# Neg vs Texas Tech CC- Texas rd 6

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## Section Five 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 blocking up mergers, instituting breakups over conduct, and creating bright lines on market reentry.  
The FTC should release a clear statement and data sets that reflects this and enforce accordingly.  
The FTC should recognize protection of competition as the purpose of antitrust law. (edited)

#### 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.

#### *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”.

## DA

#### Bedoya’s confirmation is likely, BUT opposition to the antitrust agenda threatens to indefinitely deadlock meatpacking enforcement – and everything else

Moran 1-6-22 (Max Moran, Research Director of the Personnel Team at the Revolving Door Project, studied International Relations and Journalism at Brandeis University, “Merrick Garland Is Undermining the Biden Antitrust Strategy,” The American Prospect, 1-6-2022, https://prospect.org/justice/merrick-garland-is-undermining-biden-antitrust-strategy/)

The Biden administration is threatening new anti-monopoly enforcement actions against the Big Four meatpacking companies, in part to counter inflation at the grocery store and in part to address decades of exploitation of small farmers. On Monday, the president dispatched Agriculture Secretary Tom Vilsack and Attorney General Merrick Garland to hear grievances from small ranchers, while the White House builds a new web portal to gather complaints. While the White House’s proposals for funding small meat processors to increase competition are rather unsatisfying, the enforcement piece could have a real impact.

This initiative has caused the usual grumbling from neoliberal economists, and the usual corrections to the usual grumbling. But no one has yet explained how Biden plans to actually follow through on his threat—a problem for which Garland is partly to blame.

As The Information’s Josh Sisco reported on Tuesday, there are currently just two deputies trying to manage the entire DOJ Antitrust Division (ATR) alongside Assistant Attorney General Jonathan Kanter, who was confirmed only two months ago. ATR typically has at least 12 deputies and top advisers in the “front office” who oversee about 700 career staffers. And that was under past administrations, which didn’t have nearly as ambitious an antitrust agenda as Biden’s. Reversing four decades of Borkian antitrust sloth requires a cohesive and energetic senior leadership team.

Meanwhile, the Federal Trade Commission, the executive branch’s other main antitrust enforcer, remains in a 2-2 partisan deadlock, as Senate Republicans blockade Biden nominee Alvaro Bedoya from being confirmed as a commissioner. He has a path to 51 Senate votes, but arcane (and unnecessary) procedural hurdles have slowed the process to a crawl, hindering the other avenue to antitrust action.

Biden can only do so much to move Bedoya’s nomination. But in theory, nothing prevents him from hiring whomever Kanter personally trusts to help execute their shared agenda. The deputies at ATR are not Senate-confirmed positions. So what’s causing the chaos?

The problem isn’t procedural; it’s political. In addition to diversity concerns, Sisco reports that “ideological divisions” about anti-monopoly enforcement within the Biden administration are causing fights over any potential selection for the ATR deputies.

These divisions should be familiar to anyone who followed the initial fight over antitrust nominees during the Biden transition last year. While Biden himself seems sold on the benefits of a strong anti-monopoly agenda, Garland testified last year that he sees no problem with hiring big corporations’ preferred defense attorneys to oversee their former firms and clients. Garland and other anonymous voices floated a slew of names to run ATR throughout last year—anyone but Kanter, whom progressives favored.

While Garland lost that initial fight, he seems content to starve Kanter of resources as a work-around, even if it means sabotaging his own president’s agenda. Garland, after all, appears to consider it core to his job to throttle the better parts of the Biden administration for the sake of an imagined apolitical comity. He rushed to the Trump administration’s defense over the objections of the White House many times over the last year, and continues to undermine environmental action wherever he can. It’s perfectly in keeping with his priorities to undermine antitrust enforcement too.

The corporate revolvers and pro-monopoly hacks Garland boosted also haven’t gone anywhere. Again according to Sisco, Sonia Pfaffenroth is now in the mix for one of those coveted jobs in the ATR “front office.” Pfaffenroth revolved from Arnold & Porter into the Obama ATR and back over the last two decades. In private practice, she’s defended pharmaceutical firms, fossil fuel companies, and mining companies from class actions, price-fixing cases, and of course antitrust lawsuits.

One should look to Pfaffenroth’s record from her past stint at ATR to get a sense of what a second go-around might look like. Under the Obama administration, Pfaffenroth blessed tie-ups between Virgin America and Alaska Airlines, as well as US Airways and American Airlines. Today, just four mega-airlines control 80 percent of U.S. air traffic.

Pfaffenroth even approved the $107 billion merger between Anheuser-Busch InBev and SABMiller, allowing 30 percent of the world’s beer market volume and 60 percent of the world’s beer market profits at the time to be controlled by one firm. Today, AB InBev has essentially hacked the multitiered regulatory system that kept the alcohol market competitive for decades. In some cases, AB InBev’s distributors only allow craft brewers to distribute their drinks to retailers if they keep overall production low. This bottlenecking, alongside the pandemic, has been devastating for craft brewers.

Pfaffenroth’s record at ATR reveals someone whose poor judgment has harmed major American industries. But her judgment is reflective of the failed antitrust status quo, and in antitrust and everything else, Garland sees maintaining the status quo as inherently salutary. Where you or I might see bad calls, Garland likely sees jurisprudence executed according to a well-worn book. Whether the book is right or wrong is immaterial, in his eyes.

To state the obvious, Biden ought to reject Pfaffenroth and empower Kanter with deputies ready to throw that book aside, or else his antitrust agenda on meatpacking and everything else will get tossed on the growing pile of broken promises that are cratering his approval ratings. Doing so, however, will require standing up to Garland.

Thus far, Biden has appeared reluctant to do so, for fear of threatening the attorney general’s independence. There’s a kernel of truth here, after the Justice Department was turned into the president’s personal law firm under Trump. But there is a big difference between deploying the DOJ’s resources to help friends and target enemies and ensuring the DOJ has the staff and leadership necessary to execute its policy agenda. One is a blatant abuse of power, the other a clear presidential prerogative.

It’s an awkward situation for a president, but Biden must recognize that achieving his goals—especially the ones that improve working people’s economic fortunes—does far more for the health of the nation than sticking to a failed principle for its own sake. The president badly needs to remember that the buck stops not at Main Justice, but the Oval Office. Biden can demonstrate his commitment to fulfilling his promises and vision by empowering those of his appointees who are showing the necessary courage.

#### It’s NOT about Bedoya – it’s a referendum on the scope of the current agenda – deadlock is the point

Murphy 21 (Kathleen Murphy, Senior Reporter at FTC Watch, former Section Research Manager, Specialist at Congressional Research Service, former Managing Editor at CQ Roll Call and Bill Analysis Editor at Congressional Quarterly, “Bedoya’s confirmation hearing draws closer,” FTC Watch, Issue 1016, 11-1-2021, <https://www.mlexwatch.com/articles/13940/print?section=ftcwatch>)

When Alvaro Bedoya, President Joe Biden’s nominee to the Federal Trade Commission, faces US senators, he will be asked about his scholarly views on privacy. But the hearing also gives senators a chance to assess the agenda of the last FTC nominee they confirmed, Chair Lina Khan.

The Senate Commerce, Science and Transportation Committee is set to consider Bedoya’s nomination, although no hearing date has been set. It’s most likely to occur the week of Nov. 15 or early December, based on the 2021 Senate calendar.

Serving on the FTC means Bedoya, a Georgetown University professor and former congressional lawyer, would end a 2-2 split and give Democrats a majority to implement the chair’s policies. Bedoya, founding director of the Center on Privacy & Technology at Georgetown Law, would replace former Commissioner Rohit Chopra who left Oct. 8 to serve as director of the Consumer Financial Protection Bureau.

Biden nominated Bedoya in mid-September. Khan, meanwhile, started serving as FTC chair in mid-June after an 83-day confirmation process. (See FTCWatch, No. 1002, March 29, 2021.)

‘99% about FTC Chair Lina Khan’

Michael Keeley, co-chair of the antitrust practice at Axinn, Veltrop & Harkrider, tweeted: “Bedoya confirmation is going to be 99% about FTC Chair Lina Khan, and 1% to do with Alvaro Bedoya. (And hopefully 0% about the Vertical Merger Guidelines.)”

Keeley said he expects the focus of the hearing to be assessing the wisdom of the policies being pursued by Khan.

#### Plan expands opposition, derailing confirmation

Kovacic 20 (William E. Kovacic, former FTC Chair, Global Competition Professor of Law and Policy, George Washington University Law School, JD Columbia University, “Keeping Score: Improving the Positive Foundations for Antitrust Policy,” U. of Pennsylvania Journal of Business Law, 23(1), 2020, https://scholarship.law.upenn.edu/jbl/vol23/iss1/3/)

THE POLITICAL ASSAULT ON THE FTC

From the late 1960s through the 1970s, the FTC pursued an extraordinarily ambitious agenda of competition and consumer protection matters.107 Significant antitrust litigation included challenges to dominant firm misconduct and collective dominance, distribution practices, horizontal restraints, and facilitating practices. 108 Many matters involved powerful economic interests,109 and in a number of cases the Commission sought structural relief in the form of divestitures or the compulsory licensing of intellectual property. 110 In 1974, the agency also initiated a program that required certain large firms to provide “line-of-business” data concerning a range of performance indicators.111

In the same period, the Commission used a mix of litigation and rulemaking to transform its consumer protection agenda.112 Through policy guidance and litigation, the agency introduced its advertising substantiation program that required firms to have support for factual claims made in their advertisements.113 The Commission initiated over twenty-five rulemaking proceedings and promulgated final rules involving a broad collection of product and service sectors.114

As a group, the FTC’s competition and consumer protection initiatives aroused fierce opposition from the affected firms and industries, which contested the agency’s actions in court and before Congress. 115 The complaints of industry resonated with a large, powerful bipartisan coalition of legislators116 who criticized the Commission’s activism, proposed various measures to curb the agency’s authority, 117 and ultimately adopted a number of restrictions in The Federal Trade Commission Improvements Act of 1980 (FTC Improvements Act). 118 In 1980, bitter opposition to elements of the FTC’s competition and consumer protection programs led Congress to allow the FTC’s funding to lapse, forcing the agency to temporarily cease operations. 119 Perhaps emboldened by the weak political support the Commission enjoyed before 1981, when the Democrats controlled the White House and both chambers of Congress, the Reagan administration briefly resumed the assault on the agency’s funding. In January 1981, David Stockman, Ronald Reagan’s first Director of the Office of Management and Budget (OMB), launched a short-lived effort to eliminate funding for the FTC’s competition policy program.120

The congressional and executive branch officials who criticized the FTC in this period advanced two positive claims to justify recommendations for withdrawing authority or funding for the Commission. One claim was that the agency’s choice of competition and consumer protection programs had contradicted congressional guidance about how the FTC should use its authority and resources.121 Many legislators complained that the agency had disregarded the legislature’s preferences and used its powers in ways that Congress never contemplated to fall within the FTC’s remit.122 As Congress considered bills in 1979 to limit the Commission’s powers, Congressman William Frenzel captured the prevailing legislative mood:

It is bad enough to be counterproductive and therefore highly inflationary, but the FTC compounds its sins by generally ignoring the intent of our laws, and writing its own laws whenever the whimsey strikes it . . .

Ignoring Congress can be a virtue, but the FTC’s excessive nose-thumbing at the legislative branch has become legend. In short, the FTC has made itself into virulent political and economic pestilence, insulated from the people and their representatives, and accountable to no influence except its own caprice.123

The Commission, Frenzel concluded, was “a rogue agency gone insane.”124

The accusation of Commission disobedience figured prominently in Senate deliberations on the 1980 FTC Improvements Act. In less-flamboyant but still pointed terms, the chief Senate sponsors of the FTC Improvements Act said restrictions were necessary to curb the agency’s unauthorized adventurism. Senator Howard Cannon explained: “The real reason that we have proposed this legislation for the FTC is because the Commission appeared to be fully prepared to push its statutory authority to the very brink and beyond. Good judgment and wisdom had been replaced with an arrogance that seemed unparalleled among independent regulatory agencies.”125

The accusation of disregard for congressional will soon echoed in statements by high level officials in the newly arrived Reagan administration. OMB Director Stockman recited a variant of this theme in an appearance before a House of Representatives Committee early in 1981 to address his proposal to eliminate funding for the agency’s competition mission. Stockman said, “ . . . in recent years the FTC has served the public interest very poorly, in major part because it has sought to expand its power and influence beyond that envisioned by Congress.”126

Beyond generalized claims of institutional disobedience, the accusation of disregard for congressional will was invoked to justify proposals to impose restrictions on specific FTC initiatives. For example, in the fall of 1979, the Senate Commerce Committee held hearings on a proposal by Senator Howell Heflin to eliminate the FTC’s power to order divestiture or other forms ofstructural relief in non-merger cases.127 This was a shot across the bow of the FTC’s pending “shared monopoly”128 cases involving the breakfast cereal and petroleum refining sectors, where the FTC had requested structural relief (divestitures and, in the cereal case, compulsory trademark licensing) to restore competition.129 Congress did not adopt the Helfin proposal, but the idea of eliminating or restricting the FTC’s power to seek divestiture remained a serious threat to the agency. Roughly a year after the Commerce Committee hearings on the Heflin amendment, on the day before the balloting in the 1980 presidential elections, Vice-President Walter Mondale appeared at a campaign rally in Battle Creek, Michigan (the headquarters of the Kellogg Company). The Vice-President assured his audience that, if he and President Jimmy Carter were reelected, the Carter administration would seek legislation to ban the FTC from obtaining divestiture in the breakfast cereal shared monopolization case.130

A second, related claim was that the FTC had abandoned any adherence to sound administrative practice and descended into utterly irrational decision making. The agency was not merely disobedient (“rogue”) but crazy (“insane”), as well.131 Here, again, Congressman Frenzel pungently made the point. The FTC, Frenzel said, “is a king-sized cancer on our economy. It has undoubtedly added more unnecessary costs on American consumers who it is charged with protecting, than any other half dozen agencies combined.” 132 David Stockman’s initial broadside against the Commission in February 1981 echoed this sentiment. In a newspaper interview, Stockman said the FTC “is a passel of ideologues who are hostile to the business system, to the free enterprise system, and who sit down there and invent theories that justify more meddling and interference in the economy.”133

The accusation of disobedience and the diagnosis of insanity fit poorly, or at least awkwardly, with the positive record of the FTC’s activities in the 1970s. As discussed immediately below, the rogue agency story clashes with the many instances, especially between 1969 and 1976, in which congressional committees and key legislators directed the agency to carry out an aggressive, innovative enforcement program against major commercial interests. In 1969, numerous legislators endorsed the view of two external studies that the FTC had used its authority timidly and ineffectively.134 Leading members of Congress demanded that the agency transform its competition and consumer programs or face extinction.135

Congress described the content of the desired transformation in several ways. At a high level, oversight committees and individual legislators called for a dramatic boost in the agency’s appetite to undertake ambitious, risky projects—to replace a cautious, risk-avoiding decision calculus with a bold philosophy that erred in favor of intervention and used the agency’s elastic powers innovatively. Congress’s admonition to be aggressive and use power expansively emerged again and again in confirmation proceedings and routine oversight hearings.136 During hearings in 1970 to confirm Caspar Weinberger to be the Commission’s new chair, Senator Warren Magnuson, Chairman of the Senate Commerce Committee, told the nominee to “maintain the right kind of morale by recruiting strongly and expanding . . . Trade Commission programs in order to perform the job well.”137 In setting out this charge, Magnuson seemed to recognize that the FTC would have to be steadfast in resisting backlash—including from Congress—that would emerge as the FTC went about “expanding” its programs. The Commerce Committee Chairman said Congress was calling on the FTC to perform “tasks that require a great deal of attention and a great deal of fortitude not to respond to any pressures that come from any place.”138

Weinberger’s successor, Miles W. Kirkpatrick, received similar, and even more explicit congressional guidance, to apply the Commission’s powers broadly and aggressively. In 1969, Kirkpatrick had chaired a blueribbon American Bar Association panel whose report recommended the FTC implement an ambitious antitrust agenda that involved significant doctrinal, operational, and political risks.139 In his appearances as FTC chair before congressional committees, Kirkpatrick often heard legislators applaud the risk-preferring approach of the ABA study. In Kirkpatrick’s first appearance before the Commission’s Senate Appropriations subcommittee in 1971, the Subcommittee Chairman, Senator Gale McGee, provided the following guidance:

I think this is one of the Federal commissions that has a much larger responsibility and capability than sometimes it has been willing to live up to for reasons of congressional sniping at it in some respects or pressures put on it through the industry and the like.

