# Neg vs. Liberty SD-ADA Rd 2

# Round 2 1NC

## Section 5 CP

#### *Next off – 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 private sector conduct that engages in zero price marketing and-or zero pricing strategies (as outlined in the 1AC). The FTC should release a clear statement and data sets that reflects this and enforce accordingly. 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 private sector zero-price marketing and-or zero pricing strategies. The 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.

### \*\*\*1NC – FTC independence module

#### *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 Act”), 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 cooperate 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 Act.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

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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 peace156 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.

*Note to students*: this ev appears to advance a cemented future – but it is an ebook report by the National Intelligence Council outlining possible futures \*if\* certain premises were to take place. Perhaps this is best explained by an except from the opening of this report: “Welcome to the 7th edition of the National Intelligence Council’s Global Trends report. Published every four years since 1997, Global Trends assesses the key trends and uncertainties that will shape the strategic environment for the United States during the next two decades. Global Trends is designed to provide an analytic framework for policymakers early in each administration as they craft national security strategy and navigate an uncertain future. The goal is not to offer a specific prediction of the world in 2040; instead, our intent is to help policymakers and citizens see (aware of) what may lie beyond the horizon and prepare for an array of possible futures”.

## Politics DA

#### Biden’s continued PC is key to pass Build Back Better next week – despite inflation concerns

Barrón-López 11-11 (Laura Barrón-López, White House Correspondent for Politico, formerly covered Congress for the Washington Examiner, HuffPost and The Hill, BA political science, California State University, Fullerton, “Dems to White House: The only prescription is more Biden,” Politico, 11-11-2021, <https://www.politico.com/news/2021/11/11/dems-white-house-biden-520946>)

After months of deference to Congress, President Joe Biden moved more assertively last week to shepherd half his domestic agenda into law. With the other half still in limbo, Democrats want some of that Biden punch again.

Outside groups fear that congressional Democrats could come up short on Biden’s social spending package. They are concerned that moderates in the House may end up buckling if the budget scores on the bill come back worse than anticipated. And there is residual anxiety that one of the two wavering Senate Democrats — Joe Manchin of West Virginia and Kyrsten Sinema of Arizona — could vote “no” over concerns about inflation and long-term debt.

The clearest solution to avoiding this, they argue, is more Biden.

“All eyes are on the president, all expectations are on the president,” said Lorella Praeli, co-president of the progressive Community Change Action. “We are playing our role. We are mobilizing. We're reminding people everyday what this is about.”

Praeli added that Biden must ensure there aren’t future cuts to the package, which dropped from $3.5 trillion to $1.75 trillion to accommodate centrist Democrats in the House and Senate. “This is what he campaigned on. Only the president can deliver it in the end.”

Until last week, Biden’s involvement in negotiations had been more deferential than managerial. That befuddled lawmakers, who were waiting for him to draw red lines about which priorities he wants in and out of the deal or to even demand votes. To date, Biden has publicly refrained from drawing a red line around including paid leave in the final version of the legislation, leaving the leadership in the House at odds with centrists in the Senate.

But Biden did ramp up his involvement in the negotiations last week. And Democrats viewed that as key to getting an agreement in the House on their infrastructure bill, as well as on a rule to move forward with their social spending package, which funds universal pre-K, expands Medicare access, cuts taxes for families with children 18 years old and under, and combats climate change.

Now they want more. Expectations are high for Biden to keep the House to its promise of a vote on that social spending plan the week of Nov. 15.

“They basically made a promise,” said Rahna Epting, executive director of the progressive advocacy group MoveOn. “And Biden was able to get enough progressives to vote for the bipartisan infrastructure bill, on that promise. We are expecting Biden and the Democratic Caucus will make good on their word and pass the Build Back Better Act no later than Nov 15th as stated.”

White House officials contend that Biden and his team remain in close touch with the Hill, and their legislative affairs staff continues to push the social spending bill toward a vote. The White House said it is communicating regularly with a range of lawmakers including Manchin, but did not answer when asked whether Biden has spoken to the West Virginia senator or other moderates in recent days.

“There has been no kind of slowdown when it comes to our Hill outreach,” a White House official said.

The growing demands for Biden to stay heavily involved reflect a fear in the party that the window to act on the agenda is quickly closing, especially as concerns mount about lingering inflation and the midterms near. If the House meets its deadline next week and passes the social spending bill, some Democrats want Biden to issue a deadline for the Senate to act. Others noted that the end-of-year legislative calendar is short and brutal.

The “dynamic has totally changed,” said a Democratic strategist. “The president secured this agreement with the five holdouts for House passage of BBB next week and it’s on him to enforce it.”

A top climate operative echoed that assessment telling POLITICO that Biden “will have failed” on tackling climate change if the second piece of the agenda doesn’t pass.

But the operative also expressed a newfound fear that Biden’s current effort to sell the benefits of the infrastructure bill could distract or complicate Democrats’ attempt to keep public interested in the social spending plan.

"They need to sell [physical infrastructure] but also act like it's not enough," said the activist.

"How are they also creating the urgency for BBB to get done, for it to stay on the timeline of getting it done by Thanksgiving? It's a balancing act.”

Matt Bennett, co-founder of the moderate group Third Way, agreed that the dynamics were “tricky” in trying to sell one just-passed bill as historic while simultaneously making the case that another ambitious bill is needed. Biden will travel to New Hampshire and Michigan next week to highlight the money the infrastructure bill will direct toward new roads, bridges and transit projects across the country.

“This moment that we're in is hard,” said Bennett. “It will be much, much easier when both bills are completed. There is a very profound political imperative for Democrats to get this finished, to end the infighting and sausage-making and shift to creating a narrative about what Democrats have just done for Americans because they've been utterly unable to do that.”

A number of groups plan to amp up pressure next week as Congress returns. House Speaker Nancy Pelosi and the White House have repeated their desire to have a vote on the social spending plan by the end of next week. The Service Employees International Union will descend on Capitol Hill with some 500 union members, said Mary Kay Henry, the union’s president.

“We are escalating phone calls, text messages,” said Henry. “We're bringing members into Washington next Tuesday, we have the president's back, to get Congress to act quickly and get the full back package.”

Democratic outside groups have spent more than $150 million on TV and digital ads promoting the president’s social spending plan, known as “Build Back Better.” The League of Conservation Voters and Climate Power launched new digital ads calling on the five moderates who reached an agreement with the White House and House leadership last week to follow through on their commitment to pass the second piece of Biden’s economic agenda “next week.”

The longer it takes to pass the social spending plan, the harder it becomes to keep the party unified, Democrats warn, especially amid up-and-down economic news. A new report Wednesday revealed inflation hit 6.2 percent in October, its highest point in 31 years, contributing to high gas, car and food prices. It forced Biden to quickly issue a statement addressing the issue and ever-so-slightly shift his messaging, arguing that passage of the social spending plan would combat inflation.

“Inflation hurts Americans’ pocketbooks, and reversing this trend is a top priority for me,” Biden said in a statement. “It is important that Congress pass my Build Back Better plan, which is fully paid for and does not add to the debt, and will get more Americans working by reducing the cost of child care and elder care, and help directly lower costs for American families.”

### Plan Unpop – 1NC

#### Bipartisan opposition costs PC

Ashley’21 (Mary Ashley, 11-1-2021, "ANALYSIS: How Will the FTC Get Its Privacy Mojo Back in 2022?," No Publication, https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-how-will-the-ftc-get-its-privacy-mojo-back-in-2022)

On Sept. 14, the House Committee on Energy and Commerce voted to appropriate an unprecedented $1 billion over 10 years to the FTC to establish and operate a new privacy bureau. Such an infusion, if passed by Congress, would instantly transform the FTC’s ability to effectively regulate unfair or deceptive acts or practices relating to privacy, data security, and data abuses. To put this infusion into perspective, it is critical to compare to FTC’s privacy budget for 2021 ($13 million) to its overall budget of $351 million.

Looking forward to 2022, it is likely that continued political alignment will be necessary to reinforce (and perhaps even expand) the FTC’s data privacy enforcement power. However, proponents of the FTC funding boost will need to reckon with rigorous bipartisan scrutiny in the Senate, as well as fierce opposition skepticism by Republicans and centrist Democrats alike. At the very least, proposals will face serious funding trimming, and even full-throated opposition, by legislators concerned about agency overreach.

### 1NC – Climate !

#### PC’s key to global follow-through on climate post-Glasgow summit – impact’s extinction

Chon 11-8 (Gina Chon, Columnist at Reuters Breakingviews, former US Regulatory and Enforcement Correspondent, Financial Times, BS Journalism, Northwestern University, “America’s swing senator can save or scorch planet,” Reuters, 11-8-2021, <https://www.reuters.com/breakingviews/americas-swing-senator-can-save-or-scorch-planet-2021-11-08/>)

The health of the planet hangs somewhere over West Virginia. Joe Manchin, one of the coal state’s senators, is in line to cast the deciding vote on President Joe Biden’s $1.8 trillion “Build Back Better” spending plan. He’ll indirectly be voting on Biden’s ability to influence other countries to fight climate change after the COP26 summit read more.

Biden has faced two main challenges to his spending plan, a companion to the $1 trillion infrastructure legislation Congress approved on Friday. One objection comes from lawmakers worried about the amount of money at stake. After an earlier compromise, climate change initiatives are the biggest chunk of the overall blueprint at $555 billion, more than half of which comes from tax credits for cleaner vehicles and manufacturing. Manchin is already a self-confessed budget worrier.

The other obstacle is unease around specific climate initiatives. Manchin hails from a state with less than 2 million residents, but a heavy reliance on coal. His disapproval helped squash Biden’s proposal for a Clean Electricity Performance Program that would have incentivized utilities to stop using oil, coal and gas. The goal was for 80% of electricity produced in the country to come from clean sources by 2030, compared to the current 40%.

Green-energy tax credits are still on the table and offer a bigger bang for the taxpayer’s buck than the clean electricity program, think tank Resources for the Future estimates. By 2030 they would get the United States to 69% of its electricity coming from clean sources.

Manchin has good reason to keep those tax credits alive. While West Virginia is the second-largest coal producer in the United States and top five in natural gas, according to the U.S. Energy Information Administration, it’s also one of the states most exposed to damage from climate change. More than 60% of its power stations are at risk from a so-called 100-year flood, according to the First Street Foundation.

The senator’s decision will have global repercussions. China, India read more and other countries are only likely to listen to Biden’s pleas to help fight climate change if he looks able to meet such pledges himself. For example, the president wants other countries to help cut methane emissions by 30% this decade, but would still need Manchin’s support to levy fines on U.S. methane-leakers, which is far from guaranteed. For such a small population, West Virginia has a huge responsibility.

## Case

### Adv 1 AT: Demo Impact – 1NC

#### Antitrust isn’t key to democracy – other countries don’t care if surveillance tech is regulated in the U.S., if they are not democratic they will get tech from China anyway, and if they are already democratic they don’t need to imitate

Greitens 20 (Sheena Chestnut Greitens, Nonresident Senior Fellow - Foreign Policy, Center for East Asia Policy Studies, “Dealing with demand for China’s global surveillance exports,” April 2020, Brookings, <https://www.brookings.edu/research/dealing-with-demand-for-chinas-global-surveillance-exports/>, GBN-TM)

Countries and cities worldwide now employ public security and surveillance technology platforms from the People’s Republic of China (PRC). The drivers of this trend are complex, stemming from expansion of China’s geopolitical interests, increasing market power of its technology companies, and conditions in recipient states that make Chinese technology an attractive choice despite security and privacy concerns. Both “push” and “pull” factors contribute to growing use of Chinese surveillance technology: countries that are strategically important to the PRC are comparatively more likely to adopt it, but so are countries with high crime rates.

#### The plan’s regulation of social media is perceived as greenlighting anti-democratic censorship by other countries

Sharma 21 (Mihir S. Sharma, senior fellow at the Observer Research Foundation in New Delhi and head of its Economy and Growth Programme, Bloomberg Opinion columnist, “Facebook, Twitter critics in US are gifting ammo to authoritarian regimes,” Business Standard, 6-23-2021, <https://www.business-standard.com/article/economy-policy/facebook-twitter-critics-in-us-are-gifting-ammo-to-authoritarian-regimes-121062300139_1.html>)

Nigerians angry about their government’s recent banning of Twitter Inc. have understandably focused their ire on President Muhammadu Buhari: It was Twitter’s decision to take down his tweet implicitly warning separatists that they could suffer the same violent end as former Biafran rebels that prompted the crackdown.

