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# 1NC

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

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

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

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

**Business practices are ongoing conduct of many market participants**

**Macintosh 97** --- Kerry Lynn Macintosh, Associate Professor of Law, Santa Clara University School of Law, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, [Vol. 38:1465 1997], https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1691&context=wmlr

**\*\*Footnote 5\*\***

5. In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. § 1-205(2).

**Only per se rules bans a PRACTICE --- rule of reason regulate anticompetitive effects for individual acts**

**Stucke 09** --- Maurice E. Stucke, Associate Professor, University of Tennessee College of Law, “Does the Rule of Reason Violate the Rule of Law?”, University of California, Davis [Vol. 42:1375 2009], https://lawreview.law.ucdavis.edu/issues/42/5/articles/42-5\_Stucke.pdf

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

**Vote neg for GROUND and LIMITS --- Other standards dodge topic uniqueness and links and they can pick something that’s broader but more permissive --- creating a bidirectional topic. Standard prolif makes the topic unmanageable.**

**The plan is also extra topical---they fiat 'favoring structural remedies' which is not an increase in prohibitions but a change in how prohibitions are enforced---that's an independent voting issue because it justifies plan text planks to spike out of NEG offense.**

### 1NC – PTX

#### Biden’s PC is likely to pass climate spending – BUT sustaining focus and continuing to avoid tough votes for Manchin and Sinema is key

Cadelago et al 10-19 (Christopher Cadelago, White House Correspondent at POLITICO; Marianne LeVine, reporter at POLITICO, and Nicholas Wu, reporter at POLITICO; **internally citing White House aides, Sen. Jon Tester (D-Mont.), Rep. Pramila Jayapal, chair of the Congressional Progressive Caucus, John Podesta, top aide to former Presidents Barack Obama and Bill Clinton, and Louisa Terrell, director of the White House Office of Legislative Affairs**; “Biden bets his agenda on the inside game,” POLITICO, 10-19-2021, <https://www.politico.com/news/2021/10/19/biden-agenda-inside-game-516239>)

Before Joe Biden can fully pitch the public on his solutions to a lingering pandemic and economic rockiness, he’s got to finish the sale to his own party’s lawmakers.

As Democrats on Capitol Hill brace in anticipation of a brutal midterm, Biden is spending an extraordinary amount of time and political capital behind the scenes to convince them to rally around a common framework for social and climate spending. His congressional huddles have accelerated, from phone calls on the White House veranda to one-on-one and group meetings — including two high-stakes Tuesday sit downs with moderates and progressives. He’s dialing up old friends to take their temperature about how his presidency is really fairing far beyond the Beltway.

White House aides, in their own recent conversations with nervous allies, have repeatedly cited the flurry of presidential calls as a sign itself of Biden's commitment to getting the bills over the finish line, at times bristling at claims that he hasn't been involved enough.

But Biden’s hours and hours of meetings don’t just reflect the precarious moment in which his presidency finds itself. They underscore the heavy reliance his White House has placed on an inside game, rather than the bully pulpit, to dislodge recalcitrant holdouts and move their agenda.

"The president is a longtime policy guy and relationship guy. So he brings both kinds of skills to his work" to corral his party behind a trillion-dollar-plus package of progressive priorities, said Biden's former primary rival Sen. Elizabeth Warren (D-Mass.).

Warren acknowledged, however, that Biden's level of influence over Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) — both of whom met with Biden on Tuesday — remains to be seen: "We'll know the answer to that when we make it across the finish line and assess what we’ve got."

Biden met Tuesday afternoon with Sens. Jon Tester (D-Mont.), Catherine Cortez Masto (D-Nev.) and Mark Warner (D-Va.), along with House progressives and moderates.

"We just need to get to a number," Tester said after returning from the White House. "I think that he likes all the programs but I think everybody's negotiable at this point."

Biden told progressives that tuition-free community college would likely be cut from the final package and the child tax credit may only be extended for a single year, according to a source familiar with the meeting.

Rep. Pramila Jayapal, chair of the Congressional Progressive Caucus, said after the meeting that tuition-free college is "probably going to be out," and certain climate priorities were "challenging."

"At this point we don't have a certainty on the final thing, but what we're hearing is good," Jayapal said. "We feel like the vast majority, if not all, of our priorities are in there, in some way, shape or form.”

As Biden has worked on lawmakers in private — sometimes not putting a hard stop on his schedule so as not to stifle progress — he’s largely, though not entirely, resisted riskier public pressure campaigns that could backfire and are viewed as against his nature.