Too often it has been either shy or bashful. . . . That is why we were having a rather closer look at your requests just in the hopes of encouraging you, if anything, to make mistakes, but I think the mistakes you are to make ought to be mistakes in doing and trying rather than playing safe in not doing. I believe that is the most serious mistake of all . . . you are not faulted for making mistakes. You may be for making it twice in a row, for not learning properly but, we would rather you make a mistake innovating, trying something new, rather than playing so cautiously that you never make a mistake. . . . 140

In his appearance before the same subcommittee a year later, Senator McGee observed with approval that Kirkpatrick had “responded to the criticism . . . by both Mr. [Ralph] Nader and the American Bar Association by moving aggressively against some of the major industries in the United States.” 141 Recognizing that the approach he described could elicit opposition from affected business interests, McGee promised that he and his colleagues would exercise best efforts to watch the agency’s back: “[I]f you step on toes you are going to catch flak for it, but I hope we will be able to push this even more aggressively by backing you more completely with the kind of help that I think you require.”142 McGee closed the proceedings with militant instructions:

“Stay with it and flex your muscles, clinch your fists, sharpen your claws, and go to it. We think this is desperately important in the interest of the Congress, whose creature you are, and the consumer whose faith and substantive capabilities in surviving hang very heavily upon what you succeed in doing.”143

Kirkpatrick served as the FTC’s chair for just over twenty-nine months. The Commission’s new chair, Lewis Engman, received the same policy guidance that Congress had provided Weinberger and Kirkpatrick. At Engman’s confirmation hearing before the Senate Commerce Committee early in 1973, Senator Frank Moss observed:

Under . . . Weinberger and Kirkpatrick, the Commission has taken on new life beginning with the search for strong and imaginative, rigorous developers and enforcers of the law and reaching out with innovative programs to restore competition and to make consumer sovereignty more than chamber of commerce rhetoric. 144

With evident approval, Moss recounted how the FTC had “stretched its powers to provide a credible countervailing public force to the enormous economic and political power of huge corporate conglomerates which today dominate American enterprise.” 145 The members of the Senate Commerce Committee, Moss concluded, “consider it one of our solemn duties to protect the Commission from economic and political forces which would deflect it from its regulatory zeal.” 146 Member after member of the Commerce Committee echoed Moss’s message to Engman. Senator Ted Stevens, an Alaska Republican, told the nominee, “I am really hopeful that . . . you will become a real zealot in terms of consumer affairs and some of these big business people will complain to us that you are going too far. That would be the day, as far as I am concerned.”147

The FTC got the message. The words and actions of Weinberger, Kirkpatrick, Engman, and other FTC leaders in this period reflected a preference for boldness, aggressiveness, innovation, and zeal. In a letter to Senator Edward Kennedy in July 1970, Weinberger reported that the FTC was trying “to make the most of that other resource given to us by Congress – our statutory powers.” 148 Weinberger said the Commission had “encouraged the staff to make recommendations to us which will probe the frontiers of our statutes,” had made progress in “[p]robling the outer limits” and “exploring the frontiers” of the agency’s authority, and had shown it “is receptive to novel and imaginative provisions in orders seeking to remedy unlawful practices.”149 In a speech to a professional association in 1971, Kirkpatrick reported that the Commission was “moving into ‘high gear’ in the task of preserving and promoting competition in the American economy.”150 He said he and his fellow board members “fully intend to be in the vanguard of exploration of the new frontiers of antitrust law.”151

By mid-1974, the FTC had launched several significant cases involving monopolization and collective dominance, including pathbreaking shared monopolization cases against the breakfast cereal152 and petroleum refining industries.153 With these matters underway, Engman in 1974 appeared at a congressional hearing of the Joint Economic Committee and received criticism that the FTC had been insufficiently active in challenging monopolies.154 The Joint Committee’s chairman, Senator William Proxmire, told Engman “the FTC, like a number of other regulatory agencies seems to concern itself with minor infractions of the law, and to spend much of its time on cases of small consequence.”155 Perhaps astonished to hear that cases to break up the nation’s leading breakfast cereal manufacturers and petroleum refiners involved minor infractions or matters of small consequence, Engman replied, “The Federal Trade Commission today is very aggressive. . . . We have seen a total turnaround in terms of the types of matters which are being addressed by the Bureau of Competition.”156

Beyond general policy exhortations to exercise power boldly and to err on the side of intervention, of doing too much rather than too little, Congress in the early to mid-1970s instructed the Commission to focus attention on specific commercial sectors and competitive problems within them. In the face of severe fuel shortages and price spikes for petroleum products in the early 1970s, numerous legislators demanded that the FTC conduct investigations and challenge the conduct of large, integrated petroleum companies. 157 Many insisted that the FTC use its competition mandate to force integrated refiners to deal on equitable terms with independent refiners and distributors.158 The Commission’s decision to file the Exxon shared monopoly case, which sought extensive horizontal and vertical divestiture remedies, can be explained as a response to these demands.159 In the same period, Congress applied strong pressure upon the FTC to examine and correct what it believed to be serious structural obstacles to effective competition in the food manufacturing industry.160 Here, also, the agency’s decision to prosecute the shared monopolization case against the country’s leading producers of ready-to-eat breakfast cereals can be seen as a response to this concern and faithful to the congressional prescription that the FTC use novel, innovative approaches to cure competitive problems.161 In these and other matters, the Commission explored the frontiers of its powers in the development of new cases.162

When one aligns the guidance of Congress in the early to mid-1970s about the appropriate content of FTC policy making with the FTC’s activity in the decade, it is apparent that the critique of the agency as disobedient to legislative will is a fiction, or at least badly misleading. A more accurate positive depiction of events in the 1970s is that the Commission faithfully followed legislative instructions given from 1970 up through the mid-1970s about the appropriate philosophy and means of enforcement, and that, as the decade came to a close, Congress changed its mind about what the FTC should do and how it should do it. As described below in Section IV.D., 163 that change in legislative temperament and the response by Congress to industry backlash against the FTC’s program have important implications for how the FTC plans programs and selects projects in the future. Accurate positive analysis reveals that the agency was not disobedient to Congress but was inattentive to the operation of a political feedback loop that exposes Congress to industry pressure once the FTC implements programs that involve significant economic stakes and endanger powerful commercial interests.164

Nor does a careful study of the positive record of the 1970s show that the FTC policy making was “insane.” Measured by its contributions to institution-building, the Commission did many things that epitomize good public administration. It carried out important organizational and personnel reforms that upgraded its operations and personnel.165 As explained more fully below, the agency also improved its mechanisms for setting priorities and selecting projects to achieve them and strengthened investments in policy research and development (including a program to evaluate the effects of completed cases).166 The FTC successfully carried out new regulatory duties entrusted by Congress in the 1970s; most notable was the implementation of the premerger notification mechanism that Congress created in the Hart-Scott-Rodino Antitrust Improvements Act of 1976.167 In all of these areas, the Commission of the 1970s made enduring enhancements to the institution and set important foundations for successful programs that followed in the next forty years. An insane agency could not have done so.

Another focal point for attention in assessing the FTC’s performance in the 1970s was the quality of its substantive agenda. Was the FTC’s substantive program in the 1970s “insane”? Many Commission competition and consumer protection initiatives in the 1970s encountered grave problems. FTC efforts to execute the bold, innovative, risk-preferring program that Congress had called for earlier in the decade generated a number of serious project failures.168 Insanity, on the part of individual leaders or the institution as a whole, does not explain the failures. These outcomes have more prosaic causes whose understanding is important to the future formulation of competition policy. Chief among the FTC’sflaws were a lack of historical awareness about the political hazards associated with undertaking an agenda of bold, innovative cases against powerful commercial interests; inadequate appreciation for the demands of bringing large numbers of difficult cases and promulgating ambitious trade regulation rules would impose on the agency’s improving but uneven human capital; and underestimation of the change in the center of gravity of economic learning that supports the operation of the U.S. antitrust system. As described below, many of these failings are rooted in weaknesses in the FTC’s knowledge in the 1970s of the positive record of its past enforcement experience.169

B. The Inadequate and Misdirected Enforcement Activity Narrative

Like the hyperactivity narrative described above, the inadequate activity narrative relies heavily on enforcement data to support the view that the federal antitrust agencies have brought too few cases overall and, when filing cases, have focused resources on the wrong types of matters.

Implicit or explicit assumptions about the level of enforcement activity have provided a central foundation in the modern era for broad normative claims of poor system performance. One collection of inadequacy critiques attacks federal enforcement program of the Reagan administration – a period characterized by what one journalist described as an “almost total abandonment of antitrust policy.” 170 In 1987, in discussing Reagan-era federal antitrust enforcement, Professor Robert Pitofsky said the DOJ and the FTC had produced “the most lenient antitrust enforcement program in fifty years.” 171 Professor Milton Handler remarked that in the Reagan era “a policy of nonenforcement has set in, much to the distress of those who believe that without antitrust the free market cannot remain free.” 172 Professors Lawrence Sullivan and Wolfgang Fikentscher observed, in addressing the treatment of civil nonmerger matters, “enforcement ceased.”173

A second body of commentary assails the work of the federal agencies in the George W. Bush administration. For example, in 2008, during his campaign to gain the Democratic Party’s nomination for the presidency, Barack Obama said the George W. Bush administration “has what may be the weakest record of antitrust enforcement of any administration in the last half-century.” 174 The Obama statement did not compare activity levels across all administrations over the 50-year-long comparison period, but the statement suggested that the general claim was based on variations in activity over time.

A third version of the inadequacy narrative marks the beginning of the decline of effective enforcement at the outset of the George W. Bush administration and extending through the present.175

A fourth variant writes off the entire period from roughly 1980 onward as an antitrust catastrophe.176 After noting that for most of the 20th century “antitrust enforcement waxed or waned depending on the administration in office,” Professor Robert Reich recently wrote that “after 1980 it all but disappeared.”177 He added that Presidents Bill Clinton and Barack Obama “allowed antitrust enforcement to ossify, enabling large corporations to grow far larger and major industries to become more concentrated.” 178

Presented below are categories of arguments that rely upon specific assertions about the positive record of modern antitrust enforcement. These arguments make positive claims regarding either the amount of activity, the reasons for observed behavior, or both.

GENERAL CRITICISMS OF ANTITRUST ENFORCEMENT: BORK, REAGAN, AND THE DESTRUCTION OF U.S. COMPETITION POLICY

Many commentators have offered explanations for why federal antitrust enforcement became inadequate after the late 1970s. One major positive explanation is that the modern Chicago School of antitrust analysis, grounded largely in the writings of Robert Bork, inspired a severe retrenchment of enforcement at the DOJ and the FTC and led the federal courts to narrow antitrust doctrine since the late 1970s.179 A major focus of this discussion of the causes for changes in enforcement involves rules governing the treatment of dominant firms.180

A second cause offered to explain a redirection of enforcement is the ascent to the presidency of Ronald Reagan and his appointment of permissive leadership to the DOJ and the FTC.181 The Reagan administration is said to have inherited a generally well-functioning antitrust enforcement system and run it into the ground.

The Chicago School, Bork-centric, and Reagan-centric explanations for policy change can be misleading due to mischaracterizations of what took place and their tendency to omit other forces that had helped narrow the scope of antitrust enforcement. Bork and the Chicago School unmistakably have exerted a significant impact upon modern antitrust policy, but the retrenchment of antitrust enforcement in some areas cannot accurately be attributed to them entirely or, for a number of important developments, even principally. 182 Many proponents of the inadequacy narrative make little or no mention of the role of modern Harvard School scholars, such as Philip Areeda and Donald Turner, in leading courts and enforcement agencies to move the antitrust system toward a less interventionist stance.183

Areeda and Turner encouraged courts to forego reliance on noneconomic goals in deciding antitrust cases. 184 The two Harvard scholars also advocated the adoption of stricter procedural and doctrinal screens to counteract what they perceived to be flaws in the U.S. system of private rights of action.185 The inadequacy narrative often overlooks the influence of the modern Harvard School and thus misses how much the permissiveness of modern antitrust policy reflects the Harvard School’s concern that private rights of action over-deter legitimate business conduct by dominant firms.186 This yields a faulty positive diagnosis of the forces that have reduced the reach of the U.S. antitrust regime. As noted below, understanding how the institution-grounded limitations proposed by the modern Harvard School have imposed greater demands on plaintiffs has important implications for government plaintiffs seeking to devise a strategy to reclaim doctrinal ground lost since the 1970s.187

Similar imprecision and omission characterize the portrayal of the Reagan administration as the force that swung antitrust policy away from a sensible interventionist equilibrium and gave it a durably noninterventionist orientation. Some elements of the Reagan-centric narrative turn events 180 degrees around from their positive roots.188 More significant, the narrative does not address how badly the Congress and the White House had damaged the FTC’s stature and operations before Ronald Reagan took office in late January 1981. By the end of 1980, the Commission had been shoved into the equivalent of political bankruptcy by a Congress and a White House under the control of the Democratic Party.189

By treating the 1980 presidential election as the cause of an abrupt change in federal antitrust enforcement policy, the Reagan-centric inadequacy narrative fails to grasp the significance of the political assault, led by Democrats, against the FTC in the late 1970s. Recognition of how the FTC’s relationship with Congress changed over the course of the 1970s forces one to confront the question of why an agency that enjoyed powerful congressional support through much of the decade came to grief so quickly. The episode has a sobering cautionary lesson for contemporary policy making: it demonstrates how quickly congressional attitudes can change once powerful business interests affected by FTC actions bring their resources to bear upon Congress, and how turnover in the legislature can erode vital political support. An accurate positive account of the 1970s suggests that an agency should strive to complete its cases and rulemaking initiatives as expeditiously as possible, lest long lags between the start and conclusion of matters expose the agency to debilitating political backlash. This policy making prescription becomes apparent only by forming an accurate picture of what happened to the FTC in the 1970s.

### 1NC – Food Security !

#### Meatpacking deconsolidation’s key to food security

Luke 21 (Colonel Charles Luke, Army Strategic Plans Officer and Fellow with the US Army War College, “PERSPECTIVE: Hidden Security Dangers in the American Industrial Agriculture System,” Homeland Security Today, 5-14-2021, https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-hidden-security-dangers-in-the-american-industrial-agriculture-system/)

In unstable or war-torn regions, food security is a basic required element for national security stabilization. As a result, the United States and the United Nations spend billions of dollars providing food to the developing world. [1] In contrast, Western governments spend limited effort or funding on creating resilient and healthy agriculture systems to sustain food security for themselves. The COVID-19 pandemic exposed an ignored truth of the American agriculture system: While the U.S. agricultural system is able to produce more than enough calories for all U.S. citizens, the system may be less resilient than the third-world countries receiving aid. The U.S. food system is a fragile and completely overlooked, yet essential, element of the country’s national security.

The COVID-19 pandemic and efforts to minimize its impacts have cost millions of lives and billions of dollars in the U.S. and the world. The mitigation efforts highlighted a multitude of vulnerabilities in nations around the world, particularly in developed nations’ food systems. In the U.S., grocery stores ran out of toilet paper, bacon, and many other necessary food and commodities. Toilet paper is not a national security issue, but the ability to grow, process, and distribute food is an essential component of the U. S. government’s security oversight for the nation. In support of the fragile agriculture system, former President Donald Trump used the authority of the National Defense Act of 1950 and a series of executive orders to declare agriculture workers and meat industry employees as essential workers. [2] The effects of the COVID-19 pandemic provide a unique opportunity to examine the fragility of America’s industrialized agriculture system, specifically the meat industry, and provide military specific recommendations.

A FRAGILE SYSTEM

COVID-19 has fundamentally shifted Americans’ access to and availability of food. Before the pandemic, approximately half of the money Americans spent on food was made outside of the home. Since the pandemic began, that number has dropped to approximately 10 percent.[3] Americans are eating less seafood and more snacks, bourbon consumption is up, higher-end wines are down. Hunger is at a historic high not seen since pre-WWII. Farmers worldwide are struggling with the virus and the economy.[4] The vulnerability of the American agriculture system lies in the consolidation of systems at all levels. American agriculture producers have become highly efficient by consolidating over time into corporate farms and single-source distribution systems.[5] This increased system efficiency comes at the cost of overall resiliency. At its base, the industry is dependent on vulnerable workers, monoculture products, and an intricate national distribution system. While this enables consumers nationwide to buy tomatoes from California inexpensively in February, it is a delicately balanced system. From field to fork, each node has proven vulnerable to the COVID-19 pandemic food supply and distribution frailty.

FARMERS AND FIELD HANDS

American farmer owners and field workers are both vulnerable in the industrialized agriculture system. Since WWII, the general trend in farming has been toward fewer but bigger. Even today the U.S. Department of Agriculture seems to advocate for larger and less diversified farmers, at the expense of smaller farmers. At a dairy conference in 2019, former Secretary of Agriculture Sonny Perdue (2017-2021) stated, “In America the big get bigger and the small go out. I don’t think in America, for any small business, we have a guaranteed income or guaranteed profitability.”[6] This is a worrisome perspective from the senior advisor on agriculture policy. Farmers are vulnerable, as they rely on government crop subsidies, and compound their debt as cash dwindles. As relayed by Secretary Perdue, it appears the Department of Agriculture operates on a mandate of larger farms dependent on subsidies reliant on a large-scale distribution system. For example, to offset possible damage from the Trump administration’s trade war with China the United States Department of Agriculture (USDA) created the Market Facilitation Program (MFP). The Environmental Working Group (EWG) determined that “the top 1 percent of farms, the largest agribusinesses in the country, received 16 percent of MFP payments, or more than $3.8 billion. The average total payment for a farm in the top 1 percent was $524,689.” Furthermore, the Coronavirus Food Assistance Program (CFAP) for farmers hurt by the pandemic-induced economic downturn yielded “the top 1 percent of farms got 22 percent of CFAP payments, for an average payment of $352,432.”[7] The overall effect is a weakening of the American food system, as it is reliant on a range of external supports. COVID-19 demonstrated the vulnerability of these external supports. A system geographically dispersed over long distances and reliant on a small number of individuals in questionable economic conditions fundamentally lacks resiliency under any emergency circumstances. Financially secure regionally dispersed farms growing diverse crops are significantly better at providing a resilient source of food for communities.