But the Nigerian ban should be a warning to U.S. lawmakers and activists, too. Their efforts to rein in U.S.-based social media giants such as Twitter and Facebook Inc. risk restricting democratic freedoms worldwide.

Antipathy toward the big platforms is rising across the U.S. political spectrum. Democrats blame them for allowing misinformation to flourish; Republicans, for allegedly censoring right-wing voices. Both agree they should be cut down to size: The Democratic chair of the House Consumer Protection & Commerce subcommittee has said “there is a bipartisan agreement that the status quo is just not working.”

The U.S. consensus has now begun to equate the tech companies’ attempts to maintain the integrity of their platforms through content management with infringements by powerful corporate monopolies on state power. Congress has taken up harsh new bills that are a first step toward using antitrust laws against tech companies.

This backlash is a gift to authoritarian governments around the world, who have been looking for a stick with which to beat Twitter and Facebook among others. Illiberal leaders have adopted the language and legal tools being wielded by activists and politicians in the US.

Nigeria’s information minister has complained, “Twitter's mission in Nigeria is very suspect, they have an agenda.” Russia, which has started choking Twitter’s bandwidth, last week fined Google and Facebook for “banned content.” Moscow also wants to force the companies to open offices in Russia, so executives and employees can be held hostage to an increasingly arbitrary legal system.

India, meanwhile, reportedly decided last week that Twitter is no longer an “intermediary” but a publisher — and so can be held criminally liable for anything anyone says on it. Police in the northern Indian state of Uttar Pradesh swiftly registered a criminal complaint against Twitter and seven journalists, all of them Muslim.

The reason? A viral video in which an elderly Muslim man claimed to have been attacked because of his religion. (The state police, which answers to a government run by the Hindu nationalist Bharatiya Janata Party, has insisted that there was “no communal angle” to the assault and that both Hindus and Muslims attacked the man.) In response, India’s information minister said, “What happened in UP was illustrative of Twitter’s arbitrariness in fighting fake news.”

What global authoritarians want is for the big U.S.-based social media networks to fall into line with the rest of the local media--which are already, more or less, subject to state control and intimidation. U.S. action to constrain the tech companies provides those leaders with a toolkit of controls that they can justify internationally. Companies that resist leave themselves open to accusations of hypocrisy if they reject state diktats in the rest of the world but accept them in the U.S.

Many struggling activists in backsliding democracies may not be happy at depending upon the faceless bureaucracies of Big Tech to have their voices heard. Yet not one of them would want that power to devolve instead to the functionaries of their own states, most of whom are eager to silence all dissenters. A U.S. that sets out to subordinate social networks to the government only empowers authoritarian leaders that have wanted to do the same for years.

#### Global democracy is resilient and already growing

Daniel Treisman 18, UCLA political science professor, 6-7-2018, “Is Democracy in Danger? A Quick Look at Data,” online pdf

Available measures suggest the proportion of democratic countries in the world today is at or near an all-time high. The few indicators that show some backsliding indicate only a return to the level of the 1990s, a time when liberal democracy was widely considered triumphant. The rate of increase has slowed. But this follows the stunning surge of democracy’s “third wave.” The rate of failures among existing democracies is close to that predicted by their levels of economic development, income growth, and past democratic experience. Moreover, whereas previous waves have been followed within 10-15 years by a significant fall in the proportion of democracies, that has not occurred this time, at least so far. Neither the rate of democratic breakdowns nor that of quality deteriorations in existing democracies is historically high. Previous literature and the survival models presented here confirm that high economic development, positive economic growth, and extensive democratic experience are associated with much lower odds of democratic breakdown. Based on such estimated relationships, the hazard of a breakdown in the US today appears extremely low. While some data suggest a weakening of commitment to democracy among parts of the US public—which is worrying in itself—it is hard to find any systematic evidence that low or falling public support for democracy causes democratic breakdowns. As for elite norms, Latin American countries where a radicalized military supported dictatorship have sometimes succumbed to antidemocratic coups. But excluding such extreme cases, the claim that eroding norms cause democracies to fail appears to rest on anecdotal evidence. Even if it does not constitute a general trend, deterioration in the quality of democracy in countries such as Hungary and Poland is obviously cause for concern, as is the reversion to authoritarianism in Russia and Turkey. It is certainly possible that a global slide in democracy has begun that will accelerate in coming years. It is also possible that US institutions will prove weaker than expected. Few democracies have been tested by the kind of demographic change forecast for coming decades, as the previously dominant race loses its majority status. Still it is important to distinguish between fears for the future and expectations that are reasonable based on available evidence. The historical record suggests that democracies like the US have inner resources that distinguish them from younger and poorer ones. They are far less vulnerable to destructive demagogues than much current commentary implies.

#### Democracies aren’t automatically more likely to solve warming – our Chon evidence on the disad proves other global countries – democracies and non-democracies alike – won’t follow-through on their climate commitments unless they see Biden do so first

#### Absent our disad, democracies are less likely to solve it on their own – short-term political interests and mistrust trump – it’s the anti-democratic elements like our disad’s regulation provisions that actually solve warming

Gould 7 [Carol Gold is “Beyond the Dual Crisis: From Climate Change to Democratic Change” Centers for Human and Nature, 2007, <https://www.humansandnature.org/democracy-carol-gould>]//Mberhe

In many ways, the maintenance of an environment adequate to human health and well-being is the ultimate public good, and indeed a global one at that. I suggest that it also should be recognized as a prominent human right, since environmental sustenance is a fundamental condition for each person’s life and agency.[1] Current processes of climate change threaten both this common good and individuals’ development of capacities and fulfillment of goals. Yet, these processes harm people unequally and differentially and thus raise issues of global justice. They have more grievous effects on structurally disadvantaged people than on the affluent, who are also better situated to mitigate or adapt to the pernicious consequences. With climate change, entire oceanic island states will be submerged by rising seas, crops increasingly will be subject to destruction from severe droughts, tropical diseases will spread and proliferate, and new threats to diverse species and to people’s livelihoods will be produced by ocean acidification and more frequent extreme weather events. At the same time, however, these very processes of climate change have begun to make clear to us our global interdependence, where actions and decisions at a distance can have powerful effects on us, and purely national responses (where they exist) prove to be inadequate. SHARE YOUR REFLECTIONS Leave a Comment STAY CONNECTED Get weekly dispatches with the latest ideas from our thinking community. Email Address SHARE: In response to this crisis, it has been suggested that undemocratic methods are needed to control carbon pollution and even that authoritarian regimes are better suited than democratic ones to make the necessary changes.[2] Since democratic approaches have thus far been weak or lacking, except for parts of Europe and Latin America with lively traditions of concern for, and mobilization around, public goods, we can ask: Is democracy adequate to the task of dealing with global warming and other aspects of climate change? To answer this, we need to determine whether it is democracy per se—with its slow and often adversarial procedures—that is at fault in current failures to address climate change, or rather a particular type of democracy, or indeed, some other cause entirely. I suggest that it is incorrect to fault democracy as a political form, and moreover, that a turn to authoritarian methods would be disastrous. Yet it is evident that many changes in contemporary democracy are needed to effectively deal with the climate crisis. Clearly, people often act in their short-term interest and make comparable political choices, without much regard for the impacts on others or future generations. In the United States, however, this tendency is incentivized and aggravated by the substantial influence of large corporations (notably from the energy sector, but not only those) as well as big-money donations and lobbyists, on the political process. Both in the United States and globally, capitalist economies, with their focus on unlimited accumulation as the motive and form of growth and their cultivation of consumerist attitudes, are major causes of environmental degradation, as are industrialization processes more generally. The concomitant attitude endorsing our dominion over nature is prevalent and problematic. Even Marx himself, despite his otherwise trenchant critique of capitalism, was sometimes given to this reading of the relation of humans to nature. Contemporary American democracy is not only distorted by the power of money, however, but tends to reduce democratic decision making to voting and majority rule, to the detriment of more participatory and deliberative modalities. Moreover, the body politic conceives itself as purely national in scope, proceeding with little or no input from distant people and scant concern for the impact of its policies on these others. The newer global governance institutions likewise afford little opportunity for democratic input by those affected by their policies, inasmuch as they are in large measure under the sway of powerful countries (and especially the United States) and corporate interests. Yet, the urgency of the present environmental crisis cannot displace the normative centrality of democracy, which needs to be transformed rather than dispensed with. Participation in democratic decision making is more required than ever, both as an expression of people’s equal agency or their equal right to jointly determine the conditions of their life together (with an adequate environment being one of the paramount conditions), and as a method that enables those importantly affected by a decision or policy to have some input into it. However, inasmuch as these effects are increasingly transnational, and given the weakness of substantive democracy in the United States and elsewhere, what changes are necessary if we are to deal effectively with climate change? Before laying out some new directions, we can observe that there is cause for hope in the relative success that a few democratic societies have had in controlling fossil-fuel pollution, from Scandinavia’s state-led initiatives to Bolivia’s indigenous-led efforts to incite international action on the issue. These cases serve as an “existence proof” that democracy can work to control climate change, at least to a degree and in national contexts. While it is true that if an authoritarian regime like China institutes a beneficial policy (noteworthy is the “Great Green Wall” consisting of planting billions of trees across that country), it can more easily be accomplished. But nondemocratic regimes historically have not shown themselves to have the cosmopolitan or long-range perspective necessary for taking climate change seriously enough, and China in particular has surpassed the United States as the world's biggest carbon emitter (though not when measured per capita, in which respect the United States predominates). Thus normatively and practically, authoritarian approaches are not the solution. The Great Wall of ChinaWhat, then, are the changes we need? None can guarantee just outcomes, though I suggest they would conduce to them. Democracy as a procedure requires efforts to eliminate the disproportionate influence of money and corporate interests on politics and the media, so that people can more easily focus on the environment as a common good. Innovative means are needed to increase participation and to enhance deliberation in politics, both online and off. The human right to an environment adequate to human health and well-being has to be guaranteed and protected, with regard to both law on the books and law in practice. A right of this sort is already incorporated in many constitutions worldwide, but more progress is needed to extend its reach regionally and transnationally as well, and to begin to fulfill it in practice. Climate change needs to be viewed through the lens of global justice, that is, in terms of its differential impacts on disempowered and disadvantaged populations. The connection of climate change to justice requires us to address the inequalities of power and wealth worldwide that also affect the possibilities of mitigating and adapting to this change. The scope of democracy needs to become more transnational. As a global issue, climate change requires new forms of democratic participation in the institutions of global governance, as well as new modes of regional cooperation. Regular input into decisions of these institutions and possibly new forms of transnational representation are needed so that those importantly affected by environmental decisions can have some say in them. (Proxy representation for future generations and nonhuman species could be considered here as well.) Transnational social movements play an important role in generating activism addressed to climate change, with attunement to global justice issues. The scope of democracy also needs to become more local. More opportunities can be opened up for democratic input into environmental decisions by people within cities, in cross-border communities, in corporations and firms, and in other local contexts. The process of democratic participation is educative (as J. S. Mill noted), and democracy in these domains closer to home can have beneficial consequences for the national context. As a way of life, democracy requires the cultivation of what I have called the democratic personality, with receptivity to the situation of others and an understanding of the context of their lives, as well as transnational solidarities among people and groups both within and across borders.[3] We need a focus on the sort of “enlarged thinking” that Arendt called for, as well as a disposition toward empathy. This involves an imaginative grasping of the impact of environmental crisis on people at a distance and future generations (including its disproportionate impacts). The radical individualism that still permeates dominant ideologies needs to be countered with a social-ecological perspective that at once emphasizes the relations between people and the interaction of humans with their environment (in John Dewey’s terms). These attitudes will reinforce the growing awareness of the impacts of climate change even when considered from the standpoint of individuals’ narrower self-interest. The problem with these various recommendations is that the timeline for instituting them is rather long, while climate change is a present and growing crisis. Other essays in this collection provide some useful directions for practical steps that can be taken now. But it is clear from recent events, whether Superstorm Sandy or others around the world, that fundamental democratic change is urgently needed, both to deal with the climate crisis and for its own sake.

