred Provider Organizations

We cited the increasing variety of arrangements among entities grouped under the generic headings "preferred provider organizations" (PPOs) or "managed care," and that unlike HMOs, there is often no single entity that is recognized as the "health care provider." The proposed regulations did not specifically delineate a safe harbor provision for these arrangements since we believed that one or more of the other proposed safe harbors would often cover relationships in preferred provider and managed care networks. We invited comments from the public, however, on the idea of adding additional safe harbors that would provide further protection to HMOs, PPOs, and other managed care plans.

E. Waiver of Coinsurance and Deductible Amounts for Inpatient Hospital Care

We noted that with the advent in 1983 of the prospective payment system for paying hospitals for inpatient care, some hospitals have advertised the routine waiver of Medicare coinsurance and deductible amounts as a means of attracting patients to their facilities. We solicited comments on defining a safe harbor for waiving coinsurance and deductible amounts that would be limited to inpatient hospital care, be available to all Medicare beneficiaries without regard to diagnosis or length of stay, and assure that any costs to the hospital of waiving the coinsurance and deductible amounts would not be passed on to any Federal program as a bad debt or in any other way.

F. Proposed Safe Harbors

The regulation published on January 23, 1989, proposing to amend 42 CFR part 1001 by adding a new § 1001.952, set forth "safe harbors" in ten broad areas:

1. Investment Interests

To reflect the view that Congress did not intend to bar all investments by physicians in other health care entities to which they refer patients, a safe harbor provision was proposed for investment interests in large public corporations where such investments are available to the general public. This safe harbor described a minimum number of shareholders and a minimum number of assets the company must have in order to qualify under this provision

Safe harbors for limited and managing partnerships were considered under the proposed regulation, but were not included. These areas were discussed in the preamble of the proposed rule, and we specifically requested public comments on adopting these practices as safe harbors.

2. Space Rental

While many rental arrangements are legitimate, many situations exist where rental payments are simply a device used to mask illegal payments intended to induce referrals. Accordingly, a safe harbor provision was proposed for rental arrangements if: (a) Access to the space is for periodic intervals and such intervals are set in advance in the lease, rather than based on the number of referred patients; (b) the lease is for at least one year so it cannot be readjusted on too frequent a basis to reflect prior referrals; and (c) the charges reflect fair market value.

3. Equipment Rental

With the understanding that the payment for the use of diagnostic and other medical equipment may simply be a vehicle to provide reimbursement for referrals, a safe harbor was proposed for certain situations involving equipment rentals similar to those applied to real estate rentals cited above.

4. Personal Services and Management Contracts

While health care providers often have arrangements to perform services for each other on a mutually beneficial basis, some of these arrangements may vary the payment with the volume of referrals. The proposed regulation set forth a safe harbor provision for joint ventures and other arrangements involving payments for personal services or management contracts, but only if certain standards are met that limit the opportunity to provide financial incentives in exchange for referrals. This proposed provision required the services to be paid at fair market value, and was predicated on requirements similar to those set forth in the provisions for space and equipment rental.

5. Sale of Practice

Unlike the traditional sale of a practice by a retiring physician, a physician may sell, or appear to sell, a practice to a hospital while continuing to practice on its staff. A safe harbor provision was proposed for the sale of physician practices when occurring as the result of retirement or some other event that removes the physician from the practice of medicine or from the service area in which he or she was practicing, but not when the sale is for the purpose of obtaining an ongoing source of patient referrals.

6. Referral Services

Professional societies and other consumer-oriented groups often operate referral services for a fee. Because such a service fee could be construed as a payment in order to obtain a referral, we concluded that it was appropriate to establish a specific safe harbor for this type of practice. In order to safeguard against abuse, however, the provision is only available when several standards are met.

7. Warranties

It is in the public interest to have companies offer warranties as an inducement to the consumer to purchase a product. A safe harbor was proposed for such purposes.

8. Discounts

Safe harbors relating to discounts, employees and group purchasing organizations are specifically required by statute. The discount exception was intended to encourage price competition that benefits the Medicare and Medicaid programs. The proposed discount provision was limited in application to reductions in the amount a seller charges for a good or service to the buyer. The discount could take the form of a specified price break, or the inclusion of an extra quantity of the item purchased "at no extra charge." We did not propose to protect many kinds of marketing incentive programs such as cash rebates, free goods or services, redeemable coupons, or credits.

9. Employees

The proposed exception for employees permitted an employer to pay an employee in whatever manner he or she chose for having that employee assist in the solicitation of program business and applied only to bona fide employee- employer relationships.

10. Group Purchasing Organizations

The proposed group purchasing organization (GPO) exception was designed to apply to payments from vendors to entities authorized to act as a GPO for individuals or entities who are furnishing Medicare or Medicaid services. The proposed exception required a written agreement between the GPO and the individual or entity that specifies the amounts vendors will pay the GPO.

III. Response to Comments and Summary of Revisions

As indicated above, in response to the proposed rulemaking we received 754 public comments from various provider groups, medical facilities, professional and business organizations and associations, medical societies, State and local government entities, private (35954) practitioners and concerned citizens. The comments included both general and broadreaching concerns regarding the impact of this regulation, and specific comments on those areas and safe harbor provisions about which we requested public input. A summary of the comments received and our responses to those comments follows.

A. General Comments

Comment: A large number of commenters expressed concern about the implication of engaging in a business arrangement that does not comply fully with a provision of this regulation. Some of these commenters expressed the view that the safe harbor provisions are narrowly drawn and leave many lawful business arrangements unprotected. Moreover, the preamble to the proposed rule warns: "[W]here individuals and entities have entered into arrangements that are covered by the statute, where they have chosen not to comply fully with one of the exemptions in these regulations, they would risk scrutiny by the OIG \* \* \*." These commenters urged the OIG to make clear that the failure to comply fully with a safe harbor provision is not per se illegal, and does not mean that prosecution will automatically follow. In addition, they requested safe harbor protection for business arrangements where there has only been a "technical violation" of the statute, where there has been "substantial compliance" with this regulation, or where the remuneration in question is "de minimis."

Response: This regulation covers many categories of business arrangements, providing standards to be met within each safe harbor provision. If a person participates in an arrangement that fully complies with a given provision, he or she will be assured of not being prosecuted criminally or civilly for the arrangement that is the subject of that provision.

This regulation does not expand the scope of activities that the statute prohibits. The statute itself describes the scope of illegal activities. The legality of a particular business arrangement must be determined by comparing the particular facts to the proscriptions of the statute.

The failure to comply with a safe harbor can mean one of three things. First, as we stated in the preamble to the proposed rule, it may mean that the arrangement does not fall within the ambit of the statute. In other words, the arrangement is not intended to induce the referral of business reimbursable under Medicare or Medicaid; so there is no reason to comply with the safe harbor standards, and no risk of prosecution.

Second, at the other end of the spectrum, the arrangement could be a clear statutory violation and also not qualify for safe harbor protection. In that case, assuming the arrangement is obviously abusive, prosecution would be very likely.

Third, the arrangement may violate the statute in a less serious manner, although not be in compliance with a safe harbor provision. Here there is no way to predict the degree of risk. Rather, the degree of the risk depends on an evaluation of the many factors which are part of the decision-making process regarding case selection for investigation and prosecution. Certainly, in many (but not necessarily all) instances, prosecutorial discretion would be exercised not to pursue cases where the participants appear to have acted in a genuine good-faith attempt to comply with the terms of a safe harbor, but for reasons beyond their control are not in compliance with the terms of that safe harbor. In other instances, there may not even be an applicable safe harbor, but the arrangement may appear innocuous. But in other instances, we will want to take appropriate action.

We do not believe the Medicare and Medicaid programs would be properly served if we assured protection in all instances of "substantial compliance," "technical violations," or "de minimis" payments. Unfortunately, these are vague concepts, subject to differing interpretations. In this regulation, we have attempted to provide bright lines, to the extent possible, for safe harbors in order to provide clarity and predictability as to what conduct is immune from government action. Our endorsement of the concepts mentioned above would only serve to blur these lines and produce litigation as to what "substantial," "technical" and "de minimis" really mean. The OIG therefore declines to adopt these concepts.