American writer and farmer Wendell Berry has prophetically advocated for the small farmer system for decades. In an interview in December 2020, Berry argued that the lack of food in grocery stores as the pandemic hit resulted from the decline in the number of local farmers: “If we had kept all the people, we would have been ready for this plague.” According to the 2017 U.S. Agriculture Census released in 2019, the total number of farms and ranches has dropped 3% since 2012. The report data showed there were about 273,000 small farms (1-9 acres) in 2017, representing just 0.1% of all farmland in the U.S. The report added that 85,127 large farms (2,000 or more acres) made up nearly 60% of total farmland.[8]

Larger dairy farms inevitably mean a system less geographically dispersed, larger environmental challenges with farm waste, and a less resilient system. The Institute for New Economic Thinking detailed these impacts in a recent report on the pandemic’s effects on dairy farmers, Spilt Milk: COVID-19 and the Dangers of Dairy Industry Consolidation: “The COVID-19 pandemic led to the collapse in commercial demand as restaurants, caterers, schools and other institutional customers were forced to close. Dairy plants serving supermarkets and grocery stores were already operating at close to full capacity when the coronavirus struck. Capital equipment specialized to produce for commercial customers were incapable of producing for consumers served by supermarkets or food banks. Some farmers had no choice but to dump milk.”[9] For the smaller dairy farmers, international (primarily Canadian) competition and price fluctuations are daily economic challenges.

The old tobacco program is a successful economic model that could provide a model to support local farmers without a reliance on subsidies, including the dairy industry. Berry advocates looking at models that do not require farm subsidies, and cites the tobacco programs from early last century as an example: “the tobacco program combined price support with production control based on parity.”[10] The farm subsidy model barely supports local farmers, often encourages debt, and supports reliance on large agriculture corporations. While attractive sounding in Congress, farm subsidies have evolved over time and now “only large producers can take advantage of them. Out of all the crops that farmers grow, the government only subsidizes five of them: corn, soybeans, wheat, cotton, and rice.”[11] Such programs provide predictability to small farms, restrict overproduction, and encourage local production. In his book, The Art of Loading Brush, Berry argues, “The principles of the Burley Tobacco Growers Co-op – production control, price supports, service to small as to large producers – are not associated with tobacco necessarily, but are in themselves ethical, reputable, economically sound, and applicable to any agricultural commodity.”[12] Programs for other crops would help reduce reliance on subsidies and encourage smaller local farming.

Farmers also face challenges with labor. In the United States, there is an extreme shortage of domestic farm workers.[13] Americans generally have no desire to work as hired hands in the farm industry. Farmers across the United States rely on immigrant workers to do the majority of the hands-on field harvesting. Efforts to source domestic American labor in the fields have largely failed. Even during the last recession farmers’ efforts to recruit domestic labor failed, as “the work was too hard.”[14] The result is that most of the domestically grown food Americans consume is not planted or harvested by Americans.

According to the USDA roughly half of hired crop farmworkers lack legal immigration status.

Even the USDA recognizes that “legal immigration status is difficult to measure: not many surveys ask the question, and unauthorized respondents may be reluctant to answer truthfully if asked.”[16] This means that the number of undocumented farm workers might exceed what is reported. The next highest category of farm worker is the temporary immigrant covered under the H-2A visa program. This program enables farms to apply for temporary immigrant status based on need and “employers must provide housing for their H-2A workers and pay for their domestic and international transportation.”[17]

Migrant workers have no long-term reliable income or real protections. Their housing and annual incomes are never predictable, and they are under constant threat of deportation. Yet, as a result of the pandemic, they suddenly became “essential.”[18] These workers are essential to almost every aspect of the American agriculture system, but lack of status is a weakness to the very base of the system. That the majority of the food produced in the U.S. relies on an unsecure foreign source of labor is precarious and vulnerable. Without reliable workers, agricultural produce cannot be planted, harvested, and prepared for distribution from the fields.

AN INTRICATE NETWORK

The U.S. agriculture system is highly reliant on an intricate transportation and distribution system. Very few farms are self-sufficient. From seed distribution, pollination, field workers, and the delivery to supermarkets, every aspect of our food is dependent on cross-country movements.

To pollinate most crops, bees are transported across the country on a strict schedule. These bees are reliant on a small corps of beekeepers and the ability to move them continuously across the country regardless of disease or quarantine hot spots.[19] Whole crop species are affected if the bees are delayed or unable to pollinate. The transportation of bees is one small yet significant example of how dependent farming is on the transportation system.

Once the produce leaves the fields it depends on a complex packaging and transportation system. Food prepared for restaurants is not ready for grocery store shelves. Even while there were shortages in grocery stores, food meant for restaurants was rotting in warehouses.[20] As a leading consumer and retail consultant described, “Companies that produce, convert, and deliver food to consumers and businesses face a web of interrelated risks and uncertainties across all steps in the value chain – from farmers to end-customer channels. Food-service suppliers, for example, faced abrupt order cancellations across their entire customer bases. That left many of them with excess stock that they couldn’t easily redirect to consumers because of packaging-size mismatches.”[21]

Most seeds are proprietarily owned, and farmers cannot save seeds from year to year. As cited in a 2009 report and article, “The proprietary seed market (that is, brand-name seed that is subject to exclusive monopoly – i.e., intellectual property) now accounts for 82% of the commercial seed market worldwide.”[22] This means that farmers cannot save the seeds from year to year, and they must purchase new seeds from the corporations annually. These are manufactured, proprietary seeds, for which the farmers do not have any production rights. Any disruption to the centralized production and distribution of seeds would be catastrophic to the entire industry and mean worldwide starvation.

MONOCULTURE: A LACK OF DIVERSITY

Agricultural industrialization’s increased efficiencies have led to historical systematic monoculture in the variety of produce grown and animals raised. Beyond the well-documented environmental impacts – pesticide toxicity, water pollution, erosion, and soil depletion – monoculture is fragile in its lack of biodiversity. [23] This lack of diversity is twofold: types of varieties within a species and the overall specialization of large farms.

A 2019 UN report notes that of the 6,000 plant species cultivated for food, just nine account for 66% of total crop production.[24] Genetic diversity in farming is important for resiliency and ensuring food security. By growing fewer varieties of essential crops such as corn, tomatoes, and potatoes, the genetic pool for adapting to disease and climate change is lost. Loss of genetic diversity is a well-documented scientific concern for long-term food security.[25] The loss of this diversity is largely driven by proprietary seed production of large biotech companies such as Monsanto. “Seed laws” have evolved that severely restrict local farmers from saving their own seeds, losing the local sources, and forcing farmers to buy from a handful of companies. As Grain, a nonprofit organization supporting local farmers, pointed out, “Today, just 10 companies account for 55% of the global seed market. And the lobbying power of these giants – such as Monsanto, Dow or Syngenta – is very strong. As a result, they have managed to impose restrictive measures giving them monopoly control.”[26] The monopolization and concentration of seed rights is another contributing weakness factor to the system.

The lack of diversity extends to animals raised as food sources as well. Chickens have been bred to unnatural growth specifications with just two main varieties where once American farms raised hundreds of different types of chickens. This lack of diversity in commercial meat chickens is of particular vulnerability if a disease or virus were to spread throughout the industry, such as the avian flu (H51N) outbreak in 2005. IA 2008 Purdue University report noted, “Despite the fact that hundreds of chicken breeds exist … today’s commercial broilers descend from about three lines of chickens, and poultry used in egg production come from only one specialized line.”[27] This lack of diversity in commercial meat chickens is of particular vulnerability if a disease or virus was to spread throughout the industry that millions of people rely on for food. The hog and beef cattle industry has followed suit as well, but to a slightly lesser extent, as there are more laws and regulations governing their raising and slaughter.

The lack of diversity extends from the genome to the farm itself. It is common for farms to dedicate thousands of continuous acres to one food crop. This industrial system is more efficient and profitable, but requires chemical resources that weaken the supporting biological infrastructure. Many of these large farms have evolved to grow single commercial food crops, largely corn and soybeans. Neither of these two commercially grown crops produce food that is directly edible for humans, adding to the production network to process them. In general, corn and soybeans are considered feed crops for industrially raised farm animals. Corn is also used to make ethanol, which according to the USDA “now accounts for nearly 40 percent of total corn use. While the number of feed grain farms (those that produce corn, sorghum, barley, and/or oats) in the United States has declined in recent years, the acreage per corn farm has risen.”[28] Put simply, even though there is plenty of farmland, we are not producing food we can eat now, or could eat in an emergency. Most farm areas, if under strain or in a crisis, could not feed themselves. The combination of crop specialization, fewer farmers, and a decline in grocery stores has created farm deserts in farm country. As noted by the New York Times, “Farm towns … that produce beef, corn and greens to feed the world are becoming America’s unlikeliest food deserts as traditional grocery stores are forced out of business by fewer shoppers and competition from dollar-store chains.”[29]

THREATS

Agricultural monocultures “putting all the eggs in one basket” could be prime targets for natural blights and manufactured diseases. Just as the DNA of crops and animals have been manipulated to increase yield and growth rates, viruses could conceivably be tailored to target specific seeds and animals raised largely in the United States or by specific companies. With gene editing technology such as CRISPR “clusters of regularly interspaced short palindromic repeats,” an avian flu tailored to American chicken breeds or specific potatoes is technically possible.[30] While the Chinese military is gaining headlines for using gene editing on its own troops, the gene editing of viruses is a possible long-term threat to American industry and agriculture.[31]

THE MEAT LOCKER: WHERE’S THE BEEF?

Consolidation of the meat industry makes the production and distribution of meat particularly fragile. This fragility became clear during the first few months of COVID-19 when many states put “lockdowns” in place for manufacturing and production. The New York Times reported in April 2020 that “meat plants, honed over decades for maximum efficiency and profit, have become major ‘hot spots’ for the coronavirus pandemic, with some reporting widespread illnesses among their workers. The health crisis has revealed how these plants are becoming the weakest link in the nation’s food supply chain, posing a serious challenge to meat production.”[32]

Meat processing has consolidated over time. As of March, 2020, just four companies in the United States controlled over 80% of beef production.”[33] These meat factories, while well-regulated by the USDA, are crowded, loud, and cold, making virus prevention very difficult, and hence highly susceptible to employee-to-employee contamination. While there is little chance of foodborne illness transfer to the meat in the factories, meat processing plants are an employee contagion potential disaster. Many of the meat processing plants are staffed by immigrants who do not speak English or have access to healthcare, which compounds the challenge.[34] This combination does not engender trust with the government or the companies, making infection reporting much less likely.

The most significant limitation to local processing is adequate facilities as defined by the USDA. Current USDA regulations make it difficult and costly for local producers to process and sell meat other than directly to the consumer. Chef and butcher David Wells owns Smoke and Pickles Artisan Butcher shop in Mechanicsburg, Pa., which specializes in locally sourced meats. Wells reported that in order to butcher and sell locally raised meat to local grocery stores and restaurants, his facility would need to meet overly strict standards, pay a USDA inspector for the day, and provide a dedicated office with dedicated restroom for the inspector.[35]

For small to medium processors that have been able to navigate the USDA regulations, the trickle-down effects of COVID-19 have increased demand significantly. For example, Appalachian Meats, one of the only meat processors in Eastern Kentucky that is USDA compliant and conducts custom processing for retail and wholesale, cannot keep up with demand and has experienced a 50% increase directly attributable to COVID-19. As of December 2020, hog processing was scheduled over four months out and beef processing was scheduled over 12 months out. According to the owner Marlin Gerber, they could schedule 24 months out with the current demand.[36]

Even in light of the regulatory restrictions and producers’ backlogs, individual farmers are working to fill the gap with traditional methods. A result of the pandemic was the practice of selling off pigs they were not able to butcher to novice farmers and home butchers. This, combined with the small but growing niche of heritage breed hog raising by small local farmers, further stretched a network of small-scale meat butchers already hamstrung by USDA and Food and Drug Administration regulations geared towards the larger meat industry. The result created an abundance of hogs without knowledgeable people to harvest them.

The Kentucky Agriculture Commission recognized the facility limitations for local farmers, the system vulnerability, and in October 2020 Commissioner Dr. Ryan Quarles sent a letter to Kentucky Gov. Andy Beshear “requesting that he allocate $2 million from the Coronavirus Aid, Relief, and Economic Security (CARES) Act to expand meat processing in Kentucky and reduce reliance upon out-of-state meat processors.” Beshear accepted the proposal.

The issue drew bipartisan concern nationally, as Sens. Kevin Cramer (R-N.D.) and Ron Wyden (D-Ore.) sought regulatory relief from Agriculture Secretary Sonny Perdue. “When high-capacity processing facilities experienced outbreaks amongst employees, operations were forced to shut-off or slow down production, leaving the rancher with livestock they could not move and the consumer with either empty grocery shelves or overpriced products. These pitfalls can be avoided in the future if we take action today to promote a diversified food supply chain.”[37] The senators called for streamlined regulations to remove barriers to small- and medium-sized meat processors.

There is very little accommodation in USDA and most state regulations for local butchers. The current system is not tiered; the requirements are the same for the large-scale producers (40,000+ chickens a day) as for the small local processors. The provisions for cured meats (more profitable for butchers) are even more restrictive, requiring equipment and plans that have little to do with actual food safety. Diversifying meat processing by geography, scale, and product builds resilience in the system. It will also enable local economies and communities to establish niche character products, such as regions in Europe that have specialty cured meats. Increasing the numbers of local producers will not replace the large industrial meat factories, but will increase variety and quality. This would also increase access to meat products in times of food shortages or transportation issues within the fragile system.

ON FOOD STRATEGY: A MILITARY PERSPECTIVE

The security of the nation’s food supply is a national security concern that has been given little attention or planning. Even Wendell Berry, a lifelong pacifist, has begun thinking of food as a security issue, stating, “It seems preposterous to me that we should maintain an enormously expensive armory of weapons… ready to defend a country in which most people live far from sources of their food.”[38] Attention and planning for the security of the food system includes the security of the country and how to sustain military power without access to the current fragile system.

“Defending the Homeland” is a central theme of the 2018 Defense Strategy,[39] and securing America’s infrastructure is critical and a responsibility under Titles 10 and 32. Few military plans incorporate a full breakdown of the U.S. transportation and agriculture system. COVID-19 has exacerbated America’s food security crises, in terms of access to food. A Northwestern University report from summer of 2020 found that due to COVID-19 “food insecurity has doubled overall, and tripled among households with children.”[40] A stricter national lockdown or disruption to the system would logically exacerbate food insecurity across the United States. Civil unrest is a likely result for which state and national officials should consider now to plan the advent of widespread food insecurity.

The American military preparation plans include disruptions to energy and water vulnerabilities. To this end, the Army’s energy and water goal for installations is a minimum 14-day independence from local sources to reduce risk to critical missions.[41] Given the food system vulnerabilities, there should be a similar requirement for sustenance. In a review of the military response to COVID-19, Tell Me How This Ends: The US Army in the Pandemic Era[42] highlights the need to develop a long-term solution for sustaining soldiers in garrison during emergencies and recommends stockpiling food supplies. In planning for a likely scenario of further disruptions to the agricultural supply, the long-term solutions need to apply beyond garrison to include all service members and their families, on and off post, at home and abroad. The solutions should go beyond merely stockpiling, and include deliberate planning for building resiliency into garrison food supplies through increased sourcing from the local economy.

The USDA is not listed as a military interagency partner in the National Defense Strategy, although the Defense Logistics Agency (DLA) partners on a variety of supply issues that includes food for schools. While most military garrisons are located in rural communities with accessible farm economies, the DLA’s Subsistence Supply Chain currently incorporates only about 15% of local products into dining facilities and schools.[43] The Department of Defense should establish policies that enable local managers to develop relationships with state cooperative agencies and facilitate connections to local farmers. Dining facilities should also be encouraged to reserve space for local products and producers. Most state agriculture commissions also have programs dedicated to promoting local farming efforts, and they could team with military installations to establish and strengthen ties to local farmers.

Military installation land and resident populations could serve as a bridge to the local farming communities building resilient networks. To start, installations should host farmers’ markets and allow Community Supported Agriculture (CSA) on post. Current agreements with the Army and Air Force Exchange Service (AAFES) and Defense Commissary Agency (DECA) restrict access to these local programs. Some smaller military depots allow animal grazing and farming, but there is no coordinated policy to encourage agriculture use on installations. The Department of Defense should establish policies to encourage agricultural use of unused land. Most installations worldwide spend millions of dollars on grass cutting and field maintenance. Ft Knox, for instance, spends $2.4 million annually on lawn maintenance of non-residential areas.[44] Local farmers could maintain that same land generating hay and or crops for local use. Goats and sheep are growing in popularity as an alternative to grass cutting around the world.[45] Grazing versus cutting is more environmentally friendly in several ways, to include fire prevention, and could serve as a local meat source. Allowing local farmers to cultivate unused land and graze animals improves connections with local farmers that would be needed in times of emergency.

TO WHAT END

Former U.S. Secretary of Agriculture Sonny Perdue said that “food security is a key component of national security, because hunger and peace do not long coexist.”[46] While an accurate statement and an admirable start, his focus on food security was clearly on making farms bigger, and his priorities never addressed local farming. A fragile system reliant on such a complex centralized network system can never be truly secure. Italy provides a unique example as to a hybrid system that incorporates large-scale agriculture and locally sourced products. While hardest hit in Europe, Italy did not have the empty shelves or supply disruptions to the extent experienced in the U.S. This is largely due to town markets and locally sourced butcher shops common across the country. For example, Macelleria I Buoni Sapori, a butcher shop in Northern Italy, continued to supply its vast array of products because even the chickens, beef and hog products were locally sourced and prepared in the shop.[47] Italy’s regulations favor the smaller producer and local butcher. This combination of protectionism and support could be re-created here in the United States.

It is imperative for national security to make a deliberate effort to encourage local produce, livestock raising and meat processing. In light of the COVID-19 pandemic the issue is truly a national and strategic concern. President Joseph R. Biden’s pick for Agriculture, Tom Vilsack, does not appear any different from his predecessor. Vilsack previously served as Agriculture secretary in the Obama administration, and was lauded by big agriculture on the announcement of his selection again. His critics specifically point to his lack of support for local farms.[48]

As COVID-19 “hot spots” of virus transmission broke out in California and Washington state, whole counties were shut down to prevent the spread of the virus. While these disruptions were temporary, an uncontrolled outbreak or more severe disaster would significantly impact farm production and transportation of food across the country resulting in extreme shortages, starvation, and civil unrest. A prolonged emergency that restricts movement and access to food will quickly evolve into a domestic security crisis.