Often, Biden has had just a single public event each day. Occasionally, there’s been no public interfacing at all. Eight times since Labor Day, the daily guidance issued by the White House has included only private meetings with Biden.

A planned barnstorming of the country to sell the Build Back Better platform this summer was overshadowed by the chaotic U.S. withdrawal from Afghanistan. And congressional uncertainty amid infighting among Democrats on opposite poles of the party has overshadowed continuing trips by Cabinet officials and commandeered the media narrative in Washington.

While Biden has held public events around the agenda, he has not done a formal press interview on it since Labor Day. On Wednesday, he will take a trip to his hometown of Scranton, Pa., to discuss the benefits of the legislative proposals, and on Thursday he will participate in a town hall broadcast on CNN.

“The President won the most votes in history running on his Build Back Better agenda, unveiled the formal proposal in his first address to a joint session of Congress, and has made his case across the country ever since – along with his cabinet – which is deeply resonating with the American middle class," White House spokesman Andrew Bates said.

Over the weekend, Biden called Sen. Bob Casey (D-Pa.) to discuss the upcoming trip, according to the senator, who is working on expanding care for older people and people with disabilities.

“He wanted to get some suggestions about issues we should focus on, while we’re there,” Casey said.

Still, inside the White House, the lower-key strategy has been seen as a necessity: Democrats have such slim congressional majorities that Biden, Senate Majority Leader Chuck Schumer and Speaker Nancy Pelosi have essentially no margin for error. That has put far more of the president’s focus on convincing a relatively small number of lawmakers to agree to details of the package, rather than using his time to sell policies that the general public supports.

Chief among that small number of lawmakers are Manchin and Sinema, who remain resistant to the range of $1.9 trillion to $2.2 trillion that Biden and progressive lawmakers have discussed as a compromise top line for the social spending bill.

"I'm told that they've given signs on the parking spaces for these two senators at the White House, that they're there so often,” Senate Majority Whip Dick Durbin (D-Ill.) said of Manchin and Sinema. “This president has been engaged from the start, in working with all the leaders, and particularly with those two senators."

As he does that, Biden has labored to project a sense of optimism about his progress. White House officials say they’re encouraged by what they described as the accelerated pace of the talks, even as the Oct. 31 timetable appears exceedingly ambitious.

Another explanation for the approach was baked in long ago. Biden is a 36-year veteran of the Senate with a heightened sense of his own negotiating instincts and abilities to move major legislation through the chamber. A self-admitted schmoozer, he has avoided doing much to shame Manchin and Sinema, preventing many details from their conversations and about his own preferences from spilling into public view.

“There’s a lot of complaining about what the message has been on this package, but when you’re trying to fight for every vote, the coverage inevitably becomes about the process and numbers,” said John Podesta, a top aide to former Presidents Barack Obama and Bill Clinton and a major climate activist. “When you are inside talking one-on-one to members trying to convince people to stay with you or come on board it’s very hard to create a press environment which is different from what they’ve got.”

Biden has resumed his in-person meetings with Congress’ return to Washington, including Tuesday sit-downs that involved Vice President Kamala Harris and Treasury Secretary Janet Yellen. There's a deepening acknowledgment that he has to hurry.

“They really are now in a circumstance where they will take on more and more water unless they can close the framework,” Podesta added. “I think they’ll do it. But it’s not like they have forever. We’re talking about this week or next week.”

In his meetings, Biden has spent a considerable amount of time on the party’s collective sense of urgency, aides and allies said, telling members of his party that they simply have to deliver. The conversations have at times been crisp, with Biden telling some Democratic skeptics that in order to be part of the negotiating process, they need to articulate policies that they are for and not just what they oppose — a message similar to the one Sen. Bernie Sanders (I-Vt.) has delivered to Manchin and Sinema.

Biden’s goal has been to help establish broad areas of agreement before filling in the specifics. At the same time, Biden has repeatedly cautioned his senior aides and officials not to rely on generalizations, and to prepare recommendations based on data and input from the lawmakers about their states and districts.

He has stolen bits of face time with lawmakers wherever he can, keeping members back after bill signings, for example, to sound them out, and gathering with them in their districts when he’s been on the road. Moving beyond sticking points has been a challenge, and Biden is known to implore lawmakers to step back and ignore a particular area and to temporarily focus on others where they might be able to make progress.

“When you see him artfully and deftly manage these hard conversations with members and guide them into a productive place, it helps remind you there is room for optimism and there is a pathway here,” said Louisa Terrell, director of the White House Office of Legislative Affairs.