## Nb

#### [ ] Geoengineering overcompensates – fails and causes extinction.

Baum ‘13

Et al; Dr. Seth Baum is an American researcher involved in the field of risk research. He is the executive director of the Global Catastrophic Risk Institute (GCRI), a think tank focused on existential risk. He is also affiliated with the Blue Marble Space Institute of Science and the Columbia University Center for Research on Environmental Decisions. He holds a PhD in Geography and authored his dissertation on climate change policy: “Double catastrophe: intermittent stratospheric geoengineering induced by societal collapse” - Source: Environment Systems & Decisions - vol.33, no.1 pp. 168-180 - #E&F – available via: https://pubag.nal.usda.gov/catalog/122717

Perceived failure to reduce greenhouse gas emissions has prompted interest in avoiding the harms of climate change via geoengineering, that is, the intentional manipulation of Earth system processes. Perhaps the most promising geoengineering technique is stratospheric aerosol injection (SAI), which reflects incoming solar radiation, thereby lowering surface temperatures. This paper analyzes a scenario in which SAI brings great harm on its own. The scenario is based on the issue of SAI intermittency, in which aerosol injection is halted, sending temperatures rapidly back toward where they would have been without SAI. The rapid temperature increase could be quite damaging, which in turn creates a strong incentive to avoid intermittency. In the scenario, a catastrophic societal collapse eliminates society’s ability to continue SAI, despite the incentive. The collapse could be caused by a pandemic, nuclear war, or other global catastrophe. The ensuing intermittency hits a population that is already vulnerable from the initial collapse, making for a double catastrophe. While the outcomes of the double catastrophe are difficult to predict, plausible worst-case scenarios include human extinction. The decision to implement SAI is found to depend on whether global catastrophe is more likely from double catastrophe or from climate change alone. The SAI double catastrophe scenario also strengthens arguments for greenhouse gas emissions reductions and against SAI, as well as for building communities that could be self-sufficient during global catastrophes. Finally, the paper demonstrates the value of integrative, systems-based global catastrophic risk analysis.

#### [ ] *Prolif* and *climate* each independently cause extinction

* Climate change is true and real bad
* Prolif = probable scenario for extinction bc of *miscalc*, *user error*, or *unauthorized use*.

Thakur ‘15

Ramesh Thakur, Director of the Centre for Nuclear Non-Proliferation and Disarmament in the Crawford School of Public Policy, The Australian National University. 2015. “Nuclear Weapons and International Security.” Routledge

The world faces two existential threats: climate change and nuclear Armageddon. Those who reject the first are derided as denialists; those dismissive of the second are praised as realists. Nuclear weapons may or may not have kept the peace among various groups of rival states; they could be catastrophic for the world if ever used by both sides in a war between nuclear-armed rivals; and the prospects for their use have grown since the end of the Cold War. Even a limited regional nuclear war in which India and Pakistan used 50 Hiroshima-size (15kt) bombs each could lead to a famine that kills up to a billion people. 1 Having learnt to live with nuclear weapons for 70 years (1945–2015), we have become desensitized to the gravity and immediacy of the threat. The tyranny of complacency could yet exact a fearful price with nuclear Armageddon. The nuclear peace has held so far owing as much to good luck as sound stewardship. Deterrence stability depends on rational decision-makers being always in office on all sides: a dubious and not very. reassuring precondition It depends equally critically on there being no rogue launch, human error or system malfunction: an impossibly high bar. For nuclear peace to hold, deterrence and fail-safe mechanisms must work every single time. For nuclear Armageddon, deterrence or fail-safe mechanisms need to break down only once. This is not a comforting equation. It also explains why, unlike most situations where risk can be mitigated after disaster strikes, with nuclear weapons all risks must be mitigated before any disaster. 2 As more states acquire nuclear weapons, the risks multiply exponentially with the requirements for rationality in all decision-makers; robust command-and-control systems in all states; 100 percent reliable fail-safe mechanisms and procedures against accidental and unauthorized launch of nuclear weapons; and totally unbreachable security measures against terrorists acquiring nuclear weapons by being able to penetrate one or more of the growing nuclear facilities or access some of the wider spread of nuclear material and technology.

#### [ ] Arctic war causes extinction

#### outweighs on probability and magnitude – war exits the region, goes nuclear, and can be instigated by miscalc.

Chrisinger ‘20

Internally quoting Niklas Granholm – who is Deputy Director of Studies at FOI, the Swedish Defence Research Agency, Division for Defence Analysis. Mr Granholm currently heads a study project on behalf of the Swedish Foreign Ministry studying the strategic developments in the Arctic. He was seconded to the Swedish Ministry of Defence in 2007 and during 2006 was a Visiting Fellow to RUSI. He has been an Associate Fellow of the Institute since 2007. Between 1999-2006, he headed the project for international peace support and crisis management operations on behalf of the Swedish Ministry of Defence. From 1997-99 he was seconded to the Swedish Ministry for Foreign Affairs, Division for European Security Policy. David Chrisinger is a Logan Nonfiction Fellow and a contributing writer to The New York Times Magazine and The War Horse, an award-winning nonprofit newsroom educating the public on military service, war, and its impact. Prior to this, David worked at the U.S. Government Accountability Office as a Strategic Planning and Foresight Analyst. For nearly nine years, he taught public policy writing, consulted with researchers on the design and execution of governmental audits and evaluations, facilitated message development exercises, and wrote and edited reports and testimonies for the U.S. Congress. For six years, he also taught public policy writing at Johns Hopkins University. “It Would Be a Mistake to Underestimate Russia”: The New Cold War That’s Emerging in the Arctic” – The War Horse – Nov 19th - #E&F - https://thewarhorse.org/military-arctic-new-cold-war-with-russia-and-climate-change/

One of the greatest risks, according to Niklas Granholm, is that the Arctic region will undergo a “Balkanization” like what occurred in Eastern Europe after the fall of the Soviet Union. Granholm is the deputy director of studies at the Swedish Defence Research Agency, and he points to the Faroe Islands calling for self-rule from Denmark, Scotland clamoring for independence from the United Kingdom after Brexit, and the resurgence of troubles in Northern Ireland as indicators that more fragmentation and political division in the Arctic could lead to less cooperation or even hostility. Paired with the great-power competition among the United States, Russia, and China, any Balkanization of the region would, in Granholm’s words, be a “double whammy” and could make the Arctic much more combustible.

“Whatever happens in the Arctic won’t stay there,” he said. “It will escalate.”

Is this the beginning of a new Cold War?

The new Norwegian radar system undermines Russia’s ability to launch a retaliatory nuclear strike from its submarine fleet in the Arctic, New York Times reported, and that bothers Russia, according to Lt. Col. Tormod Heier, a faculty adviser at the Norwegian Defense University College. Because it upsets the strategic nuclear balance between the United States and Russia, the new radar system establishes a blow to Russia’s last indisputable claim to great-power status.

“There is a new Cold War,” Heier told the Times, adding that the risk of nuclear war was much higher now than in the old Cold War “because Russia is so much weaker, and because of that much more dangerous and unpredictable.”

In recognition of the threats posed by a new Cold War, the Pentagon released an updated National Defense Strategy in January 2018. While the document makes no specific mention of the Arctic, it recognizes the threats posed by great-power competition (especially as it relates to America’s eroding competitive edge) and clarifies that potential conflict with Russia and China had supplanted terrorism as the biggest threat to American national security.

To achieve this end state, the United States must confront three risks that, if they materialized, would stand in the way. First, bad actors could use the Arctic as a staging ground for an attack on the U.S. homeland. Second, states like Russia and China could challenge the rules-based international order in the Arctic in ways that could lead to conflict. Third, but not least, tensions, competition, and conflict in other parts of the world could spill over into the Arctic.

Three months later, the U.S. Coast Guard released its own strategy for the Arctic, which called for funding to upgrade ships, aircraft, and unmanned systems operating in the region. Admiral Karl Schultz, the Coast Guard’s commandant, told the Washington Post that the goal should be to return the Arctic to a “peaceful place where we work to cross international lines here with partner nations that share interests in a transparent fashion.” Projecting sovereignty, he continued, will help expedite that return.