In light of COVID-19, both the U.S. Department of Agriculture and Department of Defense need to look at protecting the nation’s food supply in a new and holistic perspective to prepare for the next serious disruption. The Department of Defense can start building resiliency at the local levels. The new administration must focus on national agriculture policies and military preparedness plans that need significant review to prepare America’s food system and to prevent future disasters.

#### Extinction

Castellaw 17 (John Castellaw, National Security Lecturer at the University of Tennessee, Founder and CEO of Farmspace Systems LLC, Former President of the Crockett Policy Institute, Retired Lieutenant General in the United States Marine Corps, “Food Security Strategy Is Essential to Our National Security,” Agri-Pulse, 5-1-2017, https://www.agri-pulse.com/articles/9203-opinion-food-security-strategy-is-essential-to-our-national-security)

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

## Case

#### One – The Aff lacks a solvency card that’s specific to the intersection of Anti-trust and Big Waste.

Their cards are generally about antitrust and monopoly power. Assign the case zero risk until they proof that the Aff will BOTH successfully break up big waste AND that smaller firms CAN COMPETE.

#### Two – US not key

Their terminal impacts are about ocean waste.

Alt causes include oil spills, nuclear waste near oceans – like Fukushima, non-US consumption.

The Aff is not sufficient to solve.

#### ( ) Marine ecosystems are resilient

Kennedy ‘2

Victor Kennedy, PhD Environmental Science and Dir. Cooperative Oxford Lab., 2002, “Coastal and Marine Ecosystems and Global Climate Change,” Pew, http://www.pewclimate.org/projects/marine.cfm

There is evidence that marine organisms and ecosystems are resilient to environmental change. Steele (1991) hypothesized that the biological components of marine systems are tightly coupled to physical factors, allowing them to respond quickly to rapid environmental change and thus rendering them ecologically adaptable. Some species also have wide genetic variability throughout their range, which may allow for adaptation to climate change.

#### Environmental problems are endemic not ontological--denies the possibility for an enlightened relationship to the environment

Kirkman 2 – Professor @ MSU

Robert, Assistant professor of Science and Technology at the Lymann Briggs School @ MSU, Skeptical Environmentalism, pg. 153

The first observation is that the environmental crisis is not a single monolithic puzzle awaiting a solution. In deed, contrary to the radical tendency of environmental though, the crisis is not root in a particular form of society or in a particular way of thinkiu ng. Instead, the crisis is an ever-present (if sometimes latent) potential within the human condition; it is an unavoidable and perhaps even indispensable part of human life on Earth. Environmental problems are comma, in a word, endemic.

#### Aff doesn’t solve at a macro level—any practical implementation wouldn’t make a dent in individual or macro-level consumption patterns

Røpke 05[Inge Røpke, Department for Manufacturing Engineering and Management Technical University of Denmark, Consumption in ecological economics, International Society for Ecological Economics, April 2005, <http://www.ecoeco.org/pdf/consumption_in_ee.pdf>]

Compared to the other research questions, the question about how to change consumption patterns in a more sustainable direction is relatively under-researched in ecological economics. In relation to the fields of consumer behaviour, economic psychology and environmental psychology, research on 'sustainable consumption' developed, and energy studies provided new knowledge about energy saving behaviour – research that is sometimes reflected in ecological economics (an extensive review of literature on consumer behaviour and behavioural change in relation to sustainable consumption can be found in (Jackson 2005)). The main focus of this research is consumer choice and individual consumer behaviour, and sustainable consumption is about choosing more environmentally friendly products and services (e.g. organic food) and about recycling behaviour, water saving, room temperature etc. The question is how to encourage consumers to make the environmentally correct choices, and measures such as labelling and information campaigns are studied. This research has also tried to distinguish between different social groups or lifestyles to consider whether the political measures should be tailored to different target groups (Empacher and Götz 2004). A successful contribution from this field has been the NOA-model that describes consumer behaviour as the result of the consumer's Needs, Opportunities and Abilities (Ölander and Thøgersen 1995; Gatersleben and Vlek 1998). For instance, the model is used as an organizing device in the OECD publication Towards Sustainable Household Consumption 11(OECD 2002). The model opens up for public initiatives that can improve the opportunities for more sustainable household behaviour, but neither the social construction of needs, nor the macro aspects of the model akre well developed. However, the idea works well together with strategies for increased technological efficiency: more efficient products and services are provided, and the consumers are encouraged to buy them. Whereas the behavioural research usually focuses on individual consumers or households and how they can be motivated to change behaviour, others have taken an interest in bottom-up initiatives where consumers or citizens organize collectively to change their lifestyle and consumption patterns – initiatives varying from mutual help to be 'green consumers' to the establishment of eco-communities (Georg 1999; Michaelis 2004). Unfortunately, such initiatives still seem to have marginal importance. In general, organizational measures are increasingly studied, both bottom-up initiatives and commercial enterprises – for instance, car-sharing has been arranged in both ways (Prettenthaler and Steininger 1999). A widely promoted idea is to reduce resource use by selling services instead of products, the so-called product-service system concept (Mont 2000; Mont 2004). In this way the final services can be provided with fewer resources, as the provider will have an incentive to reduce costs also in the use phase, and as hardware can sometimes be shared by several consumers. Most of the practical steps to change consumption patterns and most of the related research concern relatively marginal changes that **are like a snowball in hell** compared to the challenge we face, if consumption patterns should deserve to be called sustainable – consistent with a level of consumption that could be generalized to all humans without jeopardizing the basic environmental life support systems. Very little is done to face the 'quantity problem'. At the level of research it is difficult to translate the complexity of driving forces behind the ever-increasing consumption into suggestions for workable solutions, and at the level of politics it is hard to imagine how to achieve support for such solutions. As the driving forces are as strong as ever, all **the small steps towards 'sustainable consumption' co-exist with a general worsening of the situation – although many of these steps can be fine, they are far from sufficient.**

#### ( ) Their plankton and marine hotpsots impact is false – there are *no tipping points*

Brook 13

Barry Brook, Professor at the University of Adelaide, leading environmental scientist, holding the Sir Hubert Wilkins Chair of Climate Change at the School of Earth and Environmental Sciences, and is also Director of Climate Science at the University of Adelaide’s Environment Institute, author of 3 books and over 250 scholarly articles, Corey Bradshaw is an Associate Professor at the University of Adelaide and a joint appointee at the South Australian Research and Development Institute, Brave New Climate, March 4, 2013, "Worrying about global tipping points distracts from real planetary threats", http://bravenewclimate.com/2013/03/04/ecological-tipping-points/

Barry Brook We argue that at the global-scale, ecological “tipping points” and threshold-like “planetary boundaries” are improbable. Instead, shifts in the Earth’s biosphere follow a gradual, smooth pattern. This means that it might be impossible to define scientifically specific, critical levels of biodiversity loss or land-use change. This has important consequences for both science and policy. Humans are causing changes in ecosystems across Earth to such a degree that there is now broad agreement that we live in an epoch of our own making: the Anthropocene. But the question of just how these changes will play out — and especially whether we might be approaching a planetary tipping point with abrupt, global-scale consequences — has remained unsettled. A tipping point occurs when an ecosystem attribute, such as species abundance or carbon sequestration, responds abruptly and possibly irreversibly to a human pressure, such as land-use or climate change. Many local- and regional-level ecosystems, such as lakes,forests and grasslands, behave this way. Recently however, there have been several efforts to define ecological tipping points at the global scale. At a local scale, there are definitely warning signs that an ecosystem is about to “tip”. For the terrestrial biosphere, tipping points might be expected if ecosystems across Earth respond in similar ways to human pressures and these pressures are uniform, or if there are strong connections between continents that allow for rapid diffusion of impacts across the planet. These criteria are, however, unlikely to be met in the real world. First, ecosystems on different continents are not strongly connected. Organisms are limited in their movement by oceans and mountain ranges, as well as by climatic factors, and while ecosystem change in one region can affect the global circulation of, for example, greenhouse gases, this signal is likely to be weak in comparison with inputs from fossil fuel combustion and deforestation. Second, the responses of ecosystems to human pressures like climate change or land-use change depend on local circumstances and will therefore differ between locations. From a planetary perspective, this diversity in ecosystem responses creates an essentially gradual pattern of change, without any identifiable tipping points. This puts into question attempts to define critical levels of land-use change or biodiversity loss scientifically. Why does this matter? Well, one concern we have is that an undue focus on planetary tipping points may distract from the vast ecological transformations that have already occurred. After all, as much as four-fifths of the biosphere is today characterised by ecosystems that locally, over the span of centuries and millennia, have undergone human-driven regime shifts of one or more kinds. Recognising this reality and seeking appropriate conservation efforts at local and regional levels might be a more fruitful way forward for ecology and global change science. Corey Bradshaw (see also notes published here on ConservationBytes.com) Let’s not get too distracted by the title of the this article – Does the terrestrial biosphere have planetary tipping points? – or the potential for a false controversy. It’s important to be clear that the planet is indeed ill, and it’s largely due to us. Species are going extinct faster than they would have otherwise. The planet’s climate system is being severely disrupted; so is the carbon cycle. Ecosystem services are on the decline. But – and it’s a big “but” – we have to be wary of claiming the end of the world as we know it, or people will shut down and continue blindly with their growth and consumption obsession. We as scientists also have to be extremely careful not to pull concepts and numbers out of thin air without empirical support. Specifically, I’m referring to the latest “craze” in environmental science writing – the idea of “planetary tipping points” and the related “planetary boundaries”. It’s really the stuff of Hollywood disaster blockbusters – the world suddenly shifts into a new “state” where some major aspect of how the world functions does an immediate about-face. Don’t get me wrong: there are plenty of localised examples of such tipping points, often characterised by something we call “hysteresis”. Brook defines hysterisis as: a situation where the current state of an ecosystem is dependent not only on its environment but also on its history, with the return path to the original state being very different from the original development that led to the altered state. Also, at some range of the driver, there can exist two or more alternative states and “tipping point” as: the critical point at which strong nonlinearities appear in the relationship between ecosystem attributes and drivers; once a tipping point threshold is crossed, the change to a new state is typically rapid and might be irreversible or exhibit hysteresis. Some of these examples include state shifts that have happened (or mostly likely will) to the cryosphere, ocean thermohaline circulation, atmospheric circulation, and marine ecosystems, and there are many other fine-scale examples of ecological systems shifting to new (apparently) stable states. However, claiming that we are approaching a major planetary boundary for our ecosystems (including human society), where we witness such transitions simultaneously across the globe, is simply not upheld by evidence. Regional tipping points are unlikely to translate into planet-wide state shifts. The main reason is that our ecosystems aren’t that connected at global scales. The paper provides a framework against which one can test the existence or probability of a planetary tipping point for any particular ecosystem function or state. To date, the application of the idea has floundered because of a lack of specified criteria that would allow the terrestrial biosphere to “tip”. From a more sociological viewpoint, the claim of imminent shift to some worse state also risks alienating people from addressing the real problems (foxes), or as Brook and colleagues summarise: framing global change in the dichotomous terms implied by the notion of a global tipping point could lead to complacency on the “safe” side of the point and fatalism about catastrophic or irrevocable effects on the other. In other words, let’s be empirical about these sorts of politically charged statements instead of crying “Wolf!” while the hordes of foxes steal most of the flock.

# 2NC

## Section 5 CP

## vs. Perm do both, CP is competitive because the aff cannot solves the internal net benefit of the FTC independence meaning that the CP is competitive and the aff cannot fiat that the FTC will do it as well they said congress will do it cross ex binding

### 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.

### vs. Perm “Do Cpl” - Final

#### 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*”:

#### The underlying conduct’s *already prohibited* – albeit in vague terms which beg questions of enforcement and interpretation. That’s Khan – we’re re-including for clarity, but 1NC read all this:

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

Kahn ‘21

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

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

I. Background

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

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

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

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

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

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

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

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

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

#### No SCOTUS rollback- the Cplan has a plank that has the FTC find in favor of Intel. That strategy tempers risks of unfavorable judicial review.

Crane ‘10

Daniel A. Crane - Professor of Law, University of Michigan. “Reflections on Section 5 of the FTC Act and the FTC's Case Against Intel” - The CPI Antitrust Journal (Competition Policy International) – February, 2010, (2) – modified for language that may offend - #E&F - https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2369&context=articles

IV. A MARBURY V. MADISON STRATEGY FOR THE INTEL CASE

For the reasons set forth above, the Intel action raises serious risks of setting back the FTC’s antitrust enforcement powers. Certainly, the Commission risks losing the matter in a probusiness appellate court46 or the Supreme Court during a time of economic trouble when antitrust cases are historically difficult for the Government to win.47 But the risk goes far beyond losing this individual matter. There is a very real risk that an appellate court will write an opinion rebuking the Commission for asserting independence from the Sherman Act, thus setting a precedent that could constrain the Commission’s enforcement mission for years to come.

Nonetheless, there is a way forward that could turn Intel into a victory for the Commission’s enforcement power. It is what I will call a Marbury v. Madison48 strategy. Should the Commission conclude that Intel’s conduct did not violate Section 5, it could nonetheless create a precedent for more expansive enforcement powers in the future. Indeed, such an opinion could work to the Commission’s long-run advantage, since it would be insulated from immediate and potentially hostile appellate review—just as Marbury created a long-run victory for judicial power even while deciding against judicial power on the narrow facts of that case.

To provide a very abbreviated recap on Marbury, early during the Jeffersonian period, Chief Justice Marshall faced a dilemma: Although he wanted to affirm in principle the power of judicial review of acts of Congress, he risked seriously damaging the Court’s long-run effectiveness and prestige by striking down an act only to have the newly elected Jeffersonians, who were hostile to the Federalist Supreme Court, disregard the Court’s decision.49 Hence, Marshall wrote an opinion that at once declared Madison’s refusal to deliver Marbury’s commission illegal, but also the Judiciary Act unconstitutional insofar as it assigned a mandamus power, a species of original jurisdiction, to the Supreme Court. The upshot was that the Court declined to issue the writ of mandamus sought by the Federalists, even while affirming the power of the Court to strike down an Act of Congress. Though hostile to the Court’s assertion of the power of judicial review, the Jeffersonians were impotent to challenge the decision since it left the status quo undisturbed and denied the Federalist justices of the peace their commissions. In the long run, establishing the principle of judicial review proved far more lasting a victory for the Federalist view of judicial power than winning the narrow skirmish over justice of the peace commissions.

The FTC could pursue a similar strategy here by writing an opinion announcing a broad ~~view~~ (perspective) of its Section 5 powers and independence from the Sherman Act, even while finding in favor of Intel and thus avoiding an immediate and probably hostile judicial reaction. Such an opinion would demonstrate the FTC’s self-control over its enforcement powers and assuage concerns that divorcing Section 5 from the Sherman Act would lead to unchecked administrative discretion and an abandonment of the “rule of law.” The opinion could announce a framework for future judicial review of Section 5 decisions—perhaps announcing a set of limiting principles for independent Section 5 challenges along the lines of those proposed above. In the future, courts might be much more inclined to respect the Commission’s views on Section 5 if it had previously articulated a self-disciplining set of limitation principles and censured itself without the need for judicial intervention.

#### Our planks about *clear statements* and *data sets* mean CP avoids politics and rollback.

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

Kovacic ‘15

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

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

A. Greater Specification of Authority

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

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

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

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

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

## FTC Independence dA

#### At the top -

#### Our internal net benefit is *perception of FTC independence*.

#### 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.

#### Our internationalism module

#### 1NC Nam gave a separate internal link – when other nations are commitment to a model that support agency independence in Antitrust regulation It checks rivalry spirals that hampers support for global Internationalism *outside of free trade*.

#### That’s key to check extinction from AI, climate, and security risks.

Jain ‘19

et al; Ash Jain is a Senior Fellow and coordinates the Atlantic Council’s Democratic Order Initiative and D10 Strategy Forum. He previously served as a member of the Secretary of State’s policy-planning staff, focusing on US alliances and partnerships, international norms, and challenges to the democratic order—including those posed by Russia, China, Iran, and North Korea. Mr. Jain has also taught as an adjunct professor at Georgetown University’s School of Foreign Service. He earned a JD/MS in foreign service from Georgetown University – “Present at the Re-Creation: A Global Strategy for Revitalizing, Adapting, and Defending a Rules-Based International System” - Atlantic Council Strategy Papers – October - #E&F - https://www.atlanticcouncil.org/wp-content/uploads/2019/10/Present-at-the-Recreation.pdf

This international system, while not perfect, has proven to be more successful than any in human history at providing security, economic prosperity, and freedom. The evidence of this is apparent in the numbers. Before 1945, major powers frequently engaged in direct warfare on a massive scale, as in the Napoleonic Wars, World War I, and World War II. Since 1945, however, there have been zero great-power wars. As shown in Figure 1, the percentage of people killed in armed conflict has drastically declined in the post-World War II era. Armed conflict killed an average of 1–2 percent of the human population from 1600 to 1945. During the Cold War, an average of 0.4 percent of the world’s population perished due to war. Since the year 2000, less than one one-hundredth of 1 percent of people have died this way.8 Under a rules-based system, the world has continued to make progress in reducing deaths from all kinds of war, including often-intractable civil conflicts.9

Turning to economic prosperity, the global gross domestic product (GDP) per capita in 1945 was $4,079.10 Today it is $11,570.11 This drastic increase in global living standards is evident in Figure 2. The share of the global population living in poverty has dramatically decreased. In 1929, the number of people living in extreme poverty (defined as earning less than 1.90 international dollars per day) was 1.35 billion, almost two-thirds of the world population at the time. In 2015, that figure was 733.48 million, or slightly less than 10 percent of the world population.12 China itself has been one of the biggest beneficiaries of this system, as geopolitical stability in Asia and integration into the global economy helped to lift four hundred million Chinese out of poverty.