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

Carstensen ‘21

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

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

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

#### PC’s key to Glasgow success

Glasser 10-28 (Susan B. Glasser, staff writer at The New Yorker, founder and former editor of Politico Magazine, former editor-in-chief of Foreign Policy, graduated from Harvard University, “Biden Can’t Quite Close the Deal—with His Own Party,” The New Yorker, 10-28-2021, https://www.newyorker.com/news/letter-from-bidens-washington/biden-cant-quite-close-the-deal-with-his-own-party)

On Thursday afternoon, Pelosi spoke to reporters after the House Rules Committee released the 2,465-page text of the budget bill that progressives had been demanding to see. The Speaker was no longer mentioning a vote before Biden’s plane landed in Rome. “We’re on a path to get this done,” Pelosi said. “We’ll see what consensus emerges from that, but we’re really very much on a path. . . . We’re on a path to get this all done.” Pelosi was then asked whether she trusted the word of Manchin and Sinema enough to move ahead with both bills. “I trust the President of the United States,” Pelosi replied. As she left the press conference, Pelosi was asked one more time: Are you holding an infrastructure vote today? She did not answer.

By next week, this could be just another forgotten congressional dumpster fire. The agonizingly slow negotiations on Biden’s agenda over the last few months are not the first time and will not be the last that the legislative sausage-making process has left legislators feeling, as Representative Debbie Dingell put it, “sick to your stomach.” Biden and Pelosi are betting on some basic principles of politics to help smooth it all over. They are betting that the memories of the enervating process, like a painful childbirth, will fade with time. They are betting that delivering something is better than delivering nothing. And they are betting that the mechanics of passing the legislation are much less significant than the politically popular proposals, such as raising taxes on wealthy corporations and child-care tax credits, contained within the bills. The House progressives quickly put out a statement saying that, while they were balking at having an infrastructure vote on Thursday, they were, in fact, committed to supporting both that bill and the bigger social-spending bill—whenever they do come to the floor. Winning tends to erase the pain of getting there.

But what I keep coming back to is that Biden has struggled so much—and had to put so much of his personal prestige and political capital on the line—for a deal he can’t quite close with his own party. These are Democrats he is negotiating with. No Republicans—or Russians or Chinese, for that matter—were involved in the making of the deal, to the extent that there is a deal. And why, exactly, was it such a heavy lift that it took so long to get to the pretty inevitable top-line number? A month ago, the big breakthrough was the revelation that Manchin was for a $1.5-trillion bill and that Biden and the Democratic leadership wanted to get to approximately two trillion dollars. It did not take a negotiating genius to figure out that they were going to end up at $1.75 trillion. This is what practically broke Washington? You can’t blame that one on Donald Trump.

In 2020, Biden campaigned as a dealmaker—not a Trump, I-could-sell-you-the-Brooklyn-Bridge-type dealmaker, but an actual Washington-insider-who-can-make-this-town-work-again-type dealmaker. This is why the stakes for him now are so high. It’s become a basic test of his ability to deliver.

In a speech from the White House before he left for Europe, Biden made a final appeal that was more or less a plea to his party to pivot—at last—to governing. “No one got everything they wanted, including me,” he said, of the framework, “but that’s what compromise is. That’s consensus, and that’s what I ran on.” It is also, he added, “the only way to get big things done in a democracy.”

Biden, as I write this, is flying on Air Force One to Europe, on only his second trip abroad as President. He faces skeptical Europeans, who are still peeved about the messy American withdrawal from Afghanistan, and skeptical Chinese, with whom he must try to negotiate so that the cop26 climate-change gathering in Glasgow does not result in the abject failure many are predicting. But there is little doubt that Biden’s ability to lead in the world is directly tied to his ability to lead at home. Failure on one front is failure on both. So the question remains: “Are we going to vote and demonstrate that we can govern,” as Representative Elissa Slotkin put it, “or not?”

#### Glasgow’s the only way to avoid existential climate change

--NDC = “nationally determined contributions” (to net zero global emissions by 2050) = the “ratchet mechanism” where NDCs should increase each conference

--broadly, yes political will among developed countries, esp. China, already on board net zero

--political will in developing countries is explicitly conditional on Biden’s ability to pass climate finance provisions in the social infrastructure bill

--Biden’s ability to showcase credible policies to achieve an ambitious NDC + financing drives up everyone else’s NDCs sufficient to achieve 1.5 deg track

--1.5 deg key – each incremental increase above that exponentially increases existential risk – IPCC report

--not too late, Glasgow specifically is the last chance – IPCC report

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

01

Introduction

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

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

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

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

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

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

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

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

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

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

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

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

02

Increasing the ambition of the NDCs

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

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

**[FIGURE 1 OMITTED]**

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

**[FIGURE 2 OMITTED]**

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

Where do we stand?