But all these plans have failed to persuade decision makers to establish new organizational structures designed to address changes in the Arctic wrought by climate change and the rush to exploit the region’s natural resources. The plans do not include any substantive plans to guide the construction of infrastructure needed in the region, nor do they detail how resources will need to be reallocated to mitigate risks and help the United States reach its desired end state. They provide a vision for the future, but they do not provide a road map on how to get there.

Russia won’t back down

In late August 2019, a Russian submarine emerged from the icy waters near the North Pole and fired a Sineva-type intercontinental ballistic missile capable of carrying a nuclear warhead. That same day, another Russian submarine in the Arctic Circle launched a Bulava-type intercontinental ballistic missile from beneath the surface of the Barents Sea. One missile hit a remote corner of Russia’s Pacific coast, and the other landed on the Kanin Peninsula. Twelve years after Russia planted its flag on the seabed below the North Pole, this demonstration of its military capabilities in the Arctic can be seen as its latest attempt to assert its sovereignty in the region. Against a broader backdrop of distrust and diminished communication across the U.S.-Russia divide, there exists a risk that relatively minor miscalculations or misinterpretations could escalate into broader conflict.

#### [ ] Space conflict causes extinction

* creates “use it or lose it” pressures bc an attack on a satellite creates communication and (subsequently) warfighting vulnerabilities;
* outweighs on probability

Marshall ‘21

Timothy John Marshall is a British journalist, author and broadcaster, specialising in foreign affairs and international diplomacy. He is a guest commentator on world events for the BBC. Marshall's blog, 'Foreign Matters', was short-listed for the Orwell Prize 2010.[8] In 2004 he was a finalist in the Royal Television Society's News Event category for his Iraq War coverage. He won finalist certificates in 2007, for a report on the Mujahideen, and in 2004 for his documentary 'The Desert Kingdom' which featured exclusive access to Crown Prince Abdullah and his palaces. “War in space is a growing threat – with hypersonic missiles and lasers to shoot down satellites” - This is an edited excerpt from the book: The Power of Geography: Ten Maps That Reveal the Future of Our World by Tim Marshall - April 20, 2021 - #E&F – modified for language that may offend - https://inews.co.uk/news/long-reads/space-war-lasers-missiles-satellites-conflict-tim-marshall-963439

Without binding treaties, low Earth orbit is a probable battlefield for military weapons aimed firstly at rivals within the belt, and then below it.

Russia and China have made organisational changes in their military, as have the Americans with the formation of the US Space Force in 2019. There are concerns that this activity violates the Outer Space Treaty, but it only states that weapons of mass destruction such as nuclear missiles should not be placed “in orbit or on celestial bodies or [stationed] in outer space in any other manner”. There’s nothing in international law to prevent the stationing of laser-armed satellites. And every page of history suggests that if one country does it, so will another, and then another. This is why the US Department of Defence has a mantra: “Space is a war-fighting domain.”

Britain’s space force

The UK Space Command was officially formed on 1 April, staffed from the Royal Navy (RN), British Army and Royal Air Force (RAF), the Civil Service and key members of the commercial sector. Its commander is a former Harrier jump jet pilot, Air Vice-Marshal Paul Godfrey.

The defence think-tank Rusi said after the British announcement that “questions remain as to what a space command means in practice, particularly for a medium-sized space power with few sovereign assets”. It added that “major decisions shaping the future of the UK’s military space capabilities and activities are likely to be taken this year”.

The head of the RAF, Air Chief Marshal Sir Mike Wigston, warned in November that Russia and China were developing anti-satellite weaponry and that the UK must be prepared.

“A future conflict may not start in space, but I am in no doubt it will transition very quickly to space, and it may even be won or lost in space, so we have to be ready and, if necessary, defend our critical national interests.”

In the previous century the possibility of nuclear war threatened to destroy our way of life; now the weaponisation of space ~~looks~~ (seems) as if it will pose a similar danger.

At the inauguration of Space Force, the then US President Donald Trump said: “American superiority in space is absolutely vital… The Space Force will help us deter aggression and control the ultimate high ground.”

The Chinese and Russians view space in the same way. We saw an early attempt to gain this advantage with the American Strategic Defence Initiative in the 80s, trying to develop a missile-defence system that could protect the US from nuclear attack. One of the options it investigated was space-based weaponry, earning it the name “Star Wars”.

Now the development of hypersonic missiles, which can fly at more than 20 times the speed of sound, is also focusing attention on this area. Unlike conventional intercontinental ballistic missiles, hypersonic missiles do not fly in an arc and can change direction and altitude. Therefore, at launch the potentially targeted country cannot work out where they are heading and co-ordinate their defences. Hitting a missile with a missile is hard enough; hypersonic missiles make it much more difficult.

Governments are examining the possibility of positioning anti-hypersonic laser systems in space to fire downwards. But machines capable of firing on the laser systems would then be developed, and then defensive systems for them – a space arms race.

The situation will only become more complicated as we continue to turn science fiction into reality. An example of that came in July 2020. Russia’s Kosmos 2542 military satellite had been “stalking” an American satellite, USA 245, at times coming within 150km of it, a distance regarded as close. It then released a mini satellite from within it – Kosmos 2543. The US military calls these “Russian dolls”. This “baby” Kosmos also shadowed the American spacecraft before manoeuvring towards a third Russian satellite. It then appeared to fire a projectile travelling at more than 400mph.

The Kremlin says it was simply inspecting the condition of its satellites, but the British and Americans both believe it was a weapons test. The US also shadows foreign satellites and is researching its own space weapons, but it was furious about what it believes was a breach of conventional behaviour. Such protocols and understandings are not codified in ratified law. But the threat to satellites is one that all countries must take seriously.

Dangers in orbit

Satellites are vital for modern warfare. All advanced countries rely on satellites for intelligence and surveillance. If a series of military satellites were hit, the high command would immediately worry that this was a precursor to being attacked on the ground. Early-warning systems of a nuclear launch might go down, triggering a decision on whether to launch first. Even if a conflict remained non-nuclear, the other side would have the advantage of precision-targeting its enemy and moving its own forces without being “seen”, while its opponent’s ability to send encrypted communications would also be limited.

This is all a very real threat. Already Russia, China, the US, India and Israel have developed “satellite-killer” systems. Techniques are being invented to shoot down satellites with lasers, to “dazzle” them so they cannot communicate, to spray them with chemicals, and even to ram them. And with no laws about who can be where, how close they can be and what activity is allowed, there is the growing danger of an exercise, or even faulty navigating, being mistaken for an impending attack.

#### We control the vital internal link to agency independence. Freedom from external officials that can be dismissed *by the will of POTUS* is key.

Bannan ‘21

et al; Christine Bannan is policy counsel at New America’s Open Technology Institute, focusing on platform accountability and privacy. Prior to joining OTI, she worked as consumer protection counsel at the Electronic Privacy Information Center, where she advocated for stronger privacy regulations before federal agencies and Congress. She is an Internet Law and Policy Foundry Fellow and a Certified Information Privacy Professional (CIPP/US). Bannan earned her J.D. from Notre Dame Law School - “Does Data Privacy Need its Own Agency?”- Last updated on June 9th, 2021 - #E&F - https://www.newamerica.org/oti/reports/does-data-privacy-need-its-own-agency/introduction

Agency independence depends on the extent to which the executive branch can direct the work of the agency.110 While there is no one specific feature of independence common to all independent executive agencies, there are agency design choices that make an agency more independent or less independent.111 A central determinant of agency independence is the extent to which the president can remove the leadership personnel: at will, meaning for any reason, or for cause, meaning only for “inefficiency, neglect of duty, or malfeasance in office.”112

Two Supreme Court cases challenging the independence of the FTC and CFPB have made it clear that there are two constitutionally permissible administrative agency models: either an agency is led by a single director serving at the will and direction of the president or an agency is led by a multi-member body that can only be removed for cause. The 1935 case Humphrey’s Executor v. United States held that the FTC structure was constitutional because “Congress could create expert agencies led by a group of principal officers removable by the President only for good cause.”113 The 2020 case Seila Law v. Consumer Financial Protection Bureau held that the CFPB structure was unconstitutional because an independent administrative agency cannot be led by a single director, therefore any agency with a single director must be removable at will by the president.114

#### Independence is key to effective of anti-competition agencies *in other nations*.

I.C.N. ‘9

“ICN” stands for the “International Competition Network” – The ICN provides competition authorities with a specialized yet informal venue for maintaining regular contacts and addressing practical competition concerns. This allows for a dynamic dialogue about sound competition policy principles across the global antitrust community. The ICN is unique as it is the only global body devoted exclusively to competition law enforcement and its members represent national and multinational competition authorities. Report on the Agency Effectiveness Project Second Phase – Effectiveness of Decisions Prepared by The Competition Policy Implementation Working Group - #E&F – June - https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/09/AEWG\_AEReportDecisions22009.pdf

E. Independence of decision making body

With the exception of Chile, all agency responses indicate that the independence of the decision making body affects the effectiveness of agency decisions. Many agencies 82 cited this as one of the most important factors in reaching effective agency decisions. Several responses83 stated that agency independence is important in order to avoid pressures on the agency that could weaken its legitimacy and the soundness of its decision making and enforcement policy.