In the realm of good governance, the number of democracies has substantially increased. With the end of World War II and decolonization, the number of democracies increased from seventeen to forty-eight between 1945 and 1989.13 That number further skyrocketed at the end of the Cold War, as countries formerly behind the Iron Curtain rushed to join the West. In the year 1900, there were twelve democracies in the world. Today there are ninety-six.14 The percentage of the world’s population living under democratic governments has also increased from about 12 percent in 1900 to more than 55 percent today.15 This trend is visible in Figure 3.

To be sure, these outcomes are the result of an enormous and interconnected range of factors. International-relations scholars, for example, believe that nuclear deterrence and the absence of a multipolar distribution of power also contributed to great-power peace.16 In addition, globalization and economic development have been fueled by new technological developments. Further, global norms on democratic governance and human rights have come a long way since the early twentieth century.17

Still, it is doubtful whether this dramatic improvement in the human condition could have been achieved in the absence of the rules-based international system. Moreover, many of these other driving forces are themselves constitutive of, if not partially the result of, that system. Global bipolarity, and then unipolarity with the United States at its center, was critical for the postwar development of a rules-based system, which may not have been possible in a more multipolar distribution of international power, or with a non-democratic hegemon at the system’s apex. The splitting of the atom could have resulted in widespread nuclear-weapons proliferation and nuclear use had it not been for the NPT and extended US nuclear deterrence in Europe and Asia.18 The most important technological advances for globalization, including the Internet, occurred and flourished in the free world, defended by the United States and its democratic allies and partners.19 Finally, the United States and its democratic partners, along with nongovernmental organizations and individuals operating in these states, were the most important norm entrepreneurs propagating global norms around issues of good governance, democracy, and human rights.

In sum, the rules-based international system that has been the defining feature of global order for the past seventy years has coincided with—and was almost certainly essential in bringing about—the most secure, prosperous, and well-governed world humanity has ever known.

Despite this record of unprecedented and enduring success, the rules-based international system is currently besieged by a number of challenges unleashed by rapid and dramatic global change. Understanding the current strategic context, including global trends and threats both external and internal to the system’s democratic core, is a necessary first step toward devising a strategy to revitalize, adapt, and defend a rules-based international system.

Global Diffusion of Power. The international distribution of power, as defined by relative economic weight, is shifting away from the founders of the post-World War II system to other emerging economies. As recently as the 1990s, nearly 70 percent of global economic activity occurred in Europe and the Americas. By the 2040s, that number is expected to drop to roughly 40 percent. At the same time, the Asian share of global GDP will increase from 32 percent at present to 53 percent in 2050, meaning that, by that time, the majority of all economic activity on Earth will occur in Asia.

While the United States remains the world’s most powerful state militarily and economically, it is declining relative to other rising powers, particularly China. When corrected for purchasing-power parity (PPP), China’s GDP has already surpassed the United States. The better metric for international power and influence, however, is real GDP; here, too, the US advantage is narrowing, but more slowly.21 At the conclusion of World War II, the United States possessed roughly 50 percent of global GDP.22 From the 1970s through today, that number has held steady at roughly 25 percent.23 Despite a common misperception, the United States’ share of global power is not declining in absolute terms.

Rather, other powers—especially China—are rising. China’s share of global GDP rose from 4.6 percent in the 1990s to 15 percent today.24 Many economists predict that China could surpass the United States as the world’s largest economy by 2030. It is noteworthy, however, that in 2009, economists predicted that this transition would happen by 2020. That date has been pushed back a decade as Chinese growth has slowed. Future projections depend entirely on assumptions about growth rates in the United States and China that cannot be known with certainty. Still, most economists expect that China will, at some point, surpass the United States as the world’s largest economy.

China is joined by other emerging economies with rapid growth rates, including India, Indonesia, and others. US allies, including Japan, Germany, and the United Kingdom, remain among the wealthiest nations on Earth, but their share of global power is also declining relative to the rise of the rest.

This shift is significant because international orders function best when their formal attributes at least roughly reflect the underlying balance of power. While only one measure of global influence, economic power is central given the leverage it provides over trade and investment, and the resources it offers to sustain military and security advantages.

It is also important to point out, however, that the United States and its formal treaty allies continue to possess a preponderance of power in the international system. As Figure 4 shows, the United States and its formal allies currently produce 59 percent of global GDP. When including other countries considered to be “democracies” by the widely used Polity scores, that number rises to 75 percent of global GDP. Democracies continue to retain global influence because more countries have transitioned to democracy since the end of the Cold War, and overall economic growth in democratic countries has outpaced that in autocratic states since 1991.

The major shift since the dawn of the post-Cold War world, therefore, is not that the power of the United States and its democratic allies and partners has declined substantially. The major difference is that the share possessed by autocratic challengers, especially China, has grown. As Figure 4 shows, the world is approaching a more bipolar distribution of power, with more wealth concentrated in the democracies and in a grouping of autocratic challengers led by China.

This means that, if they are able to work together more cohesively, the United States and its democratic allies and partners still have the power and influence necessary to significantly shape international outcomes. Moreover, if they are able to expand their ranks to court other nonaligned democracies like India, Indonesia, and Mexico, their influence on the international system can be even more decisive.

Disruptive Technologies. New technologies—including artificial intelligence (AI), robotics, quantum computing, and biotech, among others—are being developed at an exponential pace, and have the promise to transform society. They will determine how people live and function in the twenty-first century, significantly shaping the global economy, international security, and the course of geopolitics.

Throughout history, progress has been built on technological innovation, ranging from Thomas Edison’s light bulb to Henry Ford’s assembly line to the silicon chip, the personal computer, and the Internet. While new technology promises improved productivity and quality of life, it will bring serious downside risks, including economic dislocation and weapons proliferation. AI, for example, is already being widely adopted in the private sector to achieve great efficiencies and cost savings.25 At the same time, automation threatens to put millions out of work as jobs once performed by humans are replaced by machines. Moreover, AI is also being introduced into national militaries. A logical next step is fully autonomous weapons that can select and engage targets without a human in the decision-making loop. Some warn that these “killer robots” introduce many ethical and security risks, including the fear that they may turn on their creators and threaten humans’ very existence or, indeed, what it means to be human.26 Henry Kissinger warns, “We are in danger of losing the capacity that has been the essence of human cognition.”27

The existing international system was designed to deal with the most important dual-use technologies of the twentieth century, such as nuclear power, but it must be updated to deal with the technologies of the twenty-first century. As with nuclear energy, the international community needs an entirely new set of international norms, standards, and agreements for responsible uses of new technologies that mitigate their downside risks, while maximizing their upside potential.

Since the time of Edison, the United States has been the world’s most innovative country, but it is at risk of losing that title to China and other countries that aim for the first-mover advantage in the next round of technological breakthroughs. Throughout history, technological progress and international leadership have gone hand in hand. Think of roads and aqueducts in ancient Rome, the steam engine in nineteenth-century Great Britain, and the Internet in the United States. If China or another country takes the lead in the new tech arms race, Beijing may be in a better position to rewrite the international system’s rules.

Nuclear Proliferation. Even as the world grapples with the technological challenges of the twenty-first century, century-old technological challenges remain. The NPT may be the most successful treaty in history, but its future is uncertain. North Korea has become the only country in history to sign the treaty, withdraw, and build nuclear weapons. If North Korea is allowed to become an accepted nuclear-weapons state, it would pose a severe threat to international peace and security. Other members of the treaty may also reconsider their nuclear options. In particular, South Korea and Japan may be at risk of pursuing nuclear-weapons programs if the program in Pyongyang continues to advance and the United States is unwilling or unable to provide Seoul and Tokyo with adequate security assurances.

Iran’s nuclear program was allowed to operate within strict limits according to the terms of the Joint Comprehensive Plan of Action (JCPOA), but the US withdrawal from that agreement may lead Tehran to accelerate its nuclear program or dash to achieve a nuclear weapon. A bomb in Iran could also instigate further regional nuclear proliferation.28 Officials in Saudi Arabia, for example, have declared that if Iran acquires nuclear weapons, Riyadh will follow suit.

A proliferation cascade in East Asia or the Middle East would undermine the global nonproliferation regime and fuel regional insecurity. Moreover, new technologies such as additive manufacturing may make it easier for future proliferators to build nuclear-weapons programs, and harder for the international community to catch and stop them.29

The additional spread of a weapon that remains the ultimate instrument of military force could threaten the global security and stability necessary for the smooth functioning of the rules-based international system.

Ecological Disaster. As with nuclear war, an ecological disaster could constitute a direct threat to humanity’s very existence. While states have made efforts to address climate change caused by carbon emissions, including in the Paris Climate Agreement, these steps will not be sufficient to keep emissions below the target levels set by leading scientific panels. Higher average global temperatures are leading to rising sea levels, drought, an increased frequency of violent storms, and forced migrations, all of which are threatening vulnerable societies, undermining already-weak national governments, and contributing to conflicts over natural resources.

#### The counterplan and DA don’t encourage militarism---but dogmatically rejecting it does

Willis 2

From a book re-printing her essays in 2014 - Ellen Willis, now deceased, headed New York University’s Center for Cultural Reporting and Criticism. She was also a professor in the NYU journalism department. She was not at all a neocon – so many epistemic indicts are dubious. Ms. Willis was a vital figure in the women’s movement of the late 1960s and afterward. She was a founder of Redstockings, a highly influential radical feminist group begun in 1969. She was perhaps best known for her political essays, which appeared in The Nation, Dissent and elsewhere. She studied English and Comparative Lit in college. This book is a New York Times best-selling compilation of her work. This essay – within the book - is called “Why I’m Not for Peace” - The book is titled: Essential Ellen Willis, Minneapolis, MN, USA: University of Minnesota Press, 2014. The essay originally appeared in the publication Radical Society in April of 2002 - Obtained via ProQuest ebrary. p. 395-98

Watching these developments I flashed back to the Gulf War, a far more dubious proposition that nonetheless had me feeling a similar alienation from the peace movement. Then, too, the moral and conceptual assumptions of the Vietnam opposition were dusted off as if international relations had frozen in 1975. Demonstrations were notable for the simpleminded slogan “No blood for oil,” as well as for a strain of vulgar pacifism amounting to little more than the conviction that war is a yucky nasty thing we shouldn’t have to deal with. (I was particularly chilled by a news photograph of some young protesters holding up a sign that read “Nothing is worth dying for.” What would Gandhi have thought?) That Saddam Hussein was a megalomaniac tyrant; that he clearly meant to establish himself as a regional superpower, with highly dangerous consequences; that his move on Kuwait was, among other things, a test to see if anyone cared to stop him— none of this was deemed relevant to the debate. Nor, a year later, did Slobodan Milosevic’s “ethnic cleansing” campaign in Bosnia prompt any serious soul searching on the antiwar left about whether intervention to prevent genocide might be warranted. Nor did its reprise in Kosovo. Whatever the circumstance, the dogma remained constant: violence is bad; any military action by the United States is imperialist. And so the arguments went after 9/11. Making war on the Taliban was revenge, not justice, and would only perpetuate the “cycle of violence.” We could not win, because the Afghan people did not want foreign intruders and would reject us as they had the Soviet Union. Our cause would be seen by millions of Middle Easterners and South Asians as a war of the West against Islam and would incite a massive backlash in support of Osama bin Laden’s jihad. It would destabilize the fragile government of Pakistan, with its nuclear weapons. Instead, we should address the root causes of anti-American terrorism, which lie in our misguided foreign policy. Meanwhile we should regard the attack not as war but as a crime, and seek to try the criminals before an international court. These arguments raise political, moral, and practical questions that deserve to be addressed. Yet in the end it seems to me that they are debating points marshaled to support an a priori conviction, that to the extent they can be refuted— or have been refuted by events (the Taliban fell, to no apparent regret on the part of the Afghans; no massive Islamic backlash has occurred)—other points will hastily fill the gap. For at the heart of the matter is an unspoken meta-argument: that America is a sinful country, and must achieve redemption through nonviolence. Violence as committed against us is the wages of sin. To strike back in kind is to continue to collect the geopolitical equivalent of bad karma, inevitably provoking more “blowback.” Sow the wind, reap the whirlwind. The crudest expression of this attitude— the claim that terrorism is retaliation for specific U.S. policies— does not pass cursory inspection. It trivializes the Islamic fundamentalist movement, which has quite bluntly declared its dedication to destroying unbelievers and their morally corrupt societies, to imagine it would be mollified by the withdrawal of American troops from the Persian Gulf or the lifting of sanctions against Iraq. Even sillier is the idea that our route to safety is getting tough and imposing an Israeli-Palestinian settlement (the one cause in which throwing our weight around is okay, it seems). While such a settlement is devoutly to be wished, far from deterring fundamentalist terrorism it would probably cause a Palestinian civil war. The radical Islamists do not want a settlement; they want Israel to go away. Yet the broader claim that we are responsible for our vulnerability has resonance because it’s at least partly true. After all, it’s incontestable that America’s tunnel-vision cold war policy of building up radical Islamists to fight the Soviet Union has blown back on us. Overall, our government’s commitment to the notion that the business of America is global business, its championing of neoliberal policies that exacerbate economic inequality, its alliances with “stable” autocratic regimes and allergy to any democratizing movement with a leftish tinge have done their part to foment the economic and political resentments that fundamentalist demagogues exploit. Suppose, then, that this were the whole story: America’s malfeasances unleashed a monster. Why would it follow that we should not fight back? On the contrary, wouldn’t we have even more responsibility to confront the golem we created? In the years before World War II the Western Powers were clearly complicitous in Hitler’s rise; they hoped he would attack the Soviet Union and solve their Communism problem. Furthermore, the Nazis exploited the economic misery and political humiliation of the German people, which stemmed from the crisis of capitalism and its most horrendous symptom, World War I: in these developments Britain, France, and the U.S. were thoroughly implicated. Hitler, in short, was blowback too. And at the time, many on the left insisted— especially before Hitler attacked Russia— that this was just another war among rival imperialists. Were they right? Of course, it’s simplistic to see Nazism as purely a product of capitalism and imperialism, and equally so to see Osama bin Laden as a product of the World Bank. Nazism was a revolt against modernity (notwithstanding its use of modern technology and media as mainstays of its power) and specifically against the liberal values of the Enlightenment. As a mass movement, it was an outbreak of collective irrationalism, impelled by the anxieties of a people caught up in the clash between the rigid patriarchalism of traditional German culture and the competing forces of globalization, liberalism, and democracy. It was in the context of such liberalizing forces that a populist movement like fascism could emerge. It was in the context of deeply rooted patriarchalism that the people’s rebelliousness failed to take the form of a democratic movement aimed at improving their economic and political situation, but instead expressed itself in submission to an absolute authority that provided an outlet for their rage: the capitalist/communist/rootless cosmopolitan Jew. Much the same can be said of the religious totalitarianism Al Qaeda represents. It is the latest flashpoint in the ongoing, worldwide culture war that began in the eighteenth century: intertwined with the spread of capitalism, though by no means synonymous with it, the ideas of freedom, equality, separation of church and state— and their more recent application to our sexual and domestic lives— have penetrated everywhere, eroding traditional patriarchal institutions and rigid social controls. And in the Islamic world as in Weimar Germany this erosion has had a paradoxical result, at once inciting a fundamentalist backlash and creating the conditions for mobilizing its supporters. There could hardly be a more vivid metaphor for this paradox than the success of the Al Qaeda hijackers in blending into American society and using our airplanes against us. The United States is the world’s most powerful exporter of liberal and secular values, just as it is the preeminent tribune of corporate globalization; yet neither global class conflict nor the culture war can be reduced to a question of American national power. The division between transnational corporations and their increasingly immiserated victims exists within America itself, as does the clash between secular modernity and patriarchal fundamentalism. Transnational capital may use the United States as its headquarters and dictate its economic policies, but it has no loyalty to any nation or national interest. Nor is the democratic secular impulse the property of America, or of the West. These global forces are fundamentally beyond American control. Indeed, I would argue that the U.S. government has contributed to its present predicament not only by exercising but also by abdicating its power. Our bracketing of theocratic despotism and the persecution of women as non-issues in our international relations— a cultural-political blind spot as well as a matter of corporate realpolitik— has substantially strengthened the hand of radical fundamentalists no longer willing to confine their atrocities to their own population. (Consider our complaisance toward Saudi Arabia, or our tepid response to the death sentence pronounced on Salman Rushdie.) Which is to say that the old imperialism model does not hold, either economically or culturally— and that the left badly needs a new and more nuanced analysis of the role of the nation-state in world affairs. But this assumes a left that’s genuinely interested in politics— that is, in how to influence national and international policy to promote more freedom, equality, and democracy in the world. In fact, the animating impulses of the left’s peace wing have far less to do with politics in this sense than with a quasireligious moralism that conceives of the United States as a soul that needs saving: it is power-hungry, violent, greedy; it’s a sinkhole of lies and hypocrisy, professing democracy while supporting dictators and selectively condemning terrorism; and so on. I could argue that this indictment is one-sided, that if you’re appraising America’s soul you also have to consider its passion for freedom and irreverence toward authority, its ability to inspire great social movements, its inventiveness, its appetite for pleasure and fantasy. I could claim that if you stack up our virtues and faults against those of other nations around the world, we actually come off as relatively well. I could point out that on 9/11 it was our virtues more than our faults that were under attack.