#### Climate change is NOT existential AND their studies are wrong

Piper 19---Kelsey Piper, citing John Halstead climate change mitigation researcher at the Founders Pledge. [Is climate change an "existential threat" — or just a catastrophic one? 6-28-2019, https://www.vox.com/future-perfect/2019/6/13/18660548/climate-change-human-civilization-existential-risk]

I also talked to some researchers who study existential risks, like John Halstead, who studies climate change mitigation at the philanthropic advising group Founders Pledge, and who has a detailed online analysis of all the (strikingly few) climate change papers that address existential risk (his analysis has not been peer-reviewed yet).

Halstead looks into the models of potential temperature increases that Breakthrough’s report highlights. The models show a surprisingly large chance of extreme degrees of warming. Halstead points out that in many papers, this is the result of the simplistic form of statistical modeling used. Other papers have made a convincing case that this form of statistical modeling is an irresponsible way to reason about climate change, and that the dire projections rest on a statistical method that is widely understood to be a bad approach for that question.

Further, “the carbon effects don’t seem to pose an existential risk,” he told me. “People use 10 degrees as an illustrative example” — of a nightmare scenario where climate change goes much, much worse than expected in every respect — “and looking at it, even 10 degrees would not really cause the collapse of industrial civilization,” though the effects would still be pretty horrifying. (On the question of whether an increase of 10 degrees would be survivable, there is much debate.)

Does it matter if climate change is an existential risk or just a really bad one?

That last distinction Halstead draws — of climate change as being awful but not quite an existential threat — is a controversial one.

That’s where a difference in worldviews looms large: Existential risk researchers are extremely concerned with the difference between the annihilation of humanity and mass casualties that humanity can survive. To everyone else, those two outcomes seem pretty similar.

To academics in philosophy and public policy who study the future of humankind, an existential risk is a very specific thing: a disaster that destroys all future human potential and ensures that no generations of humans will ever leave Earth and explore our universe. The death of 7 billion people is, of course, an unimaginable tragedy. But researchers who study existential risks argue that the annihilation of humanity is actually much, much worse than that. Not only do we lose existing people, but we lose all the people who could otherwise have had the chance to exist.

In this worldview, 7 billion humans dying is not just seven times as bad as 1 billion humans dying — it’s much worse. This style of thinking seems plausible enough when you think about past tragedies; the Black Death, which killed at least a tenth of all humans alive at the time, was not one-tenth as bad as a hypothetical plague that wiped us all out.

Most people don’t think about existential risks much. Many analyses of climate change — including the report Vice based its article on — treat the deaths of a billion people and the extinction of humanity as pretty similar outcomes, interchangeably using descriptions of catastrophes that would kill hundreds of millions and catastrophes that’d kill us all. And the existential risk conversation can come across as tone-deaf and off-puttingly academic, as if it’s no big deal if merely hundreds of millions of people will die due to climate change.

Obviously, and this needs to be stressed, climate change is a big deal either way. But there are differences between catastrophe and extinction. If the models tell us that all humans are going to die, then extreme solutions — which might save us, or might have unprecedented, catastrophic negative consequences — might be worth trying. Think of plans to release aerosols into the atmosphere to reflect sunlight and cool the planet back down in the manner that volcanic explosions do. It’d be an enormous endeavor with significant potential downsides (we don’t even yet know all the risks it might pose), but if the alternative is extinction then those risks would be worth taking.

But if the models tell us that climate change is devastating but survivable, as most models show, then those last-ditch solutions should perhaps stay in the toolkit for now.

Then there’s the morale argument. Defenders of overstating the risks of climate change point out that, well, understating them isn’t working. The IPCC may have chosen to maintain optimism about containing warming to 2 degrees Celsius in the hopes that it’d spur people to action, but if so, it hasn’t really worked. Maybe alarmism will achieve what optimism couldn’t.

That’s how Spratt sees it. “Alarmism?” he said to me. “Should we be alarmed about where we’re going? Of course we should be.”

Swedish teenager Greta Thunberg has taken an arguably alarmist bent in her advocacy for climate solutions in the EU, saying, “Our house is on fire. I don’t want your hope. ... I want you to panic.” She’s gotten strong reactions from politicians, suggesting that at least sometimes a relentless focus on the severity of the emergency can get results.

So where does this all leave us? It’s worthwhile to look into the worst-case scenarios, and even to highlight and emphasize them. But it’s important to accurately represent current climate consensus along the way. It’s hard to see how we solve a problem we have widespread misapprehensions about in either direction, and when a warning is overstated or inaccurate, it may sow more confusion than inspiration.

Climate change won’t kill us all. That matters. Yet it’s one of the biggest challenges ahead of us, and the results of our failure to act will be devastating. That message — the most accurate message we’ve got — will have to stand on its own.

### Adv 2

**Innovation surging --- but expanding the scope of antitrust law emboldens regulators --- causes a chilling effect on innovation**

**Brough 21** --- Wayne Brough, Policy Director, Technology & Innovation, PhD in economics from George Mason University, “Washington wants to weaponize antitrust law to attack “Big Tech” and it is going to backfire horribly”, JUN 15, 2021, https://www.rstreet.org/2021/06/15/washington-wants-to-weaponize-antitrust-law-to-attack-big-tech-and-it-is-going-to-backfire-horribly/

Just as concerning, “The Platform Competition and Opportunity Act” targets mergers and acquisitions by covered platforms, flipping the burden of proof by requiring the acquiring firm to demonstrate that the merger does not eliminate any competitors or potential competitors. While the goal of the legislation may be to prevent platforms from absorbing potential rivals, this view ignores the fact that smaller startups often **want to be acquired** by their larger counterparts. An acquisition is a way to cash out without having to build out business and marketing strategies, among other things, which some startups may prefer not to do. Limiting opportunities for an acquisition will make it more difficult to attract the venture capital that fuels the startup ecosystem, ultimately **harming innovation and economic growth.** In fact, **right now,** venture capital firms have been “raising new funds at a pace” that could **set a record this year,** and many go-to digital products including Uber, Lyft and Airbnb **received venture capital injections**. Similar investments might be **less likely under these bills and** even **more problematic for smaller startups.**

Additionally, the Access Act would impose broad **data portability and interoperability mandates**, while “The Merger Filing Fee and Modernization Act of 2021” would increase filing fees for larger mergers as well as boost funding levels for both the DOJ and the FTC. These bills would expand federal oversight and give the FTC **a more prominent role** in rewiring the internet.

The bills introduced in the House **are an assault on** digital commerce, one of the bright spots in **the U.S. economy**. At best, these new laws are **a direct threat to** permissionless **innovation**, with the approval of federal regulators becoming a **prominent roadblock when trying to do business** in a dynamic and rapidly changing marketplace. At worst, this would turn covered platforms into little more than public utilities—platforms for others to do business. Any efforts to utilize economies of scale or scope may trigger **enforcement actions**, giving platform operators **fewer incentives to invest** in new technologies **that drive innovation.**

At the broadest level, these bills are **an attempt to abandon the consumer welfare standard** in favor of a more interventionist approach along the lines of antitrust practices in the EU. Rather than focusing on demonstrable harms to consumers, this altered enforcement would aggressively define and shape markets, with an eye toward protecting competitors, often at the expense of consumers. For example, Adam Kovacevich at the Chamber of Progress finds that the new laws would prohibit cross-posting between Facebook and Instagram, ban Apple from recommending apps in the AppStore and a host of other activities that are a common part of a user’s online experience. In fact, the AppStore itself may not survive if these bills become law. Good luck finding and updating your favorite apps—and ensuring they work with friends and family—if it disappears.

Solutions in Search of a Problem

As with many other regulatory incursions into the digital world, **the renewed push for tougher antitrust laws is a solution in search of a problem**. Both Republican and Democratic criticisms of Big Tech raise a litany of issues—from an anti-conservative bias to fake news and hate speech—none of which fall within the purview of antitrust law and anticompetitive behavior. Instead, the new regulatory regime under consideration is a punitive and political attack on politically disfavored corporations. Ultimately, that is the larger battle—abandoning the consumer welfare standard and its focus on demonstrable consumer harm in favor of a politicized regime that allows those in Congress **greater control over private companies.**

And while tech companies may be the exclusive focus of the current reforms, the scope of the proposed legislation could easily be expanded by a future Congress. Even today, many lawmakers are openly hostile toward a growing list of American businesses. Republicans have been vocal in calling for retaliatory measures against “woke” corporations deemed too progressive in their public stances. If policymakers continue to abandon economic principles, it would not be surprising to see calls for additional antitrust enforcement for any company that makes political waves.

Prior to the adoption of the consumer welfare standard almost 50 years ago, antitrust law was often confusing, economically suspect and even contradictory. In one notorious case, the Supreme Court blocked a merger where the merged company would have had a market share of merely 7.5 percent—hardly an example of market dominance. And economists examining antitrust enforcement prior to the consumer welfare standard found no correlation between antitrust enforcement and a reduction in the welfare losses from monopoly. Further research found congressional influence to be a better predictor of enforcement activity.

The consumer welfare standard helped rationalize antitrust enforcement and the case law that has emerged since its adoption has helped curb the political abuse of antitrust policies. Abandoning the need to identify demonstrable consumer harm would return antitrust law to an era characterized by arbitrary enforcement actions that many in today’s Congress seem to have forgotten. But the increased political oversight that comes with adopting more aggressive tools for antitrust enforcement poses a real threat to consumers, to innovation and to economic growth.

Abandoning the American Way in Favor of a European One

The bills introduced in the House can be interpreted as a turn toward a European approach to competition policy. Last year, the EU passed the Digital Markets Act, and the House proposals sound **eerily similar.** The EU started by defining “gatekeepers,” something similar to the “covered platforms” in the House bills. Restrictions on self-preferencing, interoperability requirements and other elements introduced in the House all have direct counterparts in the EU’s law.

The EU adopted its laws with a clear target in mind—American tech companies that were dominating markets in Europe and outperforming their European rivals. Politically, it made sense to rewrite the rules of the game in favor of homegrown talent. Among other things, this meant the EU could collect billion-dollar fines from American companies, all in the name of “fair competition.”

But the **performance of European companies** is probably **the best reason** not to follow the EU’s lead in redefining how we regulate competition. By virtually **every measure,** U.S. companies have been **more innovative, more dynamic and more profitable** than their European counterparts. There are more start-ups in the United States and they have **greater access to capital**. While the United States and the EU have economies of similar magnitudes, in 2019, U.S. startups had a valuation of $1.37 trillion compared to EU startups with an evaluation of $240 billion.

The rise of Silicon Valley is an American success story. Today the top five companies in the United States based on market capitalization are tech companies. They have led the digital revolution, providing consumers a virtually endless stream of new products at low or even zero cost in many cases. These are signs of a robust market that serves consumers well. **It is important to remember that big does not equate to bad**—sometimes a firm is large because it is **efficient at serving its customers** what they want. The tech sector supports 12 million jobs and more than $2 trillion in economic output. Current antitrust laws grounded in the consumer welfare standard are part of the institutional framework that make this possible. Congress should ensure antitrust laws fit **best into the modern U.S. economy,** but the House proposals are a radical departure that shifts the focus to protecting competitors rather than consumers. **They would weaponize antitrust law**, provide politicians a greater say in America’s boardrooms and replace economic efficiency with political expediency and preference.

**The plan’s anti-trust intervention is inefficient. It stifles innovation and competition.**

Lambert 20 --- Thomas A Lambert, The Wall Chair in Corporate Law and Governance and Professor of Law at the University of Missouri, formerly a John M. Olin Fellow at Northwestern University School of Law and the Center for the Study of American Business at Washington University. “The Limits of Antitrust in the 21st Century.” CATO Institute. Summer 2020. https://www.cato.org/sites/cato.org/files/2020-06/regulation-v43n2-2.pdf

In light of the Hayekian knowledge problem and public choice concerns, courts and enforcers should typically avoid antitrust interventions that either require a great deal of particularized knowledge or endow government officials with a large store of discretionary authority. This general guideline calls into question a number of recent antitrust proposals.