F. Additional factors

The Spanish agency mentions the level of fines and publicity of decisions as important to achieving deterrence, while Romanian agency points out that transparency in decision-making triggers the accountability of the agency.

2. The Most Important Determinative Factors on Agency Effectiveness

Of the factors that were identified on the questionnaire, ten agencies84 declined to identify any as the single most important, indicating that they were all important. Of the remainder, agency independence was most often listed among their top priorities. Some 85 indicated that quality, proper implementation and monitoring of the decisions was most important. For others,86 adequate powers to ensure compliance with the decisions were the most important factor. Six 87 agencies considered the quality of professional staff as the most important factor.

#### Here’s a list of the nations involved in this report.

I.C.N. ‘9

“ICN” stands for the “International Competition Network” – The ICN provides competition authorities with a specialized yet informal venue for maintaining regular contacts and addressing practical competition concerns. This allows for a dynamic dialogue about sound competition policy principles across the global antitrust community. The ICN is unique as it is the only global body devoted exclusively to competition law enforcement and its members represent national and multinational competition authorities. Report on the Agency Effectiveness Project Second Phase – Effectiveness of Decisions Prepared by The Competition Policy Implementation Working Group - #E&F – June - Continues to footnote - https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/09/AEWG\_AEReportDecisions22009.pdf

In 2008-2009 ICN year, the Competition Policy Implementation (CPI) Working Group began the second phase of its effectiveness work (as provided in the Work Plan) on the analysis of the relation between the definition of priorities and resource allocation, and the effectiveness of competition agencies’ decisions with a focus on the compliance with agency decisions (e.g. payment of fines, compliance with behavioral and structural remedies imposed (such as divestitures, amendments to contracts, etc.). This work is the continuation of CPI’s 2007-2008 Effectiveness Project (Project), which is premised on the idea that the effectiveness of competition policies depends not only on the quality of agency decisions and knowledge of best practice but also on the enforcer’s ability to address cases and effectively manage its workflow. As observed in that report1 of the Project, effectiveness depends on a variety of factors, including the quality of decisions and the availability of human and financial resources.

The definition of ‘effectiveness’ in this year’s work is limited to the case decisions taken by the agencies and does not take into account whether the agencies’ strategic planning, communication capacity, competition advocacy, and/or organizational capabilities have an overall impact. Instead, this phase of the Project examines authorities’ institutional powers to obtain compliance with decisions imposing remedies and sanctions. To collect this information, the CPI Working Group prepared a questionnaire, which was sent to all members. Therefore, the questionnaires focused on decision making procedures and on the monitoring and implementation stages of decisions.

The increase in the number of ICN members that responded to the questionnaire, rising from 20 agencies in 2007-2008 to 37 agencies in 2008-2009, likely indicates the growing recognition of the importance of this subject. It is hoped that this work will form a useful tool for competition agencies in their efforts to deal with compliance and the long term effects of agency decisions.

II. METHODOLOGY

This report on effectiveness of decisions is based on questionnaire responses from agencies 2 in 36 jurisdictions. In addition, this year non-governmental advisors (NGAs) were asked to complete questionnaires separate from those submitted to agencies, in order to get their perspective on the subject. This report is a summary of the responses to agency questionnaires, and will constitute a key input for the discussion panel and breakout sessions at the ICN Annual Conference in Zurich. The agencies that participated in the project represent both newer and more mature agencies from various regions, and thus the responses reflect differing experiences. Despite the difference in perspective among jurisdictions, numerous points of convergence also emerged.

2 Bosnia and Herzegovina (Council of Competition), Brazil (Council for Economic Defense - CADE), Bulgaria (Commission on Protection of Competition), Chile (Fiscalia Nacional Economica - FNE), Colombia (Competition Promotion, Superintendencia de Industria y Comercio - SIC), Croatia (Croatian Competition Agency), Czech Republic (Office for the Protection of Competition), Cyprus (Commission for the Protection of Competition), El Salvador (Superintendencia de Competencia), Estonia (Estonian Competition Authority), European Commission (Directorate General for Competition - DG-Comp), Finland (Finnish Competition Authority), France (Autorité de la concurrence), Germany (Bundeskartellamt), Greece (Hellenic Competition Commission), Honduras (Commission Competition), Hungary (Gazdasági Versenyhivatal), Ireland (Irish Competition Authority), Japan (Japan Fair Trade Commission - JFTC), Kazakhstan (Agency of the Republic of Kazakhstan for Protection of Competition), Korea (Korean Fair Trade Commission-KFTC), Lithuania (Competition Council), New Zealand (New Zealand Commerce Commission) Panama (Autoridad de Proteccion al Consumidor y Defensa de la Competencia), Poland (Office of Competition and Consumer Protection – OCCP), Romania (Romanian Competition Council), Russia (Federal Antimonopoly Service - FAS), Serbia (Commission for Protection of Competition), Slovak Republic (Antimonopoly Office of the Slovak Republic), Spain (Comisión Nacional de la Competencia -CNC), Switzerland (Competition Commission - Comco), Taiwan (Fair Trade Commission), Turkey (Rekabet Kurumu), Tunisia (Competition Council), United Kingdom (Office of Fair Trade - OFT), United States of America ((Department of Justice, Antitrust Division (DOJ), and Federal Trade Commission (FTC))

## Case

#### No impact to bio-d loss

Kareiva 12 (Peter Kareiva et. al, – Chief Scientist and Vice President of the Nature Conservancy, Michelle Marvier, Robert Lalasz, “Conservation in the Anthropocene Beyond Solitude and Fragility”, The Breakthrough, http://thebreakthrough.org/index.php/journal/past-issues/issue-2/conservation-in-the-anthropocene/)

2.

As conservation became a global enterprise in the 1970s and 1980s, the movement's justification for saving nature shifted from spiritual and aesthetic values to focus on biodiversity. Nature was described as primeval, fragile, and at risk of collapse from too much human use and abuse. And indeed, there are consequences when humans convert landscapes for mining, logging, intensive agriculture, and urban development and when key species or ecosystems are lost.

But ecologists and conservationists have grossly overstated the fragility of nature, frequently arguing that once an ecosystem is altered, it is gone forever. Some ecologists suggest that if a single species is lost, a whole ecosystem will be in danger of collapse, and that if too much biodiversity is lost, spaceship Earth will start to come apart. Everything, from the expansion of agriculture to rainforest destruction to changing waterways, has been painted as a threat to the delicate inner-workings of our planetary ecosystem.

The fragility trope dates back, at least, to Rachel Carson, who wrote plaintively in Silent Spring of the delicate web of life and warned that perturbing the intricate balance of nature could have disastrous consequences.22 Al Gore made a similar argument in his 1992 book, Earth in the Balance.23 And the 2005 Millennium Ecosystem Assessment warned darkly that, while the expansion of agriculture and other forms of development have been overwhelmingly positive for the world's poor, ecosystem degradation was simultaneously putting systems in jeopardy of collapse.24

The trouble for conservation is that the data simply do not support the idea of a fragile nature at risk of collapse. Ecologists now know that the disappearance of one species **does not** necessarily lead to the extinction of any others, much less all others in the same ecosystem. In many circumstances, the demise of formerly abundant species can be inconsequential to ecosystem function. The American chestnut, once a dominant tree in eastern North America, has been extinguished by a foreign disease, yet the forest ecosystem is surprisingly unaffected. The passenger pigeon, once so abundant that its flocks darkened the sky, went extinct, along with countless other species from the Steller's sea cow to the dodo, with no catastrophic or even measurable effects.