## Case

Case: The Aff’s plan does not guarantee ocean waste is countered GLOABLLY. When asked in cross ex, they conceded oceans our globals. Yet, they had no answer to India, England, Australia?? So the aff doesn’t solve what they want to solve. The Aff doesn’t solve its impacts. Their own cards say this. Aff doesn’t solve at a macro level—any practical implementation wouldn’t make a dent in individual or macro-level consumption patterns

Røpke 05 - they don’t address this in the 2AC either

Answering monopolies aff solvencies - has to be about waste management

You don’t need evidence to see the visual wrecking of marine life, coral reefs, and plankton caused by oil spills - THERE r still issues with the BP oil spill in 2008. Speciies and animal life and marine life is still effected - to say otherwise, is obviously false - their evidence is from 2010. The oil spill happened in 2008 - can’t say definitely in 2 years time - that there is no long term effect.

### Extension – Species are resilient

#### ( ) ecosystems resilient and will recover – BO Spill proves

Garvin ‘10

Internally quoting Luis A. Soto, a deep-sea biologist with advanced degrees from Florida State University and the University of Miami who teaches at the National Autonomous University of Mexico. By Glenn Garvin – reporter for McClathy news – “Ixtoc: The Gulf's other massive oil spill no longer apparent” – McClatchy Newspapers – June 12, 2010 – ev is modified for gendered language – http://www.mcclatchydc.com/2010/06/12/95793/ixtoc-the-gulfs-other-massive.html#storylink=cpy

But if the BP spill seems to be repeating one truth already demonstrated in the Ixtoc spill ... that human technology is no match for a high-pressure undersea oil blowout ... scientists are hoping that it may eventually confirm another: that the environment has a stunning capacity to heal itself from (hu)manmade insults. "The environment is amazingly resilient, more so than most people understand,'' says Luis A. Soto, a deep-sea biologist with advanced degrees from Florida State University and the University of Miami who teaches at the National Autonomous University of Mexico. "To be honest, considering the magnitude of the spill, we thought the Ixtoc spill was going to have catastrophic effects for decades ...But within a couple of years, almost everything was close to 100 percent normal again.''

### Extensions – US not key, Alt causes

#### Extend that the US not key and that there are many Alt Causes to ocean waste.

Alt causes include oil spills, nuclear waste near oceans – like Fukushima, non-US consumption.

India is the 2nd most heavily populated country, Indonesia is 4th – how these nation manage waste production and consumption as their economies grow is MUCH MORE central than the US contribution to ocean waste.

The Aff is not sufficient to solve – warming is the biggest threat to the ocean and the Aff is insufficient to solve it.

Science Daily ‘13

“World ocean systems undermined by climate change by 2100,” October 15, http://www.sciencedaily.com/releases/2013/10/131015191401.htm

An ambitious new study describes the full chain of events by which ocean biogeochemical changes triggered by humanmade greenhouse gas emissions may cascade through marine habitats and organisms, penetrating to the deep ocean and eventually influencing humans. Previous analyses have focused mainly on ocean warming and acidification, considerably underestimating the biological and social consequences of climate change. Factoring in predictable synergistic changes such as the depletion of dissolved oxygen in seawater and a decline in productivity of ocean ecosystems, the new study shows that no corner of the world ocean will be untouched by climate change by 2100. "When you look at the world ocean, there are few places that will be free of changes; most will suffer the simultaneous effects of warming, acidification, and reductions in oxygen and productivity," said lead author Camilo Mora, assistant professor at the Department of Geography in the College of Social Sciences at the University of Hawai'i at Mānoa (UH Mānoa). "The consequences of these co-occurring changes are massive -- everything from species survival, to abundance, to range size, to body size, to species richness, to ecosystem functioning are affected by changes in ocean biogeochemistry." The human ramifications of these changes are likely to be massive and disruptive. Food chains, fishing, and tourism could all be impacted. The study shows that some 470 to 870 million of the world's poorest people rely on the ocean for food, jobs, and revenues, and live in countries where ocean goods and services could be compromised by multiple ocean biogeochemical changes. Mora and Craig Smith with UH Mānoa's School of Ocean and Earth Science and Technology (SOEST) worked with a 28-person international collaboration of climate modelers, biogeochemists, oceanographers, and social scientists to develop the study, which is due for publication October 15 in the scientific journal PLOS Biology. The researchers used the most recent and robust models of projected climate change developed for the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) to inform their analysis. They quantified the extent of co-occurrence of changes in temperature, pH, oxygen, and primary productivity based on two scenarios: a business-as-usual scenario wherein atmospheric CO2 concentrations could reach 900 ppm by 2100, and an alternative scenario under which concentrations only reach 550 ppm by 2100 (representing a concerted, rapid CO2 mitigation effort, beginning today). They discovered that most of the world's ocean surface will be simultaneously impacted by varying intensities of ocean warming, acidification, oxygen depletion, or shortfalls in productivity. Only a very small fraction of the oceans, mostly in polar regions, will face the opposing effects of increases in oxygen or productivity, and nowhere will there be cooling or pH increase. "Even the seemingly positive changes at high latitudes are not necessary beneficial. Invasive species have been immigrating to these areas due to changing ocean conditions and will threaten the local species and the humans who depend on them," said co-author Chih-Lin Wei, a postdoctoral fellow at Ocean Science Centre, Memorial University of Newfoundland, Canada. The researchers assembled global distribution maps of 32 marine habitats and biodiversity hotspots to assess their potential vulnerability to the changes. As a final step, they used available data on human dependency on ocean goods and services and social adaptability to estimate the vulnerability of coastal populations to the projected ocean biogeochemical changes. "Other studies have looked at small-scale impacts, but this is the first time that we've been able to look the entire world ocean and how co-occurring stressors will differentially impact the earth's diverse habitats and people," said co-author Andrew Thurber, a postdoctoral fellow at Oregon State University. "The real power is in the quantitative, predictive approach using IPCC climate models that allow us to see how much it will all change, and also how confident we can be in our estimates." By 2100, global averages for the upper layer of the ocean could experience a temperature increase of 1.2 to 2.6° C, a dissolved oxygen concentration reduction of ~2% to 4% of current values, a pH decline of 0.15 to 0.31, and diminished phytoplankton production by ~4% to 10% from current values. The seafloor was projected to experience smaller changes in temperature and pH, and similar reductions in dissolved oxygen. Of the many marine habitats analyzed in the study, researchers found that coral reefs, seagrass beds, and shallow soft-bottom benthic habitats would experience the largest absolute changes in ocean biogeochemistry, while deep-sea habitats would experience the smallest changes. Co-author Lisa Levin, a professor at Scripps Institution of Oceanography at the University of California, San Diego, notes: "Because many deep-sea ecosystems are so stable, even small changes in temperature, oxygen, and pH may lower the resilience of deep-sea communities. This is a growing concern as humans extract more resources and create more disturbances in the deep ocean." "The deep-sea floor covers most of the Earth's surface and provides a whole host of important ecosystem services including carbon sequestration in seafloor sediments, buffering of ocean acidity, and providing an enormous reservoir of biodiversity," said Smith. "Nonetheless, very little attention has been paid to modeling the effects of climate change on these truly vast ecosystems. Perhaps not surprisingly, many deep seafloor ecosystems appear susceptible to the effects of climate warming over the next century." "The impacts of climate change will be felt from the ocean surface to the seafloor. It is truly scary to consider how vast these impacts will be," said co-author Andrew K. Sweetman, who helped to convene the original team of investigators and now leads the deep-sea ecosystem research group at the International Research Institute of Stavanger, Norway. "This is one legacy that we as humans should not be allowed to ignore."

# 1NR

### Prokop evidence goes neg. That is exactly our point- Dems can’t pass aff plan. Cross ex-binding – according to aff evidence, they r using congress… this evidence is for neg team (because they can’t fiat –executive – cross-ex binding, they said congress is the actor ) – they could not explain how the aff solves for food scarcity through countering monopolies. Also because their plan is US centric the aff could not possibly solve forfood scarcity globally because they don’t counter waste management monopolies globally – also cross ex binding. We r unqieu, and the aff triggers food scarcity through its plan also cross ex binding – they use congress/only national– the DA impacts r immediate and happening now – solves the aff – the aff doesn’t solve food scarcity – millions will die from hunger – their food scarcity/imperialism evidence is mostly from 2010s – not accounting for the pandemic like ours

### AT: No Confirmation – Vote Cancelled / Luján

#### The committee vote this week was pulled because a Dem Senator had a stroke and they need his vote – it only proves they think they’ll have the votes once he’s back – AND that every vote is key

Wyrich 2-2-22 (Andrew Wyrich, deputy tech editor at the Daily Dot, “FCC, FTC votes delayed after senator’s stroke prevents Dems from approving nominees,” Daily Dot, 2-2-2022, https://www.dailydot.com/debug/fcc-ftc-gigi-sohn-alvaro-bedoya-votes-pulled/)

The Senate Commerce Committee announced late on Tuesday that it had pulled the scheduled votes on the nominations of Gigi Sohn to the Federal Communications Commission (FCC) and Alvaro Bedoya to the Federal Trade Commission (FTC).

Sohn and Bedoya, both of whom would give their respective agencies a 3-2 Democratic majority, were scheduled to have their votes before the Senate Commerce Committee today.

A committee spokesperson said the votes were pulled after Sen. Ben Ray Luján (D-N.M.), one of the members of the Senate Commerce Committee, suffered a stroke last week. Luján is expected to make a full recovery.

The 28-member Senate Commerce Committee is split evenly between Democrats and Republicans. Both Sohn and Bedoya will almost assuredly need all of the Democratic votes on the committee to advance to a full vote in the Senate, meaning going forward with a vote with Lujan’s absence risked not having the necessary votes to advance the two nominees.

The spokesperson said today’s schedule “has been recalibrated to take into consideration the need for all Democratic votes in order to move certain nominees,” noting that “the speedy recovery of Sen. Lujan remains [our] first and foremost priority.”

Sohn and Bedoya both had confirmation hearings last year. While the Senate Commerce Committee voted on Bedoya’s nomination, landing on a 14-14 tie, they never held a vote for Sohn. Bedoya’s nomination was sent to the full Senate, but never was taken up for a vote.

Because of that, President Joe Biden needed to re-nominate both of them for the FCC and FTC roles earlier this year.

If they are confirmed, both Sohn and Bedoya would give the FCC and FTC Democratic majorities. That would allow the FCC to tackle a number of issues that would require a party-line vote, such as restoring net neutrality rules and authority over the broadband industry. Meanwhile, the FTC could start a rulemaking process on issues like data privacy and facial recognition.

The Senate Commerce Committee spokesperson did not say when they were aiming to reschedule votes for Sohn and Bedoya.

Craig Aaron, the co-CEO of Free Press Action, called the votes being pulled “disappointing” in a tweet on Tuesday evening.

“Disappointing because these highly qualified nominees should have sailed through months ago. Further delay just keeps these essential agencies from getting to work,” Aaron tweeted.

#### Luján will be back in a couple weeks and the Senate’s moving forward without him in the meantime – their ev’s wild speculation fed by a temporary lack of public info about his condition – BUT even if we’re wrong, he’s just replaced by another liberal Dem – no impact

DeBonis 2-2-22 (Mike DeBonis, covers Congress at The Washington Post, “Sen. Ben Ray Luján’s stroke shows the fragility of Democrats’ Senate majority,” The Washington Post, 2-2-2022, https://www.washingtonpost.com/politics/2022/02/02/sen-ben-ray-lujns-stroke-shows-fragility-democrats-senate-majority/)

For months, Senate Democrats have quietly pondered an improbable but not unthinkable scenario — that their razor-thin majority, secured only by the tiebreaking vote of Vice President Harris, could be suddenly upended by the absence, incapacitation or death of a single senator.

This week, that scenario became reality, with an unexpected twist: In a caucus with 16 senators over 70, including several with documented health issues, it was one of the youngest Democrats, Sen. Ben Ray Luján of New Mexico, who suffered a stroke, leaving the Senate agenda in flux and Democrats pondering the fragility of their governing majority.

Amid bipartisan prayers and well-wishes for Luján’s health, the political impact was immediate: Plans to advance three controversial nominees Wednesday through the evenly divided Senate Commerce Committee were abandoned due to his absence, and many on Capitol Hill braced for partisan battles to come, including the fight to replace retiring Supreme Court Justice Stephen G. Breyer.

“I will be just really blunt: What’s on my mind in this situation is that it could have been any one of us,” said Sen. Richard Blumenthal (D-Conn.). “The good news is he seems to be recovering well, and he’ll be back. But in an evenly divided Senate, every one of us is indispensable.”

Luján, 49, was stricken last week with dizziness and fatigue while in New Mexico, according to a Tuesday statement from his chief of staff, Carlos Sanchez. He visited a hospital in Santa Fe and was subsequently transferred to an Albuquerque hospital, where he was diagnosed with a stroke in the cerebellum and underwent surgery to address brain swelling, Sanchez said.

Luján is “expected to make a full recovery,” the statement said. A Luján aide who spoke on the condition of anonymity to describe the senator’s medical condition said he could return to work in Washington in four to six weeks if his recovery goes as doctors expect.

Many Democrats seized on that news to declare that business would proceed as usual.

“All of us are hopeful and optimistic that he will be back to his old self before long,” Senate Majority Leader Charles E. Schumer (D-N.Y.) said Wednesday. “In the meantime, the U.S. Senate will continue to move forward in carrying out its business on behalf of the American people.”

But without further details about Luján’s condition and prognosis, a pall of uncertainty hung over the Senate’s business. The delay between Luján’s hospitalization on Thursday and the public announcement on Tuesday further fed speculation on Capitol Hill about the gravity of his condition.

Kevin Sheth, a neurologist and professor at the Yale School of Medicine and Yale New Haven Hospital, said it was reasonable to expect that Luján could make a relatively rapid recovery, given the circumstances described in the public statement about the stroke.

Cerebellar strokes, located in the back of the brain adjacent to the brain stem, are typically more manageable and associated with more positive outcomes than those in other parts of the brain, Sheth said, so long as they are treated quickly. The surgery, he added, was probably done to relieve pressure on the adjacent brain stem, which can cause more serious and permanent damage.

Luján’s malady is distinct from neurological episodes suffered by then-Sens. Tim Johnson (D-S.D.) in 2006 and Mark Kirk (R-Ill.) in 2012, both of which resulted in months-long absences and permanent disabilities.

Sheth said a recurrence is always a risk for stroke victims, and identifying and addressing the cause of the stroke will be an important factor for Luján and his doctors, he added, but it is possible he could return to work much more quickly than Kirk or Johnson.

“The details matter, but I think it’s possible he could be back within weeks,” he said. “There are few locations in the brain where you’d pick [to have a stroke] — this is one of them.”

Even a limited absence stands to carry enormous stakes for Democrats. The Commerce Committee, on which Luján sits, had hoped to advance several Biden appointments at a Wednesday meeting, including Federal Communications Commission nominee Gigi B. Sohn and Federal Trade Commission nominee Alvaro M. Bedoya.

If confirmed, those two appointments would shift the partisan balance of the FCC and FTC from Republicans to Democrats. But Luján’s absence prompted Sen. Maria Cantwell (D-Wash.), the panel’s chairwoman, to pull consideration of Sohn and Bedoya, as well as Consumer Financial Protection Bureau nominee Mary T. Boyle, from Wednesday’s agenda.

“We have some very solid nominees that have been held up just on party-line votes and with Sen. Luján gone, that’ll make that more challenging until he returns,” Cantwell said. “But, you know, maybe we’ll figure out some ways to get support from a broader coalition.”

On the Senate floor Wednesday, Schumer set up a rapid-fire series of confirmation votes, taking advantage of the temporary absences of two Republican senators, John Hoeven (N.D.) and Mitt Romney (Utah), due to positive coronavirus tests. Additional confirmation votes are expected Thursday.

One consolation for Democrats is that Luján does not sit on the Senate Judiciary Committee, which will be charged with vetting and advancing Breyer’s replacement. That panel’s chairman, Sen. Richard J. Durbin (D-Ill.), told reporters he planned to plow ahead with any nominee’s consideration. Even before Luján’s stroke, Democrats hoped that they could attract at least one Republican senator to support Biden’s eventual nominee, rendering moot the absence or opposition of a single Democrat.

Should Luján be unable to return to the Senate, Democrats have another consolation: His replacement would be chosen by a Democratic governor, Michelle Lujan Grisham, a distant relative.

Most of Luján’s colleagues Wednesday chose to focus on the human implications of his plight rather than the political implications — and the fickle nature of fate, sidelining a young and vigorous lawmaker amid an ever-graying crowd.

### T/C – Climate (Meat)

#### Turns and solves climate

Smith 21 (Georgie Smith, agriculture and food systems journalist, 4th generation farmer, “What the pandemic revealed about the meat supply chain,” Fortune, 6-24-2021, https://fortune.com/2021/06/24/what-the-pandemic-revealed-about-the-meat-supply-chain/)

Yet a shift toward a more sustainable or less centralized industry is unlikely to happen overnight, as big meat companies, regional producers, impact investors, and consumers took away different lessons from the experience.

Tackling the food industry’s environmental toll and sustainability record is a massive undertaking. Food makes up 10% to 30% of a household’s carbon footprint, with meat—primarily beef, pork, and chicken— contributing 56.6% of the greenhouse gases emitted in an average American’s diet. In 2019 agriculture contributed 9.6% of the U.S. total emissions, a significant portion of which came from methane emissions from livestock production, putting the industrialized meat supply chain in the crosshairs of the climate change debate.

Big Meat shrugs off the pandemic

Despite weeks of meatpacking plant shutdowns during the pandemic— leading to beef- and pork-packing facilities operating at 60% of capacity in April and May—record-high retail meat prices and a high appetite for meat domestically and internationally contributed to historic profits for many large U.S. meat-supply companies.