One such proposal is to treat the user data collected by digital platforms like an “essential facility” that must be made available to rivals. A court imposing a duty to share data with rivals would have to create an elaborate price schedule that takes into account such information as the cost of collecting and organizing different sorts of data and the value each sort provides—information that is largely inaccessible and likely to change over time. Courts are ill-equipped to gather and process all that information.

The knowledge problem also bedevils recent calls to break up the largest digital platforms: Google, Facebook, and Amazon. As the American Action Forum’s Will Rinehart has observed, the leading digital platform firms utilize complex business models, teams, and technologies, which makes breaking them up difficult. With respect to business models, the firms operate multi-sided platforms where the value to users on one side (e.g., advertisers) is largely dependent on the number and intensity of users on the other side (e.g., individuals engaged in search or social networking). Moreover, the firms tend to engage in internal cross-subsidization, using revenues from one line of business(e.g., Google search) to support less profitable services(e.g., Google’s YouTube, which is widely assumed not to be profitable on its own). Given that an **adverse effect on one part of the business can wreak havoc on seemingly unrelated operations**, any break-up plan would have to accurately account for a highly complex set of interrelationships.

Breaking up big technology companies is also complicated by the fact that they employ teams and technologies that work across the entire enterprise. Facebook’s software engineers, for example, support Facebook, Messenger, Instagram, and WhatsApp. Its technology stack includes a number of proprietary technologies designed to assist with common tasks engaged in by all its various services: “Big Pipe” serves pages faster, “Haystack” stores billions of photos efficiently, “Unicorn” searches the social graph, “TAO” stores graph information, “Peregrine” assists with querying, and “Mystery Machine” helps with performance analysis. Mistakes in disintegrating teams and technologies are **likely to occasion a massive reduction in productive efficiency.**

Whereas proposals to treat user data as an essential facility and to break up major digital platforms involve significant knowledge problems, other recent antitrust proposals would endow government officials with significant discretionary authority and thus raise public choice concerns. One such proposal, discussed above, is to jettison the relatively cabined consumer welfare standard in favor of a more amorphous public interest standard. Another is to create a federal agency with broad powers to regulate digital platforms. The history of sector regulation suggests that such an approach would reduce, rather than enhance, competition by **entrenching incumbents and stifling innovation**.

**Dual enforcement against Big Tech increases infighting and uncertainty---hinders development.**

McGinnis & Sun 21 --- John O. McGinnis is a graduate of Harvard College and Harvard Law School where he was an editor of the Harvard Law Review. He also has an MA degree from Balliol College, Oxford, in philosophy and theology. Professor McGinnis clerked on the U.S. Court of Appeals for the District of Columbia. From 1987 to 1991, he was deputy assistant attorney general in the Office of Legal Counsel at the Department of Justice. He is the author of Accelerating Democracy: Transforming Government Through Technology (Princeton 2013) and Originalism and the Good Constitution (Harvard 2013) (with M. Rappaport). He is a past winner of the Paul Bator award given by the Federalist Society to an outstanding academic under 40. He has been listed by the United States on the roster of panelists who may be called upon to decide World Trade Organization Disputes. Linda Sun is an Associate, Wilmer Pickering Hale & Dorr LLP; Northwestern Pritzker School of Law, J.D., 2020. “Unifying Antitrust Enforcement for the Digital Age.” Washington and Lee Law Review. 4/2/2021. https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=4715&context=wlulr

For over a century, the U.S. has maintained a system of dual antitrust enforcement. Antitrust laws are executed by two federal agencies: the Federal Trade Commission (FTC) and the Department of Justice (DOJ) through its Antitrust Division.1 Throughout their histories, the agencies have struggled to navigate their overlapping jurisdiction, often butting heads and creating redundancies.2 With the digital revolution, existing cracks in the system have widened to the point of rendering the current system irrelevant and ineffective. Dual enforcement is a waste of government resources that duplicates efforts, fails to provide the technology industry with reasonable certainty for business and investment decisions, introduces barriers to a cohesive foreign policy and defense strategy, and hinders the development of privacy regulation and enforcement. Accelerated technological change exacerbates three main problems with the dual antitrust agency system. First, while dual enforcement has always created uncertainty and thus harmed business planning and economic growth, developments in computer technology have made these problems more acute.3 In recent decades, the technology industry has experienced the rise of a handful of dominant companies, such as Facebook, Google, Amazon, and Apple, all central to the economic vitality 308 78 WASH. & LEE L. REV. 305 (2021) of the nation.4 Contemporaneously, debate has erupted over how antitrust law should be adapted to regulate these companies, which have introduced new platforms, markets, and products that were not anticipated by traditional tests.5 Advocates for cracking down on tech giants like Apple and Google argue that the companies wield outsized market power and harm competition.6 On the other side, critics of increased competition regulation for the technology sector note that technology advances so quickly that seemingly-entrenched monopolists are in fact easily replaced by competition.7 At such a pivotal moment, the FTC and DOJ have failed to work together effectively. Instead, **inter-agency fighting and a divided framework have created uncertainty for the regulation of the economically vital technology industry**.8 Second, the growing power and ever widening scope of computational technology has entangled antitrust policy with international politics and national security.9 Electronic ANTITRUST ENFORCEMENT 309 technology has increased the avenues of attack and transformed traditional weapons of war.10 Innovations in hardware and software have introduced novel methods of espionage and cyberwarfare such as computational propaganda, trolling, and sophisticated hacking.11 This technological acceleration has led to an international battle for technological dominance that has been dubbed a “technology cold war.”12 China and Russia in particular have dedicated significant resources towards hostile social manipulation or information/influence warfare.13 Ceding control over communications technologies to foreign powers may leave the U.S. vulnerable to surveillance and infrastructure takedowns.14 Hacking groups have targeted U.S. defense contractors and telecommunications companies.15 As both the Obama and Trump administrations recognized,16 antitrust antitrust debate must address the national security risks of breaking up Big Tech—and the parallel risks of keeping these companies intact.”). 310 78 WASH. & LEE L. REV. 305 (2021) enforcement can impede domestic technological advancement by giving foreign companies—collaborating with foreign governments—a competitive advantage. Because of the increased importance of antitrust to national security, enforcement should be left to the DOJ alone. Its leaders serve at the pleasure of the president, whose office has greater perspective and tools available in protecting the nation and navigating international relationships.

### AT: Econ Impact – 1NC

#### Economic decline does NOT cause war

Clary 15 – Christopher Clary, former International Affairs Fellow in India at the Council on Foreign Relations, Postdoctoral Fellow at the Watson Institute at Brown University, Adjunct Staff Member @ RAND Corporation, Security Studies Program @ MIT, country director for South Asian affairs in the Office of the Secretary of Defense, former Research Fellow @ the Harvard Kennedy School's Belfer Center for Science and International Affairs, former research associate in the Department of National Security Affairs at the Naval Postgraduate School, BA from Wichita State University and an MA from the U.S. Naval Postgraduate School, 2015 (“Economic Stress and International Cooperation: Evidence from International Rivalries,” Massachusetts Institute of Technology Political Science Department Research Paper No. 2015-­‐8, “Economic Stress and International Cooperation: Evidence from International Rivalries,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2597712)

Do economic downturns generate pressure for diversionary conflict? Or might downturns encourage austerity and economizing behavior in foreign policy? This paper provides new evidence that economic stress is associated with conciliatory policies between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on data from 109 distinct rival dyads since 1950, 67 of which terminated, the evidence suggests rivalries were approximately twice as likely to terminate during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may result from economic troubles. Defining and Measuring Rivalry and Rivalry Termination I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically. This definition draws on a growing quantitative literature most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant politicalmilitary threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further: The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3 Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from 1494 to 2010 that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and Dreyer record the existence of a rivalry.5 Why Might Economic Crisis Cause Rivalry Termination? Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

# 2NC

### Politics DA

We are allowed to be contradictory. The impact that the aff is stating is dependent upon the economy being ruined… it’s not ruined.. our impact is different.. its climate change and extinction… however, it is from politics going array and causing issues.. we can answer to the aff impact of climate change from their standpoint but also advocate for impact (which will happen before their impact)

Your impact is a different kind of climate change impact, different escalatory ladders.. ours happens first

### Plan Unpop – AT: Not Congress

#### Requires massive funding increases – even if just FTC – WITHOUT Congress, ZEROs solvency

Kovacic 20 (William E. Kovacic, Global Competition Professor of Law and Policy, George Washington University Law School, Visiting Professor, Dickson Poon School of Law, King’s College London, Non-Executive Director, United Kingdom Competition and Markets Authority, former Chair of the US Federal Trade Commission, “The Redesign of the U.S. Privacy Policy Institutional Framework,” testimony Before the U.S. Senate Committee on Commerce, Science, and Transportation, Hearing on “Revisiting the Need for Federal Data Privacy Legislation,” 9-23-2020, <https://www.commerce.senate.gov/services/files/8E9CAB53-A529-47CA-9A5B-E59421A29E7D>)

The development of a full-scale national privacy regulatory body, as a stand-alone agency or as part of an enlarged FTC, will not come cheaply. I do not have a precise estimate for the Committee’s consideration, but a substantial expansion in resources will be necessary to fulfill the ambitions of a new omnibus law.

Measures to upgrade the US privacy regime will require a considerable boost in capacity of the federal privacy regulators responsible for promulgating rules and enforcing rules and statutes.67 Not only is the drafting of strong rules difficult, but enforcement will encounter arduous opposition from the affected businesses. The targets of rules and enforcement will marshal the best talent that private law firms, economic consultancies, and academic bodies can offer to oppose the government in court.

For privacy reforms to be effective, it is necessary that ambitious policy commands be backed up with ambitious funding. An enhanced privacy program therefore will go only as far as the talent of the agencies will carry it. We propose three steps to build and retain the human capital – attorneys, economists, technologists, and administrative managers – to undertake a more ambitious litigation program.

### Plan Unpop – AT: Bipart Pop

#### Their bipart claims are aspirational, NOT empirical – broad public support doesn’t translate into votes

Sabin 21 (Sam Sabin, Cybersecurity Reporter at POLITICO, “States Are Moving on Privacy Bills. Over 4 in 5 Voters Want Congress to Prioritize Protection of Online Data,” Morning Consult, 4-27-2021, https://morningconsult.com/2021/04/27/state-privacy-congress-priority-poll/)

As more states introduce and consider their own data privacy bills, public support for Congress to pass a national standard is holding strong, with 83 percent of voters saying it should be a “top” or “important, but lower” congressional priority this year.

While Congress continues to punt on a conversation about a national framework, states have been taking matters into their own hands: at least 20 states have introduced their own privacy bills this calendar year alone, according to the International Association of Privacy Professionals, with Virginia becoming the second state after California to pass a law in March. And experts are watching longer legislative sessions in Florida, Colorado, Alaska, Connecticut and New York for any additional privacy laws this year.

State lawmakers are picking up on a growing appetite from constituents for any legislation putting rules on what data about them is collected, stored and used by companies. In the Morning Consult survey conducted April 16-19, the share of registered voters who said Congress should make passing this legislation a priority grew 4 percentage points since a December 2019 survey, the last time the question was asked. A year earlier, in November 2018, 78 percent of voters said the same.

And the push for Congress to prioritize a privacy bill claims bipartisan support: 86 percent of Democrats and 81 percent of Republicans said this should be a “top” or “important but lower” priority this year.

The survey, conducted among 1,992 registered voters, has a margin of error of 2 points.

Despite high bipartisan support among the public, conversations on Capitol Hill are still slow moving. So far this year, Rep. Suzan DelBene (D-Wash.) introduced the first comprehensive privacy bill of the current congressional session — the Information Transparency and Personal Data Control Act — in March, but aside from that, discussions have been relatively quiet. The last congressional hearing about the topic was in September.