These stories of resilience are not isolated examples -- a thorough review of the scientific literature identified 240 studies of ecosystems following major disturbances such as deforestation, mining, oil spills, and other types  of pollution. The abundance of plant and animal species as well as other measures of ecosystem function recovered, at least partially, in 173 (72 percent) of these studies.25

While global forest cover is continuing to decline, it is rising in the Northern Hemisphere, where "nature" is returning to former agricultural lands.26 Something similar is likely to occur in the Southern Hemisphere, after poor countries achieve a similar level of economic development. A 2010 report concluded that rainforests that have grown back over abandoned agricultural land had 40 to 70 percent of the species of the original forests.27 Even Indonesian orangutans, which were widely thought to be able to survive only in pristine forests, have been found in surprising numbers in oil palm plantations and degraded lands.28

Nature is so resilient that it can recover rapidly from even the most powerful human disturbances. Around the Chernobyl nuclear facility, which melted down in 1986, wildlife is thriving, despite the high levels of radiation.29 In the Bikini Atoll, the site of multiple nuclear bomb tests, including the 1954 hydrogen bomb test that boiled the water in the area, the number of coral species has actually increased relative to before the explosions.30 More recently, the massive 2010 oil spill in the Gulf of Mexico was degraded and consumed by bacteria at a remarkably fast rate.31

Today, coyotes roam downtown Chicago, and peregrine falcons astonish San Franciscans as they sweep down skyscraper canyons to pick off pigeons for their next meal. As we destroy habitats, we create new ones: in the southwestern United States a rare and federally listed salamander species seems specialized to live in cattle tanks -- to date, it has been found in no other habitat.32 Books have been written about the collapse of cod in the Georges Bank, yet recent trawl data show the biomass of cod has recovered to precollapse levels.33 It's doubtful that books will be written about this cod recovery since it does not play well  to an audience somehow addicted to stories of collapse and environmental apocalypse.

Even that classic symbol of fragility -- the polar bear, seemingly stranded on a melting ice block -- may have a good chance of surviving global warming if the changing environment continues to increase the populations and northern ranges of harbor seals and harp seals. Polar bears evolved from brown bears 200,000 years ago during a cooling period in Earth's history, developing a highly specialized carnivorous diet focused on seals. Thus, the fate of polar bears depends on two opposing trends -- the decline of sea ice and the potential increase of energy-rich prey. The history of life on Earth is of species evolving to take advantage of new environments only to be at risk when the environment changes again.

The wilderness ideal presupposes that there are parts of the world untouched by humankind, but today it is impossible to find a place on Earth that is unmarked by human activity. The truth is humans have been impacting their natural environment for centuries. The wilderness so beloved by conservationists -- places "untrammeled by man"34 -- never existed, at least not in the last thousand years, and arguably even longer.

#### Psychoanalysis does not justify the immutability of settler colonial ontologies.

Alex Trimble **Young &** Lorenzo **Veracini 17.** Alex Trimble Young is an honors faculty fellow in the Barrett Honors College at Arizona State University. He serves on the editorial collective of the interdisciplinary journal Settler Colonial Studies. Lorenzo Veracini is at the Swinburne University of Technology in Melbourne, Australia. His research focuses on the comparative history of colonial systems. He has authored Israel and Settler Society (2006), Settler Colonialism: A Theoretical Overview (2010), and The Settler Colonial Present (2015). Lorenzo is coeditor of The Routledge Handbook of the History of Settler Colonialism (2016) and editor in chief of Settler Colonial Studies. 2017. “‘If I Am Native to Anything’: Settler Colonial Studies and Western American Literature.” Western American Literature, vol. 52, no. 1, pp. 1–23.

Apprehending this history as what Jodi Byrd has called the “transit” over which the international “postwestern” cityscape of Las Vegas is realized leads us into a reading of a very different type of frontier than the one memorialized on Fremont Street (Transit xv). Read this way, as a site of Indigenous dispossession, the West cannot be seen as a dynamic site of pure possibility, as Gilles Deleuze and Félix Guattari have represented it, as “a rhizomatic West, with its Indians without ancestry, its ever- receding limit, its shifting and displaced frontiers” (19). The repetitive revisitation of frontier tropes recalls what critic Hamish Dalley calls “the frozen temporality of settler- colonial narrative,” which, “fixated on the moment of the frontier, recalls nothing so much as Freud’s description of the ‘repetition compulsion’ attending trauma” (Dalley). The “hyperreal West” in this context emerges as a fantasy (Lewis 194), in the sense that theorist Jacqueline Rose describes in her work on Israel/Palestine. “Never completely losing its grip, fantasy is always heading for the world it only appears to have left behind” (3).5 Of course settler colonialism is but one of the “secret histories of Las Vegas” that underwrite the postmodern wonderland visitors fi nd on Fremont Street and the strip, and but one of many structures of violence that shape life in the contemporary western United States.6 Nonetheless, it remains a structure central to the consideration of “westness.” As the postwestern critics argue, “westness” is neither contained by geography (as the popularity of the Western genre internationally attests), nor necessarily representative of cultural production being produced within the western United States (Kollin x– xi). When we speak of a cultural production as “Western,” we are speaking of a work that addresses the process and consequences of settler conquest, whether we are discussing a California memoir, an Australian novel, or an Italian fi lm.7 This is not to say that Western cultural production is always a result of settler colonial ideology, but rather that it is engaged with questions pertaining to it. Th e problem of the West is, in a crucial sense, the problem of settler colonialism. Imagining postwestern futures thus requires a critical outlook that is more than just inclusive in its politics, transnational in its scope, and poststructuralist in its methodology. Our movement toward the “post” in the conceptual space of the Western must be decolonial in its orientation. Such a critique would abandon unilateral settler attempts at postnational place-making in order to critique settler colonial structures of violence. Such a critique would not work to reify these structures as permanent or inevitable, but rather to probe their contradictions, and to promote the Indigenous intellectual traditions that have long been at work critiquing the settler colonial present in order to shape a decolonial future.8 We hope that this special issue of Western American Literature, which features critical readings of western American film and literature by three scholars from different fields and national backgrounds, can contribute toward this effort.

#### No offense – our model is possibilist thinking with some considerations of probability – prevents decision-overload and inaction – comparisons to daily-life miss the boat

Clarke 8 ---- Lee, member of a National Academy of Science committee that considered decision-making models, Anschutz Distinguished Scholar at Princeton University, Fellow of AAAS, Professor Sociology (Rutgers), Ph.D. (SUNY), “Possibilistic Thinking: A New Conceptual Tool for Thinking about Extreme Events,” Fall, Social Research 75.3, JSTOR \*\*\*Modified for ableist language