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

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

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

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

**[TABLE 1 OMITTED]**

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

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

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

**[BOX 1 OMITTED]**

The challenge of closing the gap

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

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

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

Achieving a positive COP26 outcome

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

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

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

**[BOX 2 OMITTED]**

**[FIGURE 3 OMITTED]**

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

**[BOX 3 OMITTED]**

03

Support to climate-vulnerable developing countries

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

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

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

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

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

Honouring the $100 billion goal

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

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

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

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

Patricia Espinosa, 23 July 2021

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

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

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

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

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

António Guterres, 9 July 2021

### 1NC – Section 5

#### The FTC should issue clear enforcement guidance that the presently-existent phrase “unfair methods of competition in or affecting commerce” in Section 5 of the FTCA prioritizes the protection of competition as the purpose of antitrust law and mandate the pursuit of structural remedies, including blocking mergers and instituting breakups, over conduct remedies. The FTC should release a policy statement and data sets that reflects this and enforce accordingly.

#### The counterplan solves and competes---the FTC interprets current authority without creating new prohibitions.

Khan ‘21

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

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

I. Background

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

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

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

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

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

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

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

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

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

### 1NC – 404

**Exclusive FTC means *they investigate* AND address t*hrough non-judicial Administrative proceedings*. Avoids risks from *private causes of action*.**

**Rosch ‘10**

Remarks of J. Thomas Rosch - Commissioner, Federal Trade Commission before the USC Gould School of Law 2010 Intellectual Property Institute Los Angeles, CA - March 23, 2010 - #E&F – modified for language that may offend - https://www.ftc.gov/sites/default/files/documents/public\_statements/promoting-innovation-just-how-dynamic-should-antitrust-law-be/100323uscremarks.pdf

More broadly, however, I want to suggest that Section 5 may supply **an optimal vehicle** for challenging conduct that weakens innovation. The common law that has grown up around Section 2 over the last several decades is deeply ingrained in price theory; that static framework, however good it may be for evaluating short-run harm and quantifiable conduct such as price and output restraints, does not easily lend itself to looking at (considering) whether a party’s conduct has or will dampen innovation or prevent product improvement. Compounding matters is the fact that the difficult line drawing and weighing involved in comparing the likelihood of innovation against the likelihood of quantifiable **anticompetitive harm** is not something that generalist **judges and** **lay juries** are well suited for. Indeed, even the metric for measuring innovation itself remains elusive.

If the Commission proceeds under Section 5, these concerns **largely fall away**. Judging harm to competition against a consumer choice standard not only follows from Section 5’s text and the FTC’s unique institutional architecture, but provides a ready**made** vehicle for evaluating anticompetitive harm from a dynamic perspective. Moreover, by proceeding under Section 5 and suing **in our** Part 3 **administrative process**, the FTC (**and only the FTC)** can have the **first crack** at the hard line drawing and balancing that must occur when one weighs price competition against other forms of more dynamic competition. Arguably by leaving this critical task **to the FTC** and its prosecutorial discretion **in the first instance**, Section 5 allows the Commission **to minimize the threat of false positives** and **shake down lawsuits** that have animated many of the Supreme Court’s more recent decisions. For all of these reasons, **I would not be surprised** if the Commission decided to pursue claims based on dynamic concerns under Section 5 in the coming years, provided we can provide clear guidance to parties about when their conduct will trigger Section 5 review.

**Error rates are *the worst of both worlds* – ffalse positives and false negatives crush econ AND kill compliance with the Aff**

* Resolves all Aff offense vs. the CP related to “underdeterrence” bc…
* …under-deterring doesn’t map onto a world with error rates in the investigation and enforcement stages. Those errors can invite “false positive” non-compliance for the Aff.

**Baker 15** Jonathan B. Baker - Professor of Law, American University Washington College of Law. “TAKING THE ERROR OUT OF “ERROR COST” ANALYSIS: WHAT’S WRONG WITH ANTITRUST’S RIGHT” - 80 Antitrust Law Journal No. 1 (2015) - #E&F – continues to footnotes #18 and #19 – no text removed. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2333736

The error cost perspective evaluates antitrust rules—whether considered **individually** or as **a whole**—based on whether they minimize total social costs. The relevant costs