When it comes to regulating data privacy, voters place similar amounts of responsibility on federal and state lawmakers, as well as federal regulators. While 72 percent of voters said Congress is either “very responsible” or “somewhat responsible” for regulating how companies collect, store and share personal information, 79 percent said the same for federal agencies and 75 percent for state governments.

AND, outdated – already been politicized

Evans 10-30-21 (Ailan Evans, 10-30-2021, "Democrats’ Spending Bill Creates A ‘Privacy Bureau’ With A $500 Million ‘War Chest’," Shore News Network, https://www.shorenewsnetwork.com/2021/10/30/democrats-spending-bill-creates-a-privacy-bureau-with-a-500-million-war-chest/)

A provision in the most recent version of the Democrats’ spending proposal allocates $500 million for a privacy bureau within the Federal Trade Commission, with little guidance on how the money is to be spent.

The bill, known as the Build Back Better Act, appropriates $500 million for fiscal year 2022 to the Federal Trade Commission (FTC) to “create and operate a bureau” tasked with protecting data privacy.

The money is available until September 30, 2029 and can be used for “hiring and retaining technologists, user experience designers, and other experts” to help the FTC on work “related to unfair or deceptive acts or practices relating to privacy, data security, identity theft, data abuses, and related matters.”

Democrats on the House Energy and Commerce Committee had originally approved $1 billion in funding for the bureau in an earlier version of the bill in September. The funding will further empower the FTC under Chair Lina Khan, who has looked to expand the agency’s scope and has pushed for more aggressive antitrust and consumer protection enforcement.

While Democrats have previously urged the FTC to craft stronger data privacy laws, some Republicans are wary of the proposal and the direction of the FTC under Khan.

“Half a billion dollars is still a sizable war chest,” Sean Kelly, spokesman for Rep. Cathy McMorris Rodgers who serves as Ranking Member on the House Energy and Commerce Committee, told the Daily Caller News Foundation. “This funding will just be used to consolidate power at the Commission so the Democrats can advance their political agenda.”

McMorris Rodgers joined with Republicans Sen. Roger Wicker and FTC Commissioner Noah Phillips in late September to write an op-ed criticizing proposals for the FTC to enact privacy protections through “executive rulemaking,” arguing instead for Congress to pass federal data privacy legislation.

Khan has drawn the ire of Phillips and fellow Republican Commissioner Christine Wilson, who in Congressional testimony argued that Khan was “tearing down” the FTC’s “rich bipartisan tradition” by cutting off minority commissioners from access to certain information. The Republicans castigated Khan for issuing a rule change earlier this week without allowing them to issue a simultaneous dissent.

Rep. Jim Jordan, ranking member on the House Judiciary Committee, told the DCNF earlier this month that Khan has “made it clear she will use the FTC to advance President Biden’s agenda in the name of economic ‘inequality’ and socialism.”

The Democrats’ proposal also follows testimony from former Facebook employee Frances Haugen who called for the creation of a “dedicated oversight body” to serve as a “regulatory home” for former social media employees to oversee privacy matters, among other things.

Though national privacy legislation has long been a topic of discussion on Capitol Hill, with several laws proposed, a comprehensive data privacy standard has yet to be passed.

“Congress should be coming together to enact national privacy standards and ensure all Americans are protected equally,” Kelly told the DCNF. “The Democrats’ proposal lacks direction from Congress and accountability or recourse for how these funds may be used.”

#### Disad outweighs – prefer scope and reversibility – failure to pass BBB dooms foreign follow-through on commitments post-Glasgow conference – scorches the planet – that’s Chon

#### Prefer scientific consensus – now’s the last chance before countless catastrophic impacts become irreversible – encompasses all other impacts, making it try or die to avoid the disad

Åberg et al 10-5 (Anna Åberg, research analyst in the Environment and Society Programme of Chatham House, formerly served as desk officer at the Swedish Ministry for Foreign Affairs, MSc Development Studies, London School of Economics and Political Science, BSc Business and Economics, and Politics and Economics, Lund University; Antony Froggatt, deputy director and senior research fellow in the Environment and Society Programme of Chatham House; and Rebecca Peters, Queen Elizabeth II Academy Fellow in the Environment and Society Programme of Chatham House, doctoral candidate at the University of Oxford with the UK Foreign, Commonwealth and Development Office REACH Water Security programme, MSc Development Economics, MSc Water Science and Policy, Marshall Scholar; “Raising climate ambition at COP26,” Chatham House (the Royal Institute of International Affairs, London) Research Paper, October 2021, https://www.chathamhouse.org/sites/default/files/2021-10/2021-10-05-raising-climate-ambition-at-cop26-aberg-et-al-pdf.pdf)

01

Introduction

COP26 is the most important climate summit since COP21 in Paris in 2015. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s carbon neutrality target.

Addressing climate change is the defining challenge of our time. Around the globe – and across the suite of UN organizations – there is widespread recognition of the urgency to reduce greenhouse gas (GHG) emissions and to prepare for a world that is, and will continue to be, severely impacted by climate change.

The foundational treaty of the international climate change regime – the United Nations Framework Convention on Climate Change (UNFCCC) – was adopted at the Rio Earth Summit in 1992.1 Its signatories agreed to ‘achieve… stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system’.2 The states that have ratified the UNFCCC meet annually at the ‘Conference of the Parties’ (COP) to assess and review the implementation of the convention.3 The COP has negotiated two separate treaties since the formation of the UNFCCC: the Kyoto Protocol in 1997, and the Paris Agreement in 2015.4

The Paris Agreement was adopted by 196 parties at COP21 in 2015 and entered into force less than a year later.5 The goals of the treaty are to keep the rise in the global average temperature to ‘well below 2°C above pre-industrial levels’, ideally 1.5°C; enhance the ability to adapt to climate change and build resilience; and make ‘finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development’.6 The agreement adopts a ‘bottom-up’ and non-standardized approach, where parties themselves set their national emission reduction targets and communicate these to the UNFCCC in the form of nationally determined contributions (NDCs).7

As things stand, the targets8 that were submitted in the run-up to COP21 are not sufficient, even if fully implemented, to limit global warming to 2°C, much less 1.5°C.9 The Paris Agreement was designed, however, to generate increased ambition over time via two components: a collective ‘global stocktake’ during which progress towards Paris Agreement goals is assessed based on country reporting,10 and the ‘ratchet mechanism’, which encourages countries to communicate new or updated NDCs every five years, with the expectation that ambition will increase over time.11 The results of the stocktake are scheduled to be released two years before NDC revisions are made.12 This sequencing is designed to allow national plans to account for the global context of the climate assessment. The first global stocktake is to be conducted between 2021 and 2023, and will be repeated every five years thereafter.13 The results of the first stocktake are due to be published around COP28.

We really are out of time. We must act now to prevent further irreversible damage. COP26 this November must mark that turning point.14 UN Secretary-General António Guterres, 16 September 2021

The 26th Session of the Conference of the Parties (COP26) to the UNFCCC is to be hosted by the UK, in partnership with Italy. After a year-long delay, the conference is now scheduled to take place in Glasgow, Scotland, between 31 October and 12 November 2021.15 Organizing an in-person event during a pandemic presents a substantial challenge. The UK government is providing vaccines to accredited delegations, but doses only started to be delivered at the beginning of September 2021 and restrictions, such as quarantine requirements,16 pose further obstacles to participation.17 An alliance of 1,500 civil society organizations are among those calling for a second postponement of the COP, citing concerns about a lack of plans to enable safe and inclusive participation of delegates from, not least, the Global South.18 The UK government is, however, adamant that it will proceed with the conference as planned.19

The pandemic has changed understandings of global risks, the interconnected nature of economies and the role of governments in preparing for and responding to existential threats. This may provide impetus for accelerated climate action. The postponement of COP26 itself has been of considerable significance. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s climate neutrality target being particularly important. Moreover, the economic recovery packages that are being rolled out to counter the economic consequences of the pandemic present an opportunity to accelerate the green transition.20 To date, however, the members of the G20 have prioritized investments in fossil fuels above those in clean energy,21 and only 10 per cent of the global expenditure is estimated to have been allocated to projects with a net positive effect on the environment.22

COP26 is the most important climate summit since COP21 in Paris, and it differs from earlier COPs in several ways: it is the first test of the ambition-raising ratchet mechanism and marks a shift from negotiation to implementation. An ambitious outcome at COP26 requires substantial action to be taken before the summit – and outside the remits of the UNFCCC process – as well as at the actual conference.

Human activity has already caused the global average temperature to rise by around 1.1°C above pre-industrial levels, and every additional increase in warming raises the risks for people, communities and ecosystems. To avoid the most catastrophic climate change impacts, it is essential world leaders make every effort to limit warming to 1.5°C. Working group I of the Sixth Assessment Report of the IPCC shows it is still possible to keep warming to this critical threshold, but that unprecedented action must be taken now.23 As John Kerry, special presidential envoy for climate, stated, ‘[t]his test is now as acute and as existential as any previous one’.24

COP26 has a critical role in getting the world on track for a 1.5°C pathway, and in supporting those most affected by climate change impacts. It also constitutes a key test for the credibility of the Paris Agreement and the UNFCCC process overall. But what can and should the Glasgow summit achieve more specifically? The objective of this paper is to discuss what a positive outcome at COP26 would entail, with the dual aims of encouraging increased ambition and contributing to an informed public debate. The main argument put forth is that substantial progress must be made in three main areas, namely on increasing the ambition of NDCs; enhancing support to and addressing concerns of climate-vulnerable developing countries; and advancing the Paris Rulebook to help operationalize the Paris Agreement.

COP26 is undoubtedly hugely significant and national government pledges in the run-up to Glasgow will contribute to shaping the level of future GHG emissions. However, the event is not only critical in terms of reaching an ambitious outcome on climate, it is also an important opportunity to judge the level of confidence in the international process and the UNFCCC.

02

Increasing the ambition of the NDCs

A key element of COP26 will be the level of ambition of the revised NDCs put forward by governments to the UNFCCC and the extent to which these keep the 1.5°C global warming target agreed in Paris within reach.

According to the United Nations Environment Programme (UNEP), greenhouse gases (GHGs) in 2019 totalled 52.4 gigatonnes of CO₂ equivalent (GtCO₂e)25 of which the majority was CO₂ (38 Gt), then methane (9.8 Gt), nitrous oxide (2.8 Gt) and F-gases (1.7 Gt).26 The same year, GHG emissions were approximately 59 per cent higher than in 1990 and 44 per cent higher than in 2000.The six largest emitters – together accounting for 62 per cent of the global total – were China (26.7 per cent), the US (13 per cent), the EU (8 per cent), India (7 per cent), Russia (5 per cent) and Japan (3 per cent) (see Figure 1).27

**[FIGURE 1 OMITTED]**

According to UNEP, the implementation of the first round of NDCs would result in an average global temperature increase of 3°C above pre-industrial levels by the end of the century, with further warming taking place thereafter. If these NDC’s were fully implemented, emission levels are expected to be in the range of 56 GtCO2e (with unconditional NDCs) to 53 GtCO₂e (with conditional NDCs) by 2030.28 To align with a 2°C pathway, the ambition of the second round of NDCs would need to triple relative to the original targets, leading to emissions levels of around 41 GtCO₂e in 2030. Alignment with the 1.5°C target would require a fivefold increase in ambition, leading to emission levels around 25 CO₂e in 2030 (see Figure 2).29

**[FIGURE 2 OMITTED]**

The Paris Agreement states that parties shall communicate an NDC every five years,30 and that each submission shall constitute a progression in terms of ambition.31 Parties conveyed their first round of targets prior to COP21, and were due to submit new or updated plans in 2020.32 COP26, originally scheduled for November 2020, would then take stock of the collective level of ambition of these plans vis-à-vis the temperature targets of the Paris Agreement. The postponement of the COP by one year has in practice (albeit not formally) extended the deadline for submitting NDCs to ‘ahead of COP26’.

Where do we stand?