Probabilistic thinking is not the only available rhetoric with which to make sense of risks, hazards, and disasters. I have proposed the idea of possibilistic thinking (Clarke, 2006b) as a complement to probabilistic thinking. Possibilistic thinking highlights consequences of events, slight- ing, to some degree at least, the likelihood that such events will occur. A possibilistic approach shifts our gaze away from the center of a normal distribution out to its tails. A possibilistic approach acknowledges that a civilian nuclear power plant is unlikely to melt down, but wonders what happens if a plant has a particularly bad day. From a possibilistic point of view, it can be entirely sensible to pay attention to events and phenomena even though they do not occur frequently enough to generate a probability distribution. As Sagan (1993:12) has written, "things that have never happened before happen all the time." Various scholars and arguments, as I have noted, regard such logic as extremist, defeatist, and irrational. I would be remiss not to acknowledge that people cannot lead all aspects of their lives animated by possibilistic thinking. Similarly, organizations cannot run effectively nor societies be organized reasonably strictly on the basis of possibilis- tic thinking. When such happens mental and social ~~paralysis~~ [inaction] ensue. Indeed, this is known as "analysis ~~paralysis~~ [shutdown]" in the decision-making literature in public policy and public management. It is the essential character of the paranoid to ignore probabilities. Erich Fromm once told the US Senate Foreign Relations Committee that "the paranoid person is so removed from reality that he bases his beliefs on mere possibility. The normal person bases his beliefs on a greater or lesser degree of probability" (Fromm, 1975). My argument is not that we should jettison probabilistic reason- ing but that possibilistic reasoning is not a simple emotional, irratinal, senseless response to a hazard or perceived hazard. Rather, careful consideration of consequences along with likelihood of occurrence is often quite sensible. Consider flying. From a probabilistic point of view, flying in modern jet aircraft is the safest way to travel, for two reasons. First, it is highly unlikely that someone will be hurt or killed traveling in such a manner. Second, flying is peculiarly safe relative to other modes of transportation, especially driving automobiles. Probabilistically speak- ing, people who worry about flying let their emotions get the better of them. These are the people who become visibly nervous when airplanes run into turbulence; they are the ones whose fears are out of propor- tion to the likelihood of a plane crash. Their nervousness looks different, however, from a possibilistic point of view. Planes do occasionally lose power in all their engines. Sometimes they collide in midair. Modern jet liners have exploded in flight. None of these events - and it is not an exhaustive list - are likely and nearly all people who fly know that, which is one reason that more and more people fly every year. But when those kinds of events do happen, probability does not matter. If an airplane is 35,000 feet in the sky and there is an explosion on it, it makes no sense to talk about probabilities of survival. It is the possibilities that make people nervous when they run into turbulence. In fact possibilistic thinking is more widespread than might first be apparent. As a moment of imagination, such thinking in fact perme- ates society, but lives an uncomfortable existence with probabilistic thinking. That possibilistic thinking is widespread suggests that indi- viduals and social units can function effectively even while employing it. In other words, just because paranoia is characterized by possibilistic thinking does not mean that all possibilistic thinking is paranoid. Let us examine just a few other cases, across several levels of social organi- zation.

#### Their heuristic prevents understanding extreme events

Clarke 8 ---- Lee, member of a National Academy of Science committee that considered decision-making models, Anschutz Distinguished Scholar at Princeton University, Fellow of AAAS, Professor Sociology (Rutgers), Ph.D. (SUNY), “Possibilistic Thinking: A New Conceptual Tool for Thinking about Extreme Events,” Fall, Social Research 75.3, JSTOR

Clearly, probabilistic thinking cannot provide the full range of concepts necessary to understand extreme events. Nor can probabilistic thinking provide clear and unequivocal counsel for social policy regarding disaster. For if decisions were made and policy formulated only on the basis of probabilities, we would be pushed in the direction of committing resources to hazards only on the basis of their likelihood of occurrence. While that is a sensible way to approach resource allocation, it is not the only sensible way. Relying almost exclusively on a probabilistic approach leaves little room for a reasonable argument that we should also worry about nuclear plant meltdowns, train accidents involving toxic chemi- cals, increases in hurricane intensity from global warming, asteroid strikes, airplane crashes, or bird flu. It is in the nature of "extreme events" that they are statistically rare and that they do not provide us with a distribution of events to which we could attach probabili- ties. The idea of possibilistic thinking complements probabilistic thinking in the social scientific quest to understand how and why people behave as they do.

# 1NR

## PTX

#### Our arg was never that the debt ceiling would never get raised – only that delay getting it through reconciliation risks miscalc and accidental default AND market overreactions to brinksmanship

Strain 9-10-21 (Michael R. Strain, director of economic policy studies and Arthur F. Burns Scholar in Political Economy at the American Enterprise Institute, Bloomberg Opinion columnist, “Raise the Debt Ceiling, Republicans. You’ll Be Glad You Did.” The Washington Post, 9-10-2021, https://www.washingtonpost.com/business/raise-the-debt-ceiling-republicans-youll-be-glad-you-did/2021/09/10/046e31de-123c-11ec-baca-86b144fc8a2d\_story.html)

It’s unfortunate but true: Influential Republican politicians are playing another round of political chicken that could easily lead to a damaging brush with default on the national debt. There are better ways for them to rein in excessive Democratic spending plans that don’t endanger financial markets, taxpayers and their own political self-interest.

The U.S. is flirting with default this fall, as it did twice before in the past decade. For the government to pay its bills, Congress needs to increase the nation’s debt limit, an increasingly problematic legal requirement imposed a century ago. Unfortunately, it’s looking like this routine function of government will descend into a partisan fight. While there’s little doubt that the limit will eventually be raised, even merely pushing up against it would be damaging.

It’s hard to say precisely when the government will run out of money because the Treasury Department’s cash receipts fluctuate, particularly during the pandemic. Treasury estimates that it will run out of funds sometime in October.

Senate Republicans have made clear that they want no part in increasing the borrowing limit to raise the necessary cash. On Aug. 10, 46 of the chamber’s 50 Republicans released a letter informing Senate Democrats that they won’t vote to increase the debt ceiling.

Republican frustration is understandable. Since January, Democrats have been threatening to use a procedure known as “reconciliation” to pass a $3.5 trillion spending bill with a simple majority, rather than the 60-vote supermajority typically required in the Senate. GOP senators are asking: If reconciliation is available to pass, say, paid family leave and universal pre-kindergarten programs, why not force Democrats to use it to lift the government’s borrowing limit without Republican assent?

This question has answers. First, it’s unclear whether the reconciliation rules would allow a debt-ceiling increase to be passed as a stand-alone bill. The Senate doesn’t have a lot of experience using this procedure, and my conversations with top aides on Capitol Hill indicate a lot of confusion on this point.

Another suggestion is that Democrats include the debt-ceiling increase in their $3.5 trillion reconciliation bill, which would create and expand major climate and social programs and lacks any Republican support. But there’s no guarantee that the spending bill will be able to get the unanimous Democratic support needed to pass it by a simple majority, or that it would pass before the government would need to increase the borrowing limit to avoid default. House Speaker Nancy Pelosi closed the door on this option on Wednesday. In addition, it’s an odd strategy to push for including a must-pass provision in a bill that you don’t want to pass.

Republicans want to preserve the filibuster, the 60-vote threshold required for most legislation. Without it, Democrats could run the table, passing their agenda with a simple majority in the Senate. Refusing to raise the debt ceiling and forcing Democrats to find a way to increase it with a 51-vote majority will substantially weaken the GOP’s claim that the Senate can carry out basic functions of responsible governance with the chamber’s supermajority requirement in place. By refusing to help lift the debt ceiling, the GOP would be putting the legislative filibuster at risk.

There’s no chance that the debt ceiling won’t eventually be raised. The only question is how much damage is incurred along the way.

Even edging close to defaulting is dangerous, as recent experience shows. According to the Government Accountability Office, debt-ceiling brinkmanship pushed up interest rates in 2011, leaving taxpayers on the hook for an extra $1.3 billion in government borrowing costs in that year alone. The Bipartisan Policy Center estimated that the 10-year cost was roughly $19 billion.

Financial market volatility and measures of economic policy uncertainty spiked, and consumer confidence plummeted. Republicans — whose cultural agenda has strong appeal among higher-income, college-educated voters — should note that stock prices also fell, reducing the value of retirement and college-savings plans.

An even bigger threat than a close call would be temporarily defaulting. This scenario is made more likely because of multiple sources of intersecting uncertainty: precisely when the government will run out of cash, reconciliation rules, the fate of the $3.5 trillion spending bill, and whether Congress can pass a measure this month to prevent a government shutdown. It’s unclear how an effort to raise the debt limit might be intertwined with any of these. In all this activity and confusion, the unthinkable might happen.

Republicans should anticipate that if they push too hard, the stock market is likely to drop by thousands of points per day and they would take most of the blame. After one or two days, Congress would surely pass a debt-limit increase with overwhelming bipartisan support. In this scenario, what has the GOP accomplished?

Instead of refusing to lift the debt ceiling, Republicans should find something to trade with the Democrats. Disaster-relief funds. A larger defense budget. Or something. Find 10 Republican senators to join forces with 50 Democrats to meet the Senate’s supermajority requirement. Let the rest of the GOP — especially those who have to run for re-election in 2022 — off the hook.