The “Big Four” meat companies—Tyson Foods, JBS SA, Cargill, and National Beef, currently controlling 80% of the U.S. meat supply chain—largely shrugged off the supply challenges.

The COVID-19 meatpacking plant shutdowns of 2020 are unlikely to inspire a significant, immediate shift in favor of a more decentralized industry that favors local producers, industry critics say.

And they have few incentives to make meaningful changes in favor of diversity or sustainability anytime soon, analysts say.

“When it comes to meat, the sad fact is that the pandemic didn’t last long enough,” says Alan Lewis, VP of government affairs and policy advocate for Natural Grocers, a 150-plus natural foods grocery chain based in Colorado, when asked if the pandemic created any significant moves toward sustainability within the U.S. meat supply chain.

The pandemic was good for the largest producers’ bottom line.

In March, JBS announced its profits for 2020 were up 65% over the previous year. Cargill, a privately held company, disclosed to bond investors it made almost $4.3 billion in net income during the first nine months of its 2020 fiscal year, more than any full year before, Bloomberg reported.

Tyson, which also reported solid sales in 2020 and early 2021 growth surpassing projected earnings, updated its own sustainability commitment in recent weeks, the latest in a recent flurry of net-zero pledges from large meat-supply companies.

An analysis published in March 2021 by New York University researchers criticized the vast majority of the world’s large meat and dairy companies as slow to make net-zero commitments.

Consumers have been signaling since before the pandemic they will use their purchasing power to support brands committed to sustainability. A January 2020 survey of nearly 19,000 consumers in 28 countries found that nearly six in 10 respondents were willing to change their shopping habits to reduce environmental impact. Brands that embraced sustainability goals saw share prices increase whereas brands that ignored sustainability increased reputational and business risk, a Deutsche Bank report found.

Most recently, Tyson pledged in June to achieve net-zero greenhouse gas emissions across its global operations and supply chain by 2050. The company vowed to continue work started in 2018 encouraging corn farmers to use less fertilizer and implement practices that reduce soil loss. The target was to expand those practices to 2 million acres, representing 100% of feed purchased by Tyson by 2030.

“Our net-zero ambition is another important step in our work toward realizing our aspiration to become the most transparent and sustainable food company in the world,” said Donnie King, Tyson Foods president and CEO, in a statement.

But longtime Big Meat critics like Lewis argue that meatpackers’ sustainability pledges aren’t nearly enough to combat climate change when they are still part of a consolidated meat production supply chain largely dependent upon monoculture agriculture practices. Since 1961, conversion of land to commercial agricultural and forestry production has contributed to increasing greenhouse gas emissions, loss of natural ecosystems, and declining biodiversity, according to a 2019 special report by Intergovernmental Panel on Climate Change.

“At what point are they going to replace commodity corn and make the way they raise chickens sustainable?” Lewis asks, referring to Tyson’s net-zero pledge.

Other recent high-profile net-zero announcements in meat include Brazilian giant JBS pledging in March to reach net-zero emissions by 2040. The company joins Smithfield Foods, which vowed to become carbon negative by 2030, and Cargill, which committed to reducing emissions by 30% across its North American beef supply chain by 2030. National Beef has yet to make any sustainability commitments for its supply chain.

Not everyone is eager to usher in change.

Agricultural economist Michelle Klieger points out that despite pandemic hiccups, the industrialized meat supply chain has historically “served the customer really well.”

Consolidation over the past 50 years took away price volatility and increased accessibility, Klieger says.

“Tyson especially has been really good about running a tight ship; when prices sank they were solvent and bought up the competition,” Klieger says. “So, by the 1980s was the first time Americans could eat chicken as many meals as they wanted because it was consistent pricing and it was available.”

For impact investors, the pandemic illustrated a robust demand for regional meatpacking production, with many seeing potential in more sustainable farming and ranching practices.

“Sustainability was already top of the mind for consumers; that’s only more so the case now,” says Jason Jones, the former founding president of Vital Farms who is now building out a new insect-based protein alternative company.

Greater scrutiny

As the large meat producers benefited from the high retail prices, farmers and ranchers, especially beef producers, experienced low live-animal prices, a trend that has continued into 2021 according to the USDA.

The U.S. Department of Agriculture is working on new guidelines to address anticompetitive behavior and farmers' compensation, the Wall Street Journal reported on June 22. Earlier this month, the U.S. Secretary of Agriculture Tom Vilsack said he would back establishing a special investigator within the USDA dedicated to investing and preventing anticompetitive practices in meatpacking, Reuters reported.

In June 2020, the U.S. Department of Justice opened an antitrust probe into anticompetitive practices in the meat industry, looking at the wide margin between input and output prices during and after the pandemic.

Citing “lessons learned from the COVID-19 pandemic and recent supply-chain disruptions,” the Biden administration recently announced a $4 billion investment in strengthening regional food systems, including regional processing capacity, which may help small-scale meatpackers like Missouri rancher Kim Wells, who opened up a small, regional USDA-approved meatpacking facility during the height of the pandemic.

An October 2020 survey of 1,000 consumers found that post-pandemic shoppers had shifted toward supporting local farms and producers and were disappointed by the mostly food-giant options available in their local grocery stores.

Ninety-one percent of consumers said it was important to feed their family healthy, fresh food, and 96% said locally grown and produced food is the “freshest, healthiest, and most nutritious food available.”

The pandemic was an “educational moment” for consumers, Jones says, most of whom had never experienced a period of food shortages in their lifetime.

“COVID-19 put a spotlight on where our food comes from and that we can’t just assume it will be available at the store for us in a nice Styrofoam package,” Jones says.

### T/C – Climate (Regen Ag)

#### Turns and solves climate

Gustin 19 (Georgina Gustin, covers agriculture for Inside Climate News, won numerous awards, including the John B. Oakes Award for Distinguished Environmental Journalism and the Glenn Cunningham Agricultural Journalist of the Year, formerly reported for the St. Louis Post-Dispatch and CQ Roll Call, graduate of the Columbia University Graduate School of Journalism, “Industrial Agriculture, an Extraction Industry Like Fossil Fuels, a Growing Driver of Climate Change,” Inside Climate News, 1-25-2019, https://insideclimatenews.org/news/25012019/climate-change-agriculture-farming-consolidation-corn-soybeans-meat-crop-subsidies/)

On his farm in southwestern Iowa, Seth Watkins plants several different crops and raises cattle.

He controls erosion and water pollution by leaving some land permanently covered in native grass. He grazes his cattle on pasture, and he sows cover crops to hold the fertile soil in place during the harsh Midwestern winters.

Watkins’ farm is a patchwork of diversity—and his fields mark it as an outlier.

His practices don’t sound radical, but Watkins is a bit of a renegade. He’s among a small contingent of farmers in the region who are holding out against a decades-long trend of consolidation and expansion in American agriculture.

Watkins does this in part because he farms with climate change in mind.

“I can see the impact of the changing climate,” he said. “I know, in the immediate, I’ve got to manage the issue. In the long term, it means doing something to slow down the problem.”

But for several decades, ever-bigger and less-varied farms have overtaken diversified operations like his, replacing them with industrialized row crops or gigantic impoundments of cattle, hogs and chickens.

This trend is a central reason why American agriculture has failed to deal with climate change, a crisis that has been made worse by large-scale farming practices even as it afflicts farmers themselves.

Consolidation has swallowed smaller farms, bolstering a financial and regulatory status quo that has thwarted the kind of climate-friendly approach Watkins and his fellow outliers employ.

“I don’t think any of us wants to get bigger,” Watkins mused. “It’s just the curse of a commodity business. We made all the focus on production, and all the economics, the subsidies, are tied to production. We have a production-focused agriculture policy.”

This article is part of a series by InsideClimate News exploring agriculture’s role in the global warming crisis and the forces preventing it from playing a greater part in combating climate change.

The consolidation of American farming, reinforced by an emphasis on just one or two main crops—corn and soybeans—has led to a system in which there’s little incentive to grow much else, especially in the agricultural heartland of the Midwest.

This has profound climate and environmental implications. Mega-sized farming encourages practices that degrade the soil, waste fertilizer and mishandle manure, all of which directly increase emissions of greenhouse gases. At the same time, it discourages practices like “no-till” farming and crop rotation that grab carbon dioxide from the air, store it in the soil and improve soil health.

“The industrial food system presents a barrier to realizing the potential climate benefits in agriculture,” said Laura Lengnick, a soil scientist who has written extensively on climate and agriculture. “We continue to invest in this massive corn and soybean and beef-making machine in the Midwest despite all that we know about the changes we could make that would maintain yields, improve farm profitability and deliver climate change solutions.”

This is happening as landmark government reports and ample academic research show that agricultural soils are critical for stabilizing the climate.

One recent government report called the trend toward ever-bigger farms “persistent, widespread and pronounced.”

The report, a comprehensive assessment of consolidation published last year by the U.S. Department of Agriculture’s Economic Research Service, confirmed what was already apparent to small farmers: “Agricultural production has shifted to much larger farming operations over the last three decades.”

While the report concluded that consolidation is responsible for improvements in productivity, it noted: “At the same time, large-scale farming operations are said to force small farms out of business, damage the viability of rural communities, reduce the diversity of agricultural production, and create environmental risks through their production practices.”

More than a third of cropland is on farms bigger than 2,000 acres. That’s twice the share of land held on big farms 30 years ago.

Bigger operations are richer, too. Half of the value of farm production came from those with annual sales of at least $1 million.

The drivers behind this ongoing expansion are intertwined and complex—a confluence of politics, economics and technology. Agricultural policy has long emphasized over-production, propped up by government subsidies that favor certain crops. Lawmakers have been unwilling to change the system, largely because of a powerful farm lobby and the might of agribusinesses that profit from technological advancements.

“Farmers are dictated in how to farm,” said Adam Mason, a policy director with Iowa Citizens for Community Improvement. “They’re locked into a system.”

This system has transformed agriculture into a business that resembles the fossil fuel industry as it extracts value out of the ground with relentless efficiency and leaves greenhouse gas pollution in its aftermath.

“From a climate, soil health, and carbon sequestering perspective, we need greater diversity,” said Ferd Hoefner of the National Sustainable Agriculture Coalition. “We’re never going to make huge progress on soil health and carbon sequestration until we get that diversity.”

### AT: Enforcement Fails – T/L

#### FTC enforcement of existing antitrust law CAN deconsolidate meat packing

Kelloway 1-6-22 (Claire Kelloway, senior reporter and researcher with the Open Markets Institute, BA political science, Carleton College, concentration in political economy and sustainable development, “White House Pushes Plan for Fairer Meat Markets – Will it Work?” Food & Power, 1-6-2022, https://www.foodandpower.net/latest/white-house-meatpacking-plan-jan-2022)

The Biden administration kicked off the new year by promoting an “action plan” for addressing monopolistic behavior in the meat industry, which it blames for rising meat prices and squeezing farmers. The plan largely details how the U.S. Department of Agriculture (USDA) will distribute $1 billion in American Rescue Plan funds to build out new meat processing plants. But some ranching groups and antitrust advocates argue that this investment won’t challenge the core issues of market concentration and corporate power. To deconcentrate meatpacking, prevent collusive price hikes, and help new entrants succeed, the Justice Department (DOJ), Federal Trade Commission (FTC), and USDA need to boldly enforce antitrust law and issue fair competition rules.

At a virtual roundtable of farmers and ranchers, President Joe Biden and other officials expanded on several previous commitments to address meatpacking consolidation. Among the details revealed at Monday’s meeting: The administration plans to distribute $375 million in grants for new plants and $100 million to back guaranteed loans for meat supply chain infrastructure such as cold storage. The administration also allocated $100 million for meatpacking worker training and safety, plus a commitment to work with labor unions on these issues.

Agriculture Secretary Tom Vilsack and Attorney General Merrick Garland also announced a joint USDA and DOJ initiative that will create a “channel for farmers and ranchers to report complaints of potentially unfair and anticompetitive practices.” This adds to anti-monopoly rulemaking and research underway at USDA, including a study of consolidation in food retail markets in collaboration with the FTC and new rules under the Packers and Stockyards Act to better protect farmers from unfair or deceptive tactics by meatpackers.

The Biden administration is doubling down on meat supply chain reform now, in part, because of rising meat prices. Beef cost 20% more this November than a year prior, and the overall price index for meat, poultry, fish, and eggs was up 13%. The administration argues that much of this inflation is the result of monopoly. “The meat industry is a textbook example on the price side” of how consolidated companies control markets, President Biden said Monday. The top four corporations in each industry control 54% of chicken processing, 67% of pork processing, and 85% of beef processing, giving them market power to push down prices for farmers and raise prices for consumers, the White House argues.

Strong evidence for this claim comes from the fact that net profit margins for top meat companies Tyson Foods, JBS, Marfrig, and Seaboard are up more than 300% since the pandemic, according to the White House. Profit margins would not rise if price increases only reflected meatpackers’ increased cost of business; meat corporations are using their market power to charge more and raise profits.

In a healthy and competitive market, economists expect competitors to eat away excess profits by undercutting on price and taking sales. But in an oligopolistic market, companies can more easily coordinate to all raise prices and make more money, whether explicitly or tacitly. “In concentrated industries you don’t need to actually sit down and engage in overt collusion; everybody understands they want to make bigger profits,” says University of Wisconsin law professor emeritus Peter Carstensen. “There are lots of ways to communicate indirectly what your plans are.”

Meatpacking representatives and trade groups contest this explanation, pointing to increased labor, transportation and input costs. The National Chicken Council told The Washington Post that the White House proposal “looks like a solution in search of a problem.” Critics also note that meatpacking has been concentrated for decades yet prices are only jumping now. But economist Hal Singer, managing director of Econ One, argues that cartels often need a cover, like generalized inflation, to get away with sudden excessive price hikes. “Once the market is concentrated and susceptible to a cartel, it still needs a trigger, a pretext to come together and start a price-fixing conspiracy,” Singer says. “[Meatpackers] could have easily gotten together and said, ‘Hey, let’s exploit this inflationary pressure.’”

This leaves a big question — will the Biden administration’s proposals tame meatpackers’ market power and thereby tame consumer prices? Several agriculture and ranching groups applauded the announcement, noting that new processors would give farmers and ranchers more options for selling their animals and increase competition for livestock, thus improving prices for farmers. In the long term, increased competition could steady the meat supply and shrink profit margins for the big packers, but in the near term, new entrants probably won’t break dominant meatpackers’ pricing power.

“[Injecting] another 10% of capacity through new blood into the industry, that really wouldn’t defeat the price increase if they are coordinating in their pricing,” says Singer. “The only way this new entrant can do anything is if customers consider that entrant as a viable substitution … even if you ignored how long it [would take], I doubt it would make a dent on the pricing dynamics.”

Even with startup resources, new plants will also struggle to gain a foothold in the market against dominant packers. “Those smaller scale processing facilities won’t survive over the long term unless we break up concentrated power and deal with the big structural issues” in meatpacking, Stacy Mitchell, co-director of the Institute for Local Self Reliance, told The Hill.

Antitrust and other competition policy can help build a fairer, more competitive, and resilient meat-processing sector. Antitrust enforcers have the authority to set fair competition rules to ensure businesses compete on innovation and service rather than brute size, exclusion, and bargaining power. For instance, under the Packers and Stockyards Act, Carstensen says the USDA could outlaw the preferential pricing and rebate programs meatpackers use to lock in access to grocery shelves and retail markets.

#### Their ev assumes just the funding part, which he already did – it’s enforcement that’s key – that’s Moran – AND…

Genoways 20 (Ted Genoways, journalist and author, contributing writer at Mother Jones and The New Republic, editor-at-large at Pacific Standard, books include The Chain: Farm, Factory, and the Fate of Our Food, awards include fellowships from the National Endowment for the Arts and the Guggenheim Foundation, MFA University of Virginia, MA English, Texas Tech University, “Beyond Big Meat,” The New Republic, 8-4-2020, https://newrepublic.com/article/158679/beyond-big-meat-coronavirus-pandemic-meatpacking-monopoly)

“The food system we have is not the result of the free market,” Michael Pollan wrote recently in The New York Review of Books. “No, our food system is the product of agricultural and antitrust policies—political choices—that, as has suddenly become plain, stand in urgent need of reform.” Eric Schlosser, writing for The Atlantic, made an even more specific call for “strict antitrust enforcement that will rid the food system of monopoly and monopsony power, ensure competition, and encourage the innovation that free-market forces produce.” By June, that growing chorus of concern grew so loud that the Department of Justice, in a wholly uncharacteristic move, came forward to announce a series of ongoing investigations.

First, Justice officials revealed that the chief executive officer and a former senior vice president at Pilgrim’s Pride, a poultry producer owned by JBS, along with two top executives at Claxton Poultry, had been indicted for an antitrust conspiracy to fix prices. Tyson had agreed to cooperate with that investigation as part of a leniency application. Next, the department issued civil subpoenas to the four biggest beef processors—JBS, Tyson, Cargill, and National Beef—seeking information about possible collusion in that market, as well. According to The Wall Street Journal, JBS and Tyson were also asked to produce documents related to their pork-processing operations, again to investigate possible antitrust violations. With at least four of the Big Six packers currently under federal scrutiny and indictments already coming down, there seems a greater chance now of establishing market equity in the top-heavy meatpacking economy than at any other time in the last century. Fully enforcing antitrust laws to break up the twenty-first–century meat trust would go a long way toward restoring the resiliency of distributed production and returning to the fair and transparent marketplace that existed for half a century before the era of consolidation.