The delay of COP26 has given countries more time to put forward NDCs and longer-term decarbonization targets. This effort gained significant traction when China pledged to achieve carbon neutrality by 2060 and peak its emissions before 2030, during the general debate of the 75th Session of the UN General Assembly (UNGA) in September 2020.33 Then, in November 2020, the UK submitted its NDC, pledging a 68 per cent reduction in emissions by 2030 (based on 1990 levels)34 and later added a 2035 target of 78 per cent.35 The EU has, moreover, put forward a 55 per cent reduction target relative to 1990 levels,36 with some countries within the bloc going even further, including Germany, which agreed on a 65 per cent reduction target.37

The election of President Biden has fundamentally changed the US’s position on climate change, leading to, among other things, the country re-joining the Paris Agreement.38 At a specially convened Leaders Summit on Climate – hosted by the US – the Biden administration presented an NDC with an emission reduction target of 50–52 per cent39 (based on 2005 levels, which is equivalent to 40–43 per cent below 1990 levels40). During the summit, countries including Canada, Japan and others pledged more ambitious NDC targets.41

While there is more pressure on governments to act on climate change, due to its increasingly devastating impacts, there are also more opportunities for carbon mitigation through available alternative technologies and systems, as well as falling renewable energy costs (see Box 2).

Table 1 details the NDC targets put forward by G20 countries prior to COP21 in Paris and the extent to which these have since been revised. The updated NDCs have been assessed by the independent body, Climate Action Tracker, which has analysed to what extent the NDCs align with the 1.5°C pathway. The analysis also looks at domestic policies and actions, which are important as they provide an indication of whether governments are following through on their promises.

**[TABLE 1 OMITTED]**

As of September 2021, 85 countries and the EU27 had submitted new or updated NDCs, covering around half of global GHG emissions. Some parties, like China and Japan, have proposed new targets but not yet submitted them formally while around 70 parties – including G20 countries like India, Saudi Arabia and Turkey – have neither proposed nor communicated a revised NDC target. Several parties have, moreover, submitted new NDCs without increasing ambition. These include Australia, Brazil, Indonesia, Mexico, New Zealand, Russia, Singapore, Switzerland and Vietnam.42 In some of these cases, adjustments in baselines mean that ambition has de facto decreased (Brazil and Mexico).43 Analysis published by Climate Action Tracker in September 2021 shows that the NDC updates only narrow the gap to 1.5°C by, at best, 15 per cent (4 GtCO₂e). This leaves a large gap of 20–23 GtCO₂e.44

Similar analysis from the UN underscores the need for further NDC enhancements.45 If all current NDCs are implemented, total GHG emissions (not including emissions associated with land use) in 2030 are projected to be 16.3 per cent higher than in 2010, and 5 per cent higher than in 2019. The emissions of the parties that have submitted new or updated NDCs are, however, expected to fall by around 12 per cent by the end of the decade, compared to 2010 levels. The UN report also highlights the importance of providing support to developing countries, as many of these have submitted NDCs that are – at least in part – conditional on the receipt of additional financial resources, capacity-building support, and technology transfer, among other things. If such support is forthcoming, global emissions could peak before 2030, with emission levels at the end of this decade being 1.4 per cent lower than in 2019. However, even the full implementation of both the unconditional and conditional elements of the NDCs would lead to an overshoot of the targets of the Paris Agreement – as alignment with 1.5°C and 2°C require cuts of 45 per cent and 25 per cent, respectively, by 2030 (relative to 2010 levels).46

A large number of countries are also making more long-term net zero emissions or carbon neutrality pledges. As of September 2021, just over 130 countries had made such commitments, but not all of them have formally presented them to the UNFCCC.47 Examples include large economies like China, Japan, Brazil, the US, South Africa, South Korea, and the EU, as well as climate-vulnerable developing countries like the Marshall Islands, Barbados, Kiribati and Bangladesh.48 Climate Action Tracker estimates that if these long-term targets – and the NDCs – are fully implemented, global warming could be limited to 2°C.49 Most of the net zero pledges are, however, formulated in vague terms that are not consistent with good practice. The long-term targets are, moreover, only credible if they are backed up by ambitious and robust 2030 NDCs,50 given that substantial cuts in emissions must occur this decade. An additional concern that has been raised when it comes to net zero pledges is that they may encourage reliance on negative emissions technologies, such as bioenergy with carbon capture and storage (BECCS), which have still to be tested at scale to assess land requirement, efficiency and economic viability.51

**[BOX 1 OMITTED]**

The challenge of closing the gap

Bridging the gap between current NDCs and targets that would keep warming to 1.5°C is a defining challenge for governments ahead of COP26. As mentioned, UNEP estimates that the ambition of 2030 targets would need to be enhanced fivefold vis-à-vis pledges made in 2015 to align with a 1.5°C pathway.53 Several large emitters – including the US and the EU – have now submitted their new or updated NDCs. According to Climate Action Tracker, the UK’s target is considered to be compatible with a 1.5°C pathway, while those of the US, EU, Japan and Canada are classified as ‘almost sufficient’.54

It is critical that all countries that have not yet submitted a new or updated NDC do so, and that these pledges are aligned with 1.5°C. It is equally important that countries that have submitted unambitious NDCs revisit their targets. The Paris Agreement states that parties may revise existing NDCs at any time, if the purpose is to enhance ambition.55 The G20 countries have a particularly important role to play. In July 2021, the Italian G20 presidency hosted the first ever G20 Climate and Energy Ministerial meeting. In the final communique the countries in the G20 stated that they ‘intend to update or communicate ambitious NDCs by COP26’.56 The importance of action from all members of the G20 is clear, as they collectively account for 80 per cent of global emissions and as UN Secretary-General António Guterres said, ‘there is no pathway to this [1.5°C] goal without the leadership of the G20’.57

With only a few weeks to go it is, however, unlikely that the 20–23 GtCO₂e gap in targets will be closed by COP26. At the UK-hosted COP26 ministerial in July, a number of ministers stressed that parties would need to respond to any gap remaining by the Glasgow conference. Some suggested that such a response could include a ‘clear political commitment’ to keep 1.5°C within reach, a recognition of the gap, and a plan to bridge it. More specific proposals of actions that could be taken, as part of the response, to keep the 1.5°C pathway alive were also discussed. Suggestions included, but were not limited to, encouraging countries whose NDCs are not consistent with 1.5°C to bring their 2030 targets in line before 2025 (when the third round of NDCs are due); calling for parties to submit concrete long-term strategies for reaching net zero; and/or sending clear signals to markets through actions like phasing out unabated coal, carbon pricing, fossil fuel subsidy reform, nature-based solutions, and decarbonizing transport.58

Achieving a positive COP26 outcome

The ultimate benchmark for a high ambition outcome at COP26 is whether the new or updated NDCs are ambitious enough to align with a 1.5°C pathway. For many communities and ecosystems, the threat of different climate impacts between 1.5°C and 2°C – not to mention 3°C, 4°C or 5°C – is existential. Each increment of warming is anticipated to drive increasingly devastating and costly impacts, including extreme heatwaves, rising sea levels, biodiversity loss, reductions in crop yields, and widespread ecosystems damage including to coral reefs and fisheries.59

Keeping the goal of 1.5°C within reach will require substantial action this decade. Long-term targets to achieve net zero emissions or carbon neutrality have the potential to be powerful drivers of decarbonization but need to be supported by ambitious NDCs as well as concrete policies and sufficient investment.

Should we reach COP26 without sufficient ambition on NDCs, parties would need to present a plan for how ambition will be raised in the early 2020s. This could include a COP decision or a political statement underscoring the need to keep warming to 1.5°C and inviting parties to revisit their NDCs earlier than the Paris timetable dictates (for instance in 2023 instead of 2025).60 To support more ambitious action, countries should look to expand international collaboration and accelerate decarbonization in key sectors. At COP26, parties can help boost the credibility of their pledges by showcasing policies, measures and sector initiatives that will accelerate decarbonization, including on the phase out of unabated coal and the increased use of electric vehicles (see Box 3).

**[BOX 2 OMITTED]**

**[FIGURE 3 OMITTED]**

In the run-up to COP26, the UK government is mobilizing its counterparts and non-state actors to drive accelerated action on phasing out the use of unabated coal,65 accelerating the deployment of electric vehicles,66 protecting and restoring nature (nature-based solutions67), and aligning financial flows with the goals of the Paris Agreement.68 The role of the private sector is crucial in the transition to net zero economies and is recognized within the framework of the UNFCCC, as they can deliver funding, innovation and technology deployment at a pace and scale beyond that of most governments (see Box 1). It is hoped that some of these initiatives will lead to plurilateral agreements at or ahead of COP26, which could enhance the credibility of mitigation pledges and help keep the 1.5°C target within reach. Being able to showcase a package consisting of ambitious NDCs, plurilateral deals, and national policies at COP26 could generate positive momentum and create a sense of inevitability around the transition to net zero societies.

**[BOX 3 OMITTED]**

03

Support to climate-vulnerable developing countries

Increased action on climate finance, adaptation, and loss and damage is critical for supporting climate-vulnerable developing countries, strengthening trust and raising ambition on mitigation.

The year 2020 was one of the warmest on record.80 As COVID-19 ravaged the world, extreme weather events continued to cause severe devastation. In Bangladesh, torrential rains submerged a quarter of the country,81 resulting in hundreds of deaths, mass displacement and damage to more than a million homes.82 Record-breaking floods in Sudan83 and Uganda84 also displaced hundreds of thousands, while super cyclone Amphan raged across South Asia.85 Extreme weather events were also a defining feature of the summer of 2021.

An unprecedented heatwave may have killed almost 500 people in British Columbia,86 as well as a billion marine animals along the Canadian coastline.87 In the Chinese province of Henan people drowned in the subway after a year’s worth of rain fell in just three days.88 Germany and Belgium also experienced death and destruction as a result of severe flooding,89 while villages in Greece burned.90

The impacts of climate change are striking even harder than many anticipated,91 and as temperatures continue to rise extreme weather events are increasing in both frequency and intensity. Limiting global warming to 1.5°C is key to avoiding the most catastrophic events, but substantial measures must also be undertaken to adapt to climate change impacts and build resilience. As the summer of 2021 shows, no country is spared. It is, however, those who have emitted the least that are most at risk,92 and in many countries that are disproportionately affected by climate change – such as the least developed countries (LDCs)93 – financial constraints impede their ability to invest in adaptation, build resilience and deal with loss and damage.94 COVID-19 has aggravated this challenge: while industrialized countries have implemented unprecedented stimulus measures to support their economies – and vaccinated large parts of their populations – many developing countries remain in the midst of a health and economic catastrophe.