This would be responsible governance, ensuring that the U.S. honors its financial obligations. It would constitute a strong argument for retaining the legislative filibuster. If done quickly, it would avoid the economic and political damage from brinkmanship. If done with a bill to keep the government funded, it would refocus public attention on the Democrats’ floundering efforts to pass President Joe Biden’s legislative agenda.

Quickly and quietly taking care of this is in the party’s — and the country’s — best interest.

#### It’s NOT certain – there’s only barely enough time before markets freak out in anticipation and our impact’s triggered – ANY disruption to the timeline is fatal

Myers et al 10-1-21 (Charles Myers, Chairman of Signum Global Advisors, over 20 years of US political and electoral experience advising candidates in Presidential, Senate, House of Representatives, Gubernatorial and Mayoral races, including Hillary Clinton and President Joe Biden, 25 years of experience in global financial markets, former Global Head of Equities and Board Member at Fox-Pitt, Kelton, M. Phil Cambridge University, BA Amherst College; interviewed by Matt Peterson, ideas editor for Barron's Group, has covered the economy, politics, and global affairs for more than 15 years, formerly worked for The Atlantic, Eurasia Group, and Yale University; “‘Go for Growth at Any Cost’: What’s Driving Democratic Strategy into the Midterms,” Barron’s, 10-1-2021, https://www.barrons.com/articles/whats-driving-democratic-strategy-into-the-midterms-biden-debt-ceiling-51633119902)

Barron’s: Let’s level-set. How dysfunctional is the policy process right now on a scale of one to 10? One is, say, we’re going to breach the debt ceiling, and 10 is things are working well.

Charles Myers: It varies by issue. On BIF [the bipartisan infrastructure framework] and on reconciliation, I would say the dysfunction is far less than it appears from the outside, meaning internally within the Democratic Party. We could even have a vote on BIF tonight. It may slip until tomorrow. They’re very close. On that issue, I would give it an eight, despite the noise.

On the debt ceiling, I would give it a two because the Democratic leadership is insisting that Republicans vote with them to lift or suspend the ceiling. That’s just not going to happen. Their procedural alternative to raise the ceiling is to pass a new budget resolution, just the Democrats, and then hold a standalone vote on the debt ceiling and lift it to a new number. From everything we’ve seen, that process could take seven to 10 days. If they really accelerated, there’s a possibility they could do it in three to four days, but that’s assuming everything works perfectly. Nothing in Washington ever works perfectly.

The risk on the debt ceiling is that we get much closer to the edge than is comfortable for the markets. If there’s no clarity on resolution of the debt ceiling, I would argue, before the 8th, 9th, 10th of October, the markets will start to really sell off. Then the risk of missteps and actually breaching the ceiling is quite high.

On that issue at the level of dysfunction is quite high because of the politics involved and how angry the Democrats are that they did vote in a bipartisan way three times under President Trump to raise or suspend the ceiling.

Barron’s: What would tip the Democrats over into starting the reconciliation process to raise the debt ceiling? Because as you said, right now, they’re angry that Republicans don’t want to help.

Charles Myers: It’s going to be a function of two things. One, if BIF actually passes in the House, it gets that done and is a big win for Biden and for the Democrats. The second thing is the calendar, meaning reality. As we head into the next four to five days, the leadership is really bumping up against a calendar deadline, that in fact could — and they’re very much aware of this — put them in very dangerous waters.

Barron’s: It sounds like even in the best-case scenario, we’re looking at much of October being filled with alarming headlines from Washington.

Charles Myers: On the debt ceiling, yes. For the market, it’s the single biggest issue right now in the very short term. Our base case is the Democrats will raise it just in time, but we’re going to get a little closer to the edge than is comfortable for the market.

#### Every day of delay matters

Levitz 9-30-21 (Eric Levitz, Associate Editor of Daily Intelligencer and Senior Writer at New York Magazine, MA Fiction Writing, Johns Hopkins University, “How Biden Could End the Debt-Ceiling Crisis by ‘Minting the Coin’,” Intelligencer, New York Magazine, 9-30-2021, https://nymag.com/intelligencer/2021/09/debt-ceiling-mint-the-coin-explained.html)

How congressional Democrats could raise the debt ceiling on their own

Democrats can’t pass an ordinary bill raising the debt ceiling without either (1) Senate Republicans’ cooperation or (2) abolishing the legislative filibuster. The GOP refuses to provide the former, and Joe Manchin loves the latter more than life.

But that still leaves Democrats with one viable option. A special type of legislation known as a “budget reconciliation bill” cannot be filibustered in the Senate. And budget reconciliation can be invoked to raise the debt limit once every fiscal year. Democrats could therefore use that process to pass a debt-ceiling hike on their own. This is, in fact, what McConnell has told the party to do.

The downside of this option is that budget reconciliation is an elaborate process chock-full of so many arbitrary rules that it would take weeks just to pass a clean debt-ceiling-hike bill through a reconciliation bill. Doing so would also likely require Senate Democrats to cancel their October recess. On Wednesday, the Senate’s second-highest-ranking Democrat, Dick Durbin, told Politico, “Using reconciliation is a nonstarter. We have gone through it twice, I’ve listened, and it takes him about 15 minutes for Chuck Schumer to explain how that works, what it involves. Three or four weeks of activity in the House and Senate.”

This isn’t a great excuse for not raising the debt limit through reconciliation. Yes, the process is arduous. But it would allow Democrats to effectively abolish the debt ceiling, once and for all, by raising the debt limit to ​​ “googolplex dollars,” or else simply decreeing that from this point forward, the debt ceiling will be set at a level equivalent to the total debt that the U.S. government holds.

This said, because reconciliation is arduous, it becomes a less viable option with each passing day. With congressional Democrats still dragging their feet, it’s possible that the fate of the U.S. economy rests on Joe Biden’s willingness to “mint the coin.”

#### Debt ceiling’s a higher priority for Biden

Stratas 9-9-21 (Stratas Foods, “Morning Market Comments,” Market News, Cheney Brothers Inc., 9-10-2021, https://www.cheneybrothers.com/newsletter/CHENEYBROTHERSMARKETNEWS.PDF)

Macroeconomics

Red across the board for the three major indices. The Dow dropped 69points to end at 35,031 while the S&P fell6 points to 4,514. The NASDAQ didn’t buck the trend of the other two and went red for 88 points to 15,286.

In the news, the Beige Book was re-leased and showed that growth in the American economy slowed along with the rise of the Delta variant. Moving forward the news clippings will be focused on the debt ceiling or more importantly the raising of the debt ceiling. The 3.5T infrastructure bill is a priority for the Biden administration after the debt ceiling discussions. Right now, the bill wouldn’t pass but the margin is close. If I was a betting man, I wouldn’t count on the full 3.5T passing but a pared down amount probably will.

#### NO thumpers – infrastructure and everything else is dead – at least for now – focusing PC on debt ceiling

ZB 9-30-21 (ZubuBrothers, market knowledge service that publishes staff-written pieces as well as aggregating news, commentary & opinions from external sources, “Senate Strikes Deal To Avert Shutdown, But Remains Deadlocked On Debt-Ceiling, Domestic Agenda,” 9-30-2021, https://zububrothers.com/2021/09/30/senate-strikes-deal-to-avert-shutdown-but-remains-deadlocked-on-debt-ceiling-domestic-agenda/?amp=1)

Now that Sen. Joe Manchin has denounced his own party’s multi-trillion plan to expand the social safety net as “the definition of fiscal insanity,” we can be virtually assured that the entire Democratic domestic agenda has essentially been left dead in the water, since the progressive Left won’t agree to back the Dems’ “bipartisan” infrastructure plan via reconciliation without first passing the larger spending package through both chambers.

Whatever the outcome, Manchin’s statement suggests it will likely take weeks and months – not days – for President Biden and the leadership to negotiate the votes – if indeed they can ever resolve the intractable divide within their own party, which has largely taken the form of aggressive leftists in the House (exemplified by the AOC-led “squad”) vs. a pair of moderates (Manchin and Arizona’s Kyrsten Sinema) in the Senate.