But the need for reform of the food supply chain is far more broad-ranging than questions of targeted regulatory enforcement. The age of Covid-19 has revealed profound rifts in our culture concerning food production and distribution—rifts that must be bridged by more than purely economic fixes. Policymakers and consumers alike must reflect on how we have come to collectively accept a food system that is largely based on racial and ethnic discrimination. In a country with a legacy of plantation slavery, perhaps this should come as no surprise. But it’s incompatible with the free society that we claim to embrace. During this pandemic, the White House has declared all food system employees—from farm fields to factory floors to grocery aisles to restaurant kitchens—to be essential workers. But if food workers are indeed essential to our national survival, then we owe them a living wage, paid sick leave, and a safe work environment. We can no longer shrug off the meat industry’s high rates of injury, amputation, and illness as the necessary trade-off for cheap hamburgers and chicken nuggets. The Occupational Safety and Health Administration should be allowed full access to packinghouse workers, and the meat inspectors of the USDA, as well as the packinghouse workers themselves, should be granted a louder voice in determining safe line speeds.

Other cultural changes will have to go deeper than policy. Since the beginning of the great consolidation in the 1980s, meatpacking plants across middle America turned to refugees and immigrants to fill these dangerous and low-paid jobs. First, it was refugees from Vietnam, Laos, and Cambodia. Then the industry saw an influx of Mexican immigrants, when NAFTA led to a rapid devaluation of the peso that hit hardest in rural communities across the border. The creation of Immigration and Customs Enforcement (ICE) and a series of high-profile raids in the mid-2000s changed hiring yet again in ways that further diversified—and fractured—the meatpacking workforce. Today, meatpacking workers may be K’iche’-speaking Mayas from the central highlands of Guatemala; Salvadorans fleeing urban gangs; Karen people from Myanmar, many of whom grew up in refugee camps along the Thai border; Somalis, most of whom come from war-torn Mogadishu by way of the Dadaab refugee complex in eastern Kenya; and Yazidi from Iraq and Syria, who served as interpreters for the U.S. military.

Consumers will have to understand that the routine endangerment and abuse of these workers can no longer be the hidden cost of cheap meat. Indeed, if we can escape the stranglehold of the Big Six’s ruthless profit motive, then we can ensure fair treatment for these workers and sustainable profits for a larger group of small packers without increases in the price of food. Farmers, ranchers, and residents of rural communities must recognize that such a change will also bring them fairer livestock contracts and higher prices. They must resist the politics of division and recognize that they have common cause with meatpacking workers, even though they may look different, pray different, or speak a different language. An emergency such as the Covid-19 pandemic should make it clearer than ever that our interests and our fates are interwoven. In a just world, that would mean immediate citizenship for any undocumented immigrants who have put their lives at risk as essential workers during this pandemic. President Trump is fond of saying that this crisis is a war—that he is a wartime president and that frontline workers are warriors. Since the founding of the country, we have granted citizenship to any foreign national willing to fight on our side. If you worked at a meatpacking plant or in a farm field, on a grocery loading dock or in a restaurant kitchen, during this once-in-a-century crisis, seeing that our nation was fed, then you should be assured a share of our national future.

And, finally, as we build a new food system adapted to the demands of the future, we must seek out production methods that are not only equitable but sustainable. Climate change not only accelerates under conditions of monopoly food cultivation and processing but also inserts new communities of migrant workers into the food economy. Our current obstacles will only grow more unmanageable if we don’t address them now. It’s time for us to invest seriously in new ways of farming and eating that can allow us to share precious resources and live better together. It’s an admittedly formidable challenge—but it’s possible, if we open our food system to innovation and forward-thinking models of production and distribution. It’s possible if we break up the stunting monopolies of big meat.

#### Experts are optimistic it’ll work – if enforcement is carried out

Evers-Hillstrom 1-11-22 (Karl Evers-Hillstrom, staff writer at The Hill, “Standing up for Family Farms,” The Hill, 1-11-2022, https://farmaction.us/2022/01/11/the-hill-standing-up-for-family-farms/)

The administration has leaned on anti-monopoly groups to help craft its economic agenda. Those organizations cheered Biden’s July executive order to crack down on anti-competitive practices, which specifically called out the meatpacking industry.

The order tasked the USDA with strengthening enforcement of the Packers and Stockyards Act, a century-old law meant to protect farmers and ranchers from unfair and deceptive practices in meat markets, and making it easier for farmers to bring claims under the law.

Farm Action is pushing the Biden administration to follow through on the rulemaking, while also lobbying the USDA to crack down on the practice of relabeling imported meat to make it appear as if it was grown by American farmers.

Maxwell and Huffman are cautiously optimistic, knowing that well-funded lobbying efforts and midterm election dynamics could upend some of their priorities. But they’re emboldened by a swelling of public interest about how food gets to families’ plates, driven in large part by pandemic-induced price increases and supply chain issues that affect all Americans.

“COVID really has exposed the frailty of our current food system,” Maxwell said. “Shelves were empty for the first time in Americans’ lives. This holiday, look how much beef cost, and yet farmers are still going broke. Those stories are getting out there.”

### AT: !/D – Food Wars – Extinction

#### Food wars are likely and cause nuclear winter

Julian Cribb 20, fellow of the Australian Academy of Technological Sciences and Engineering and former director of national awareness for the Australian Commonwealth Scientific and Industrial Research Organisation, 01/02/20, Hotspots for future ‘Food wars’ identified, http://www.cambridgeblog.org/2020/01/hotspots-for-future-food-wars-identified/

Rising tensions over scarcities of food, land and water combined with increasingly unstable climates threaten to unleash new wars and the mass flight of hundreds of millions of people by the mid-century.

‘Food or War’ identifies the nine regions globally most at risk of conflict over dwindling food resources, water especially.

“Media and political descriptions of modern wars often overlook the fact that a majority of modern conflicts are driven by scarcity of the resources need to produce food – and the fear, anger and hatred this generates between different political, religious or ethnic factions,”

“However, by securing the food supply through advanced methods such as regenerative farming, aquaculture and urban food production, we can ease the tensions that lead to war. Food is now our most powerful ‘weapon of peace’.”

I cite the case of South Asia, where a rapidly emerging scarcity of fresh water, combined with land losses and climate instability are exacerbating the risk of conflict between the nuclear-armed states of India and Pakistan.

“Even a small nuclear war, involving 100 or so weapons, could wreak havoc with food supplies worldwide. Scientific models show that the smoke and dust emitted would drive down world temperatures by 1-2 degrees causing harvest failures round the globe for 10-20 years. This could temporarily halve food availability worldwide right when humanity is attempting to double it.”

Emerging water scarcity on the North China Plain, the heartland of the country’s wheat production, could drive China to outsource far more of its food from overseas, especially from Africa, Asia and Australasia. In some cases, the need to feed China may thus conflict with the need to feed local people.

The Middle East and North African (MENA) region faces one of the world’s worst water crises, with its rich countries – where population is redoubling – also attempting to feed themselves by taking up farmland in Africa and elsewhere, adding to local instability. A major food, land and water crisis in North Africa, driven by hunger in the sub-Saharan region and foreign food exports, could have consequences for southern Europe and the stability of the entire European Community many times larger than the Syrian conflict, the book warns.

Many countries across Africa remain on a knife-edge over food, land and water security, compounded by climate impacts and desertification. This has already manifested in more than a dozen food-related conflicts in recent decades, Food or War documents.

Central Asia is another region where rising population is combining with dwindling water availability and land degradation to increase the risk of conflict.

“The good news is that all of these conflicts can be averted, by the world investing a small part of its $1.8 trillion armaments budget in novel food systems that are climate-proof and are less dependent on soil, water, artificial fertilisers or pesticides.

“That would make food the world’s greatest ‘weapon of peace’ in the 21st Century. We need to recognise that the old paradigms of food production and defence which applied in the 20th Century will not succeed in the 21st. We need a food revolution capable of meeting the new challenges of our age.

Food or War describes a food system capable of feeding, reliably, healthily and peaceably, a global population of ten billion on a hot, resource depleted Planet.  
Comments Emeritus Professor Paul Ehrlich of Stanford University: “Anyone with an interest in either the human future or in food should read this clear, authoritative, scary book. So should all first-year College classes.”

Adds Canadian ecologist Dr David Suzuki “This book is an urgent call for recognition that the inescapable need for change also brings enormous opportunities.”

“This thoughtful plan to deal with an impending global food security disaster deserves coordinated and urgent consideration by the UN FAO and all national governments,” says Major General Michael Jeffery, a former Governor-General of Australia.

#### U.S. shocks cause extinction---causes global conflict and destabilizes international order

DoCampo 17 [Isabel DoCampo joined the Council's Global Food and Agriculture Program in 2015 and currently serves as a research associate. Previously, she has conducted research for Vivo en Positivo, a Bolivian HIV organization, and served as a fellow for the Project on International Peace and Security, through which she presented a policy brief regarding epidemic security at the National Press Club in Washington, DC. DoCampo holds a BA in international relations with a minor in public health from the College of William and Mary 2-8-2017 https://www.thechicagocouncil.org/blog/global-food-thought/food-secure-future-warding-instability-and-conflict]

Food Insecurity and Price Shocks can Spark Violence and Political Instability

We have learned time and again that food supply shocks—like food price spikes—lead to instability, violence, and even regime collapse. In 2007 and 2008, when global food prices spiked dramatically, the governments of Haiti and Madagascar fell in the wake of food price-related protests. In 2010 and 2011, food prices were again implicated in the destabilizing uprisings of the Arab Spring. More recently, severe food shortages and soaring inflation have sparked rioting and lootings throughout Venezuela, as 90 percent of Venezuelan families struggle to afford food.

Council research has found that food price-related unrest occurs most often in urban areas, particularly in low- and middle-income countries. Africa and Asia, where rates of undernourishment are high and rates of urbanization are higher, housed 28 of the 29 riots that occurred during the food price spikes in 2007-2008 and 2010-2011. In developing cities on these continents, impoverished urban dwellers may spend up to 50 percent of their incomes on food. Additionally, food supplies in these cities many be tenuous—either dependent on food imports or domestic production vulnerable to external shocks. As such, urban consumers in low- and middle-income countries may face chronic food insecurity, significant food price volatility, and little ability to absorb price shocks—these factors all contribute to the likelihood of rioting and unrest in urban areas plagued by hunger crises.

Rural citizens—though they aren’t able to mobilize as readily as their urban counterparts—are deeply impacted by instability in agricultural markets and chronic food insecurity. Rural communities depend on stable food prices, sufficient agricultural inputs, and fair agrarian policy to sustain their livelihoods. In their absence, rural residents may be more likely to engage in civil unrest. The Revolutionary Armed Forces of Colombia (FARC)—which concluded peace negotiations with the government in December after a bloody, 52-year conflict—was formed by disenfranchised rural communities, who had suffered from a collapse in agricultural markets and a lack of agrarian reform. FARC continued to recruit poor, rural people throughout its insurgency.

Food Insecurity is a Powerful Driver for Migration

Food insecurity is not only a potential driver of conflict, but it can also spur large-scale migration. The World Food Programme and the International Organization for Migration first identified this relationship in the migratory patterns of subsistence farmers and households impacted by drought in El Salvador, Guatemala, and Honduras in 2014. They found that food insecurity proved a significant factor in decisions to migrate, particularly to the United States, while violence may have also played a less consistent role in outward migration from the region.

This is a phenomenon we, sadly, see playing out today across the Middle East and sub-Saharan Africa. In South Sudan, where nearly one third of the population is in need of emergency food assistance as a result of civil war, 450,000 people have left the country since July 2016. Conflict in Syria, meanwhile, has decimated agricultural production, destroying agricultural infrastructure and disrupting food supply chains. With little ability to generate livelihood or secure sufficient food, many farmers and rural households have had no choice but to migrate. Those that have fled to refugee camps in the region continue to face hunger as funding cuts have restricted the ability of organizations like WFP and UNHCR to supply sufficient rations and aid; many refugees have chosen to migrate farther, to Europe in many cases, in response.

Food Security Promotes International Security

The impacts of food insecurity, especially when they provoke instability and unrest, reach well beyond national borders. When food insecurity topples governments, the international order is invariably altered and regions are destabilized. When food insecurity forces migration across regions, or continents, international relations are strained, public services are weakened, and families are torn apart.

These are lessons, however, that are too often employed in hindsight. In Cameroon, the United Nations Development Programme has begun to provide agricultural inputs and training to youth, who, without economic alternative, were being recruited to Boko Haram. The Colombian government incorporated agricultural development and rural poverty reduction measures into its peace treaty with FARC, having completed its first rural census in 45 years in 2015.

We all have enormous stake in ensuring the food security of individuals and communities around the world—in providing both consumers and producers with the resilience to withstand shocks from climate, conflict, or any extreme conditions. We have the opportunity, now, to do so before further instability threatens our collective welfare. Otherwise, we will continue to face new iterations of the challenges we see today: deeply entrenched conflict, widespread migration, and unimaginable human suffering.

​​Case:

The Aff is not sufficient to solve – warming is the biggest threat to the ocean and the Aff is insufficient to solve it.

**Science Daily ‘13**

“World ocean systems undermined by climate change by 2100,” October 15, http://www.sciencedaily.com/releases/2013/10/131015191401.htm

An ambitious new study describes the full chain of events by which ocean biogeochemical changes triggered by humanmade greenhouse gas emissions may cascade through marine habitats and organisms, **penetrating to the deep ocean and eventually influencing humans**.  Previous analyses have focused mainly on ocean warming and acidification, considerably underestimating the biological and social consequences of climate change. Factoring in predictable synergistic changes such as the depletion of dissolved oxygen in seawater and a decline in productivity of ocean ecosystems, **the new study shows that no corner of the world ocean will be untouched by climate change by 2100**.  "When you look at the world ocean, there are few places that will be free of changes; most will suffer the simultaneous effects of warming, acidification, and reductions in oxygen and productivity," said lead author Camilo Mora, assistant professor at the Department of Geography in the College of Social Sciences at the University of Hawai'i at Mānoa (UH Mānoa). "The consequences of these co-occurring changes are massive -- everything from **species survival**, to abundance, to range size, to body size, to species richness, to ecosystem functioningare affected by changes in ocean biogeochemistry."  **The human ramifications of these changes are likely to be massive and disruptive**. **Food chains, fishing, and tourism could all be impacted**. The study shows that some 470 to 870 million of the world's poorest people rely on the ocean for food, jobs, and revenues, and live in countries where ocean goods and services could be compromised by multiple ocean biogeochemical changes.  Mora and Craig Smith with UH Mānoa's School of Ocean and Earth Science and Technology (SOEST) worked with a 28-person international collaboration of climate modelers, biogeochemists, oceanographers, and social scientists to develop the study, which is due for publication October 15 in the scientific journal PLOS Biology.  The researchers used the most recent and robust models of projected climate change developed for the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) to inform their analysis. They quantified the extent of co-occurrence of changes in temperature, pH, oxygen, and primary productivity based on two scenarios: a business-as-usual scenario wherein atmospheric CO2 concentrations could reach 900 ppm by 2100, and an alternative scenario under which concentrations only reach 550 ppm by 2100 (representing a concerted, rapid CO2 mitigation effort, beginning today).  They discovered that most of the world's ocean surface will be simultaneously impacted by varying intensities of ocean warming, acidification, oxygen depletion, or shortfalls in productivity. Only a very small fraction of the oceans, mostly in polar regions, will face the opposing effects of increases in oxygen or productivity, and nowhere will there be cooling or pH increase.  "Even the seemingly positive changes at high latitudes are not necessary beneficial. Invasive species have been immigrating to these areas due to changing ocean conditions and will threaten the local species and the humans who depend on them," said co-author Chih-Lin Wei, a postdoctoral fellow at Ocean Science Centre, Memorial University of Newfoundland, Canada.  The researchers assembled global distribution maps of 32 marine habitats and biodiversity hotspots to assess their potential vulnerability to the changes. As a final step, they used available data on human dependency on ocean goods and services and social adaptability to estimate the vulnerability of coastal populations to the projected ocean biogeochemical changes.  "Other studies have looked at small-scale impacts, but this is the first time that we've been able to look the entire world ocean and how co-occurring stressors will differentially impact the earth's diverse habitats and people," said co-author Andrew Thurber, a postdoctoral fellow at Oregon State University. "The real power is in the quantitative, predictive approach using IPCC climate models that allow us to see how much it will all change, and also how confident we can be in our estimates."  By 2100, global averages for the upper layer of the ocean could experience a temperature increase of 1.2 to 2.6° C, a dissolved oxygen concentration reduction of ~2% to 4% of current values, a pH decline of 0.15 to 0.31, and diminished phytoplankton production by ~4% to 10% from current values. The seafloor was projected to experience smaller changes in temperature and pH, and similar reductions in dissolved oxygen.  Of the many marine habitats analyzed in the study, researchers found that coral reefs, seagrass beds, and shallow soft-bottom benthic habitats would experience the largest absolute changes in ocean biogeochemistry, while deep-sea habitats would experience the smallest changes.  Co-author Lisa Levin, a professor at Scripps Institution of Oceanography at the University of California, San Diego, notes: "Because many deep-sea ecosystems are so stable, even small changes in temperature, oxygen, and pH may lower the resilience of deep-sea communities. This is a growing concern as humans extract more resources and create more disturbances in the deep ocean."  "The deep-sea floor covers most of the Earth's surface and provides a whole host of important ecosystem services including carbon sequestration in seafloor sediments, buffering of ocean acidity, and providing an enormous reservoir of biodiversity," said Smith. "Nonetheless, very little attention has been paid to modeling the effects of climate change on these truly vast ecosystems. Perhaps not surprisingly, many deep seafloor ecosystems appear susceptible to the effects of climate warming over the next century."  "The impacts of climate change will be felt from the ocean surface to the seafloor. It is truly scary to consider how vast these impacts will be," said co-author Andrew K. Sweetman, who helped to convene the original team of investigators and now leads the deep-sea ecosystem research group at the International Research Institute of Stavanger, Norway. "**This is one legacy that we as humans should not be allowed to ignore."**