Scaled up action on climate finance, adaptation and loss and damage are – in addition to increased ambition on mitigation – key priorities for climate-vulnerable nations ahead of COP26. Raised ambition and concrete delivery in these areas are critical for supporting those at the frontline of climate change, key to building trust, and could encourage some parties to raise the ambition of their NDC pledges. The implementation of many NDCs is, in addition, at least partly conditional upon receiving increased levels of finance, as well as other types of support.95

Honouring the $100 billion goal

In 2009, developed countries committed to mobilizing $100 billion per year by 2020 for climate mitigation and adaptation in developing countries.96 This pledge was subsequently formalized in the Cancun Agreements in 201097 and reaffirmed in the Paris Agreement in 2015. The resources provided were to be ‘new and additional’98 and come from a variety of public and private sources.99 The $100 billion goal is a core element of the bargain underpinning the Paris Agreement.100 While achieving the mitigation and adaptation goals of the agreement will require trillions of dollars in investment – of which most will need to come from the private sector – the delivery of the $100 billion is critical to building trust between developed and developing countries,101 and is important for raising ambition on mitigation.102

The OECD estimates that $79.6 billion was mobilized in 2019, which is the most recent year for which official figures are available.103 In 2018, the figure was $78.9 billion, and in 2017 it was $71.2 billion.104 Though the verified figures for 2020 will not be available until 2022, it is clear the target was missed.105

Developed countries have, moreover, not yet been able to show that the pledge will be honoured in 2021, nor demonstrate conclusively how it will be met in the 2022–24 period.106

The pledge by developed nations to mobilize $100 billion to developing nations by 2020 is a commitment made in the UNFCCC process more than a decade ago. It’s time to deliver. How can we expect nations to make more ambitious climate commitments for tomorrow if today’s have not yet been met?107

Patricia Espinosa, 23 July 2021

How the goal is achieved matters. Only around one-fifth of bilateral climate finance is allocated to the LDCs,108 and locally led projects receive low priority.109 There are also concerns related to overreporting and lack of additionality. Oxfam estimates, for instance, that 80 per cent of public climate finance provided over the 2017–18 period took the form of loans or other non-grant instruments, and that the actual grant equivalent only accounted for around half of the total amount of finance reported.110 Furthermore, the Center for Global Development has found that almost half of the climate finance reported between 2009 and 2019 cannot be considered ‘new and additional’.111 There is, finally, an urgent need to close the adaptation finance gap (see next section),112 and facilitate access to finance.113

It is widely recognized that honouring the $100 billion goal is a prerequisite for success at COP26.114 The hitherto failure of developed countries to provide clarity on the issue is creating mistrust between countries,115 with the director of the International Centre for Climate Change and Development (who is also an adviser to the climate-vulnerable countries) conveying that, ‘if the money is not delivered before November, then there is little point in climate-vulnerable nations showing up in Glasgow to do business with governments that break their promises’.116 The chair of the LDC Group has also made it clear that, ‘[t]here will be no COP26 deal without a finance deal’. 117

The G7 countries play a critical role in mobilizing the $100 billion,118 and there was a hope that G7 leaders would increase their bilateral commitments substantially – and provide clarity on the $100 billion119 – when they convened in Cornwall in June 2021. Some new pledges were made. Canada, for instance, committed to doubling its climate finance through to 2025 (to CAD $5.3 billion), and Germany pledged to increase its annual commitments from €4 billion to €6 billion by 2025 at the latest.120 The G7 members collectively also committed to ‘each increase and improve’ their public climate finance contributions, and announced they would develop a new international initiative – ‘Build Back Better for the World’121 – the details of which have yet to be fleshed out. However, many developing country officials – and many observers worldwide – expressed disappointment with the summit outcome, with the climate minister of Pakistan describing the G7 commitments as ‘peanuts’.122

Several announcements on climate finance were also made during the 76th Session of the UNGA in September 2021. Most importantly, President Joe Biden pledged to double US climate finance (again) from the previously committed $5.7 billion to $11.4 billion per year by 2024. Actual delivery is, however, contingent on congressional approval.123 The EU – which already contributes around $25 billion in climate finance per year – also stepped up, announcing an additional €4 billion until 2027,124 while Italian Prime Minister Mario Draghi conveyed that Italy would shortly be announcing a new climate finance commitment.125 Though the US pledge in particular has been described as a critical step forward that ‘puts the $100 billion within reach’,126 more will need to be done.127

$100 billion is a bare minimum. But the agreement has not been kept. A clear plan to fulfil this pledge is not just about the economics of climate change; it is about establishing trust in the multilateral system.128

António Guterres, 9 July 2021

#### AND, expectations of resource conflict alone makes nuclear war inevitable in the short term

Dr. Michael T. Klare 20, Five Colleges Professor of Peace and World Security Studies at Hampshire College, Ph.D. from the Graduate School of the Union Institute, BA and MA from Columbia University, Member of the Board of Director at the Arms Control Association, Defense Correspondent for The Nation, “How Rising Temperatures Increase the Likelihood of Nuclear War”, The Nation, 1/13/2020, https://www.thenation.com/article/archive/nuclear-defense-climate-change/

Climbing world temperatures and rising sea levels will diminish the supply of food and water in many resource-deprived areas, increasing the risk of widespread starvation, social unrest, and human flight. Global corn production, for example, is projected to fall by as much as 14 percent in a 2°C warmer world, according to research cited in a 2018 special report by the UN’s Intergovernmental Panel on Climate Change (IPCC). Food scarcity and crop failures risk pushing hundreds of millions of people into overcrowded cities, where the likelihood of pandemics, ethnic strife, and severe storm damage is bound to increase. All of this will impose an immense burden on human institutions. Some states may collapse or break up into a collection of warring chiefdoms—all fighting over sources of water and other vital resources.

A similar momentum is now evident in the emerging nuclear arms race, with all three major powers—China, Russia, and the United States—rushing to deploy a host of new munitions. This dangerous process commenced a decade ago, when Russian and Chinese leaders sought improvements to their nuclear arsenals and President Barack Obama, in order to secure Senate approval of the New Strategic Arms Reduction Treaty of 2010, agreed to initial funding for the modernization of all three legs of America’s strategic triad, which encompasses submarines, intercontinental ballistic missiles, and bombers. (New START, which mandated significant reductions in US and Russian arsenals, will expire in February 2021 unless renewed by the two countries.) Although Obama initiated the modernization of the nuclear triad, the Trump administration has sought funds to proceed with their full-scale production, at an estimated initial installment of $500 billion over 10 years.

Even during the initial modernization program of the Obama era, Russian and Chinese leaders were sufficiently alarmed to hasten their own nuclear acquisitions. Both countries were already in the process of modernizing their stockpiles—Russia to replace Cold War–era systems that had become unreliable, China to provide its relatively small arsenal with enhanced capabilities. Trump’s decision to acquire a whole new suite of ICBMs, nuclear-armed submarines, and bombers has added momentum to these efforts. And with all three major powers upgrading their arsenals, the other nuclear-weapon states—led by India, Pakistan, and North Korea—have been expanding their stockpiles as well. Moreover, with Trump’s recent decision to abandon the Intermediate-Range Nuclear Forces (INF) Treaty, all major powers are developing missile delivery systems for a regional nuclear war such as might erupt in Europe, South Asia, or the western Pacific.

### Case

### Adv 1

### AT: Demo Impact – 2NC – AT: War / Democratic Peace Theory In Case They Say That

#### Democracy doesn’t cause peace – statistical models are spurious and don’t assume economic growth

Mousseau, 12 (Michael – Professor IR Koç University, “The Democratic Peace Unraveled: It’s the Economy” International Studies Quarterly, p 1-12)

Model 2 presents new knowledge by adding the control for economic type. To capture the dyadic expectation of peace among contract-intensive nations, the variable Contract- intensive EconomyL (CIEL) indicates the value of impersonal contracts in force per capita of the state with the lower level of CIE in the dyad; a high value of this measure indicates both states have contract-intensive economies. As can be seen, the coefficient for CIEL ()0.80) is negative and highly significant. This corroborates that impersonal economy is a highly robust force for peace. The coefficient for DemocracyL is now at zero. There are no other differences between Models 1 and 2, whose samples are identical, and no prior study corroborating the democratic peace has considered contractintensive economy. Therefore, the standard econometric inference to be drawn from Model 2 is the nontrivial result that **all prior reports of democracy as a force for peace are probably spurious, since this result is predicted and fully accounted for by economic norms theory.** CIEL and DemocracyL correlate only in the moderate range of 0.47 (Pearson’s r), so the insignificance of democracy is not likely to be a statistical artifact of multicollinearity. This is corroborated by the variance inflation factor for DemocracyL in Model 2 of 1.85, which is well below the usual rule-of-thumb indicator of multicollinearity of 10 or more. Nor should readers assume most democratic dyads have both states with impersonal economies: While almost all nations with contract-intensive economies (as indicated with the binary measure for CIE) are democratic (Polity2 > 6) (Singapore is the only long-term exception), more than half—55%—of all democratic nation-years have contract-poor economies. At the dyadic level in this sample, this translates to 80% of democratic dyads (all dyads where DemocracyBinary6 = 1) that have at least one state with a contract-poor economy. In other words, not only does Model 2 show **no evidence of causation from democracy to peace** (as reported in Mousseau 2009), but it also illustrates that this absence of democratic peace includes the vast majority—80%—of democratic dyad-years over the sample period. Nor is it likely that the causal arrow is reversed—with democracy being the ultimate cause of contract-intensive economy and peace. This is because correlations among independent variables are not calculated in the results of multivariate regressions: Coefficients show only the effect of each variable after the potential effects of the others are kept constant at their mean levels. If it was democracy that caused both impersonal economy and peace, then there would be some variance in DemocracyL remaining, after its partial correlation with CIEL is excluded, that links it directly with peace. The positive direction of the coefficient for DemocracyL informs us that no such direct effect exists (Blalock 1979:473–474). Model 3 tests for the effect of DemocracyL if a control is added for mixed-polity dyads, as suggested by Russett (2010:201). As discussed above, to avoid problems of mathematical endogeneity, I adopt the solution used by Mousseau, Orsun and Ungerer (2013) and measure regime difference as proposed by Werner (2000), drawing on the subcomponents of the Polity2 regime measure. As can be seen, the coefficient for Political Distance (1.00) is positive and significant, corroborating that regime mixed dyads do indeed have more militarized conflict than others. Yet, the inclusion of this term has no effect on the results that concern us here: CIEL ()0.85) is now even more robust, and the coefficient for DemocracyL (0.03) is above zero.7 Model 4 replaces the continuous democracy measure with the standard binary one (Polity2 > 6), as suggested by Russett (2010:201), citing Bayer and Bernhard (2010). As can be observed, the coefficient for CIEL ()0.83) remains negative and highly significant, while DemocracyBinary6 (0.63) is in the positive (wrong) direction. As discussed above, analyses of fatal dispute onsets with the far stricter binary measure for democracy (Polity = 10), put forward by Dafoe (2011) in response to Mousseau (2009), yields perfect prediction (as does the prior binary measure Both States CIE), causing quasi-complete separation and inconclusive results. Therefore, Model 5 reports the results with DemocracyBinary10 in analyses of all militarized conflicts, not just fatal ones. As can be seen, the coefficient for DemocracyBinary10 ()0.41), while negative, is not significant. Model 6 reports the results in analyses of fatal disputes with DemocracyL squared (after adding 10), which implies that the likelihood of conflict decreases more quickly toward the high values of DemocracyL. As can be seen, the coefficient for DemocracyL 2 is at zero, further corroborating that even very high levels of democracy do not appear to cause peace in analyses of fatal disputes, once consideration is given to contractintensive economy. Models 3, 4, and 6, which include Political Distance, were repeated (but unreported to save space) with analyses of all militarized interstate disputes, with the democracy coefficients close to zero in every case. Therefore, the conclusions reached by Mousseau (2009) are corroborated even with the most stringent measures of democracy, consideration of institutional distance, and across all specifications: The **democratic peace appears spurious**, with contract-intensive economy being the more likely explanation for both democracy and the democratic peace.

### Adv 2

### AT: Econ Impact – 2NC – XT: No Impact

#### Economic decline doesn’t cause war – that’s Clary 15 – prefer it – has the largest dataset and timeline controlling for alternate explanations – cooperative policies are more likely – proven by 2008 financial crisis and the economic fallout from COVID

#### Off-ramps to war solve

Schultz 18 (Kenneth, Professor of Political Science at Stanford University, “Perils of Polarization for U.S. Foreign Policy.” Washington Quarterly, Winter 2018)

From the perspective of the country’s foreign policy, one danger is that presidents can respond to this political risk by shaping military operations in ways that make them less effective. A president who expects to meet opposition may decide not to use force in a case where doing so might further U.S. interests—e.g., plausibly, Syria in 2013—or to delay getting involved while a crisis deepens—e.g., Bosnia from 1992–95.22 Presidents may also tailor the military strategy to ensure that an operation incurs low costs in terms of American casualties, thereby preventing a political backlash.23 For example, the (unauthorized) operations over Kosovo and Libya were designed to rely on air power only. Although several considerations contributed to those decisions—including the need to reassure worried allies and a skeptical Russia— they also dramatically lowered the risk to American service members. As a result, the domestic political salience and risk of these operations were minimized. The Obama administration even cited the limited nature of the Libya mission to argue that U.S. involvement did not rise to the level of “hostilities” for which Congressional authorization was needed.

#### Reject their alarmism – internal checks are resilient

Frisén 17 – Håkan, Head of Economic Forecasting at SEB, 2-22-17, "Global economy resilient to new political challenges," https://sebgroup.com/press/news/global-economy-resilient-to-new-political-challenges

The interplay between economics and politics was undoubtedly a dominant feature of analyses during 2016. As we know, it was difficult to foresee both election results and their economic consequences. It was certainly not strange that economists were unable to predict the Brexit referendum outcome or Donald Trump’s victory, when public opinion polling organisations and betting firms failed to do so, but lessons might be learned from the economic assessment impacts they made. Economists probably tend to exaggerate the importance of more general political phenomena. While in the midst of elections that appear historically important, it is tempting to present alarmist projections about election outcomes that seem improbable and/or unpleasant. But once the initial shock effect has faded, more ordinary economic data such as corporate reports and macroeconomic figures take the upper hand. ¶ Psychological effects often exaggerated¶ One important observation is that it is difficult to find any historical correlation between heightened security policy tensions and economic activity. Households and businesses do not seem to be especially sensitive in their consumption or capital spending behaviour. This is perhaps because uncertainty is offset by investments in a defence build-up, for example. Only when the conditions that directly determine profitability and investments are affected, for example via rising oil prices or poorly functioning financial markets, will the effects become clear.¶ Markets also seem to have a general tendency to assume that the economic policy makers can actually behave rationally in crisis situations, until this has been disproved. Both during the US sub-prime mortgage crisis of 2007-2008 and the euro zone's existential crisis a few years later, for a rather long time the market maintained its faith that a response would come. Not until after a lengthy period of inept actions by decision makers did these crises become genuinely acute, with large secondary effects as a consequence. This market "patience" is presumably based on a long-time pattern of recurring bailout measures by governments and central banks, which usually benefit risk-taking at the expense of caution or speculation that policy responses will not materialise.¶ It is reasonable to assume that this may also underpin the rather cautious reactions to the risks associated with the Trump administration's agenda. Although one cannot complain about the administration's power of initiative, there is a fairly high probability that in important areas it will not go from words to actions. There may be various reasons for this, such as the inertia built into the separation of powers between the White House, Congress and the court system, or expectations that Trump's newly appointed cabinet secretaries and advisors will eventually take their cues from more established US positions.

#### Comparative ev discredits their theories

Brandt and Ulfelder 11—\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict. [April, 2011, “Economic Growth and Political Instability,” Social Science Research Network]

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability has not been subjected to a great deal of careful empirical analysis, and evidence from social science research to date does not unambiguously support it. Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have hardly been studied in recent years, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, ours is the first statistical study of this relationship to simultaneously address the possibility of nonlinearity and problems of endogeneity. As such, we believe this paper offers what is probably the most rigorous general evaluation of this argument to date. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is neither as uniform nor as strong as the conventional wisdom(s) presume(s). We think these findings also help explain why the global recession of 2008–2010 has failed thus far to produce the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social unrest associated with the crisis.

# 1NR

# FTC CP and FTC independence DA

### OV – 2NC-1NR

#### At the top -

#### Our internal net benefit is *perception of FTC independence so yeah its an internal net benefit which we said in the 1NC*.

#### The CPlan *boosts it* because the FTC’s the lone actor. Plan and perm *don’t solve* - they involve *non-FTC actors*.

#### Our Nam cards are shockingly strong. The global community models FTC independence levels. External actors might be good or bad domestically, but – overseas - they greenlight involvement of political appointees. That boosts mercantilist postures and crushes global free trade.

#### Free trade turns case – it checks ongoing global wars which structurally complicate the Aff advantages AND detract resources for Aff enforcement.

#### Our ev lists six extinction warrants – we’ll deepen the terminals:

#### ( ) 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 means 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.

## vs. Perm do both

### A-Level

#### Plan and perm include *non-FTC actors*.

#### 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.

### \*\*Appearance link to perm

#### Our appearance link to the perm.

#### The perm need not fiat FTC coordination with outside agencies. Involvement of outside parties diminishes *the perception* of FTC legitimacy.

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These considerations require a more cautious answer to the question of how much independence is appropriate. Implicit or explicit in many discussions of independence are conditions that we believe represent a sensible core domain of decisions that are shielded from political interference. The most important of these is the exercise of law enforcement authority, which can lead to the imposition of significant sanctions upon juridical persons and natural persons. The political branches of government ought not to be able to (a) determine whether the agency will prosecute particular parties; or (b) influence how specific disputes will be resolved, including the choice of punishments for alleged wrongdoers. It can also be problematic if government officials outside the agency seek to micromanage pre-complaint investigations and, to a lesser extent, there are potential risks when such outside officials can demand that the agency open pre-complaint investigations. These conditions assume greater importance as the severity of the agency’s power to punish increases. As noted earlier, by this approach we would not preclude guidance by legislators about which sectors or types of commercial phenomena deserve the agency’s attention.

We have focused on law enforcement because the power to gather information, to prosecute cases, and to impose sanctions often is perceived to be the most formidable of the agency’s policymaking tools. The same observations would apply, however, to other exercises of the agency’s authority, such as the issuance of rules that implement statutory commands and the preparation of reports. A basic test is whether the form of attempted intervention from external bodies diminishes, in fact or in appearance, the capacity of the agency to exercise independent professional judgment in the administration of its responsibilities.

#### That erodes norms favoring agency independence. Creates the appearance of influence from external political actors.

Kovacic ‘15

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The earlier decision to initiate an administrative litigation or a similar decision to initiate a court proceeding—either of which requires the FTC to make a “reason to believe” determination—similarly requires a high degree of independence. A system of competition law quickly loses its legitimacy when, for example, an elected official can force the agency to file cases to harass political adversaries, to fulfill campaign promises to contributors (even worse, to make good on bribes), or to shield incumbent economic interests from challenge by new firms or business models which, if allowed to grow, will improve economic performance. Stepping further back in the process, there is substantial reason to minimize political oversight of ongoing investigations, which can potentially border on, or at least create the appearance of bordering on, micromanagement and congressional intervention in, for example, an investigation into a pending merger.

.”

### vs. Perm “Do plan then Cp”

#### We compete on three phrases:

* **“Law v. Reg”** – (POGO ev – below - CP expands and enforcement Agency’s Regs/Rules – not external “Law”)
* **“increase prohibitions”** (selectively under-enforced v. more enforcement)
* **AND; “expand scope”** (“agency interp” vs. “a larger legal scope than presently exists on paper”)

#### 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.

#### Prefer P.O.G.O. :

#### A – Precise – from *SCOTUS* and *intends to define*. Boosts *education*. Avoids *self-serving ambiguities* that crush fairness.

#### B - Contextual –1NC Khan proves Congress gave FTC *the same* promulgation authority - if it’s a *rule* for TSA, it is for FTC as well.

#### Aff severance a voter – Plan’s the locus, we’re reactive, so it’s worse for them. No clash or in-round education.

#### ( ) Aff severs two more things

#### *“Increase prohibition*”;

#### AND *“Expand Scope*”:

### AT: Links to Politics: we don’t link to Politics DA

#### FTC acting alone shields PC

**Ashley’21** (Mary Ashley, 11-1-2021, "ANALYSIS: How Will the FTC Get Its Privacy Mojo Back in 2022?," No Publication, https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-how-will-the-ftc-get-its-privacy-mojo-back-in-2022)

The odds are likely that the FTC will seek to optimize and strengthen its authority via its new left-leaning leadership. Lawyers should keep an eye on how the FTC leverages and aligns political capital in a way that maximizes innovation and cooperation with Democrats in Congress. Be ready for a robust rulemaking effort by the FTC, accompanied by a strong push for uniform privacy legislation.

The confirmation of Alvaro Bedoya as an FTC commissioner will likely give the FTC new leadership and momentum to focus on alternative rulemaking in consumer privacy protection. Additionally, Lina Khan, the new FTC chairwoman, has expressed interest in forging new antitrust rules, which could extend to creating additional privacy rulemaking.

In terms of political calculus, a strengthened regulator faces the same bipartisan gridlock characterized by a divided Congress. Yet legal practitioners should be aware of a growing momentum on both sides of the aisle, seeking more stringent regulations on unbridled Big Tech firms, as well as emerging nonpartisan sentiments toward seeking protection for children online.

### 2NC or 1NR – Aff newman ev goes Neg

#### The Aff’s 1AC Newman card goes Neg.

#### ONE – Newman clarifies that a Congressional Statute OR FTC guidance would solve. The examples of FTC failure in the Newman ev are not the same as the Counterplan – because, unlike the past, our Counterplan fiats formal agency guidance.

#### Here’s our recutting of Newman:

Newman, 18

(John M., Professor of Economics, Professor of economics and regulation of digital markets, 14 October, "Antitrust in Digital Markets", Vanderbilt Law Review, vol. ~#72, no. ~#5, pp. ~#1497-1562, - https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3201004~~#) SRS

Yet there remains substantial room for improvement. Two issues in particular merit concern. First, the FTC investigated only whether the proposed merger would likely result in less innovation on the user side of the platform.369 But such analyses are almost certain to be fruitless, as was the FTC’s inquiry in Zillow/Trulia. Economic theory does not offer robust predictions as to whether a particular deal will harm innovation competition. We know that Schumpeter’s notion of monopoly as the ideal market structure was incorrect, but the economics of innovation remain (perhaps necessarily) fuzzy.370 Moreover, the type of qualitative evidence—internal presentations, communications, and the like—that can sometimes fill such voids will typically be lacking in the present context. For obvious reasons, CEOs seem unlikely to pitch proposed deals to their directors by claiming that the merged firm will become less innovative. Little surprise, then, that the FTC’s analysis in Zillow/Trulia failed to yield evidence of innovation harm.

Second, even if enforcers were to analyze a zero-price market, accurately identify likely or actual anticompetitive effects, and file a lawsuit to correct the problem, there is no guarantee that a court would be receptive. Past experience, at least in the United States, is less than reassuring,371 although judicial analyses in the European Union and China have been much more forward-thinking in this area.372

These domestic problems call for a statutory solution, as well as (or alternatively) the type of quasi-regulatory, formal agency guidance often offered by the FTC and DOJ. Here, explicit tools are appropriate: the problem of “free” does not present the line-drawing concerns that might be presented by explicit rules attempting to single out “digital markets” for enhanced scrutiny. Products are either zero-price or not. Moreover, zero-price business models are particularly pervasive in digital markets.373 Thus, a solution focused on zero-price products can be relatively precise—and, while appropriate on its own merits, is doubly appropriate given the substantial overlap between digital and zero-price markets.

#### Section 5 Solves

**Ashley’21** (Mary Ashley, 11-1-2021, "ANALYSIS: How Will the FTC Get Its Privacy Mojo Back in 2022?," No Publication, https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-how-will-the-ftc-get-its-privacy-mojo-back-in-2022)

Legal practitioners are aware that it can take the Commission years to promulgate rules. With that in mind, I think it’s likely that the FTC will turn to strategic and creative rulemaking processes and seek to innovate past their current quagmire. Counsel should certainly be on notice that the FTC will engage under-utilized provisions in the FTC Act, resurrecting “oldies but goodies” from the enforcement playbook. Indeed, the FTC has already begun signaling a willingness to pursue alternative civil penalty actions, such as Section 5(m)(1)(b).

The FTC could utilize Section 5(m)(1)(b) of the Act in order to send “Notice of Penalty Offenses” letters to companies possibly engaging in previously litigated deceptive conduct. The notice contains examples of deceptive conduct or claims and constitutes “actual knowledge” by the company that those practices violate the law. The FTC has noted that “should the company then continue to engage in those acts or practices, the FTC may sue in federal court, seeking civil penalties.” However, such proceedings have an extremely spotty track record for actual use (most recently only used to target for-profit higher education organizations) and have traditionally been plagued by procedural barriers and technical statutory limitations.

While the FTC may still obtain remedial relief under the law’s Section 5(l) or Section 19, companies will be glad to hear that proceedings under these rules are still constrained by the agency’s red tape-ridden administrative process. However, they should still be wary of potential wiggle room for increased FTC utilization of these processes.

The FTC has also indicated enthusiasm toward improving and amending Section 18 rulemaking, as evidenced in its July approval to update and enable easier promulgation of consumer privacy rules. Momentum and encouragement for such FTC rulemaking initiatives were further bolstered by the Biden Adminstration’s executive order on competition, a clear sign that the White House endorses the FTC’s consumer data privacy authority as well as its fresh thinking in data privacy rulemaking.