That’s fortunate, in a sense, since it means Chuck Schumer and Nancy Pelosi will have no choice but to focus on the arguably more pressing priorities: keeping the government funded while raising the debt ceiling, ideally before Treasury Secretary Janet Yellen’s “drop-dead” date of Oct. 18.

(And, of course, placing some hedging trades during last night’s Congressional baseball game).

**[TWEET OMITTED]**

With the Democrats heading for an iceberg of a vote on the infrastructure package Thursday that the left has already promised to sink, Schumer announced late Wednesday night that, at the very least, the leadership had secured a deal to extend funding for the federal government until Dec. 3, crossing off arguably the easiest thing on their “to do” list.

The deadline for the shutdown is midnight tonight (because the new fiscal year starts tomorrow).

“We have an agreement on the the continuing resolution to prevent a government shutdown, and we should be voting on that tomorrow [Thursday] morning,” Schumer said.

The House passed a government funding bill last week on a party-line vote of 220-211.

Now that the spending package has been stripped of Republican-opposed language suspending the debt-ceiling (which analysts fear will only be resolved much, much closer to Yellen’s deadline, which is really the start of a countdown before the money actually runs out) the leadership believes it has the votes to pass a “clean” continuing resolution to fund the government in a series of Thursday-morning votes.

Asked about the progressives’ plans to sink the infrastructure package, Manchin told reporters “I didn’t know I was on their timetable”, referring to the progressive leftists, whose rebellion has threatened to irreparably damage the Biden presidency.

Progressives, led by Washington’s Pramila Jayapal, say they have enough votes in the House to sink the infrastructure package, which has already passed the Senate, but Pelosi appears undeterred. “The plan is to bring the bill to the floor,” she told reporters after returning from a White House meeting with Biden and Schumer yesterday afternoon.

As for the larger spending bill, a few compromise numbers have been thrown around. One reporter said during yesterday’s WH press conference that the heard $2.5 trillion might be a workable number. Manchin has meanwhile hinted he could back $1.5 trillion while Sinema has been more circumspect. The debt ceiling has already passed the House, but remains stuck in the Senate, where Minority Leader Mitch McConnell has managed to get his entire caucus to vote against it, while Dems have said they are unwilling to use the same “reconciliation” short-cut to get the debt-ceiling deal done (which would use up valuable political capital).

As Thursday begins, get ready for another day of non-stop headlines on every marginal development on the Dems’ negotiations, as talks grind on.

#### They’re all priced in regardless – PC may be stretched to the breaking point, BUT only plan’s fiat overcomes selectivity and opens a new partisan battlefront

MIN News 9-16-21 (MIN News, up-to-the-minute news with a focus on global news with an impartial perspective, “The eve of the U.S. Riot,” 9-16-2021, https://min.news/en/world/fdc7c0db566ff0f75dadb19e71f8212b.html)

According to the latest media report on Wednesday (September 8), as US President Biden has no new measures to express the renewal, on September 6 this year, the government's fixed weekly aid payment of 300 US dollars has expired and the disbursement has been terminated. .

However, this Tuesday (September 7), the White House of the United States said that each state can consider whether to extend the grant period according to their own circumstances. If some states want to provide welfare payments to those in need, the White House will continue to support it.

In fact, the United States has also tried before the relief fund expires, but either the relief fund has a smaller scope of impact, or the new bill will be extended soon after it expires. The suspension of unemployment assistance has affected more than 11 million people in the country, including 4.2 million casual workers and 3.3 million long-term unemployed.

So why did the United States not introduce a new bill to extend the bailout when it expired? That's because the US government is working hard to promote the passage of the $1 trillion infrastructure bill and the $3.5 trillion budget to further boost the country's economy. In addition, the country is burdened with 28.7 trillion U.S. dollars in debt and is facing the risk of debt default. There is really no extra energy and money to solve the problem of unemployment assistance.

We must know that the current labor participation rate in the United States is sluggish. As of the end of June this year, there were 10.1 million employment gaps in the country. If relief payments continue, it will only further hinder the release of the country's labor force. It is reported that among the 50 states in the United States, 24 states have stopped distributing benefits.

However, this is not a good solution to the employment problem. If the more than 10 million employment gap can be filled by someone, it would have been filled long ago. Those in need of government relief do not have many labor skills. There are a large number of idlers, drug addicts and anti-social workers in the United States. These people are unwilling to go to work. They just ask for money from the government. Once this group of people cannot get relief from the government, they will naturally go to society to rob them. These poor Americans will have their lives left, and they will become Americans. Serious instability factors.

This is in sharp contrast to the Biden administration's attitude towards the “suspended deportation order” in early August. American housing tenants face the risk of being evicted from their housing if they default on rent. Since the outbreak of the coronavirus pandemic, a large number of tenants have struggled to pay rent on time. The Centers for Disease Control and Prevention (CDC) issued a "suspended eviction order" last September, saving millions of tenants from going out.

At the end of July this year, the "suspended deportation order" expired, and the progressives in the Democratic Party unanimously asked Biden to postpone. The Biden administration also made active efforts for the postponement and successfully extended it for two months. Although the Supreme Court ended the “suspended deportation order” with a 6-3 ruling at the end of August, the then Biden administration did at least make it as long as possible.

Since major states suspended relief payments, many U.S. citizens have expressed dissatisfaction, because there is a long transition period from looking for a job to getting a salary, and rushing to stop the relief payments is detrimental to the normal life of American citizens. Influence. Moreover, some American citizens, because of the sequelae of pneumonia, are unable to perform high-intensity work on their own and stop distributing relief funds. These citizens can only find unsafe jobs with salaries far below the cost of living.

In order to help American citizens through the embarrassing period, the major states have also given 30 days of transition time, but many people say that 30 days are not sufficient at all. Sometimes it may take two months to find a suitable job. During this period, the unemployed people who have no economic income will inevitably lose their income, which will have a serious impact on their lives. And they have to pay a lot of expenses in the past two months, not only for living expenses, but also for some mortgage payments. This government decision will destroy the lives of many people.

And now, the Biden administration must promote the smooth passage of the bipartisan cooperation infrastructure bill and the US$3.5 trillion budget before the end of September to boost Biden's repeated low support rates after the epidemic rebounded and Afghanistan's defeat. At the same time, the Democrats must negotiate with the Republicans in Congress to raise the debt ceiling and avoid government shutdowns. The tight timetable and severely shrinking political capital have made the Biden administration unable to open up a new battlefield on the issue of unemployment benefits.

#### None of their defense assumes a financial crisis during a pandemic – uniquely risks nuclear, chem and bio wars

RECNA, et al 20 (Research Center for the Abolition of Nuclear Weapons, Nagasaki University (RECNA); the Asia-Pacific Leadership Network (APLN); and Nautilus Institute; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary Pandemic–Nuclear Nexus Scenarios,” 12-17-2020, p.7-10, <http://nautilus.org/wp-content/uploads/2020/12/Pandemic-Futures-Nuclear-Risks-v5.pdf>)

The Challenge: Multiple Existential Threats

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come.

The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.[5]

Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order.

In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions—most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply.

The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD—just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons—as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the existential risks posed by retaining these capabilities —are all up for redefinition.

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently—or at all—due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies.

In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon.

To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization[6] of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely—or even impossible—to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

#### Drezner doesn’t deny indirect pathways to war

Drezner 16 (Daniel Drezner, Professor of International Politics, Tufts, Nonresident Senior Fellow, Brookings, “Five Known Unknowns about the Next Generation Global Political Economy,” Project on International Order and Strategy at Brookings, May 2016, http://www.anamnesis.info/sites/default/files/D\_Drezner\_2016.pdf)

Geopolitical ambitions could reduce economic interdependence even further.120 Russia and China have territorial and quasi-territorial ambitions beyond their recognized borders, and the United States has attempted to counter what it sees as revisionist behavior by both countries. In a low-growth world, it is possible that leaders of either country would choose to prioritize their nationalist ambitions over economic growth. More generally, it could be that the expectation of future gains from interdependence—rather than existing levels of interdependence—constrains great power bellicosity.121 If great powers expect that the future benefits of international trade and investment will wane, then commercial constraints on revisionist behavior will lessen. All else equal, this increases the likelihood of great power conflict going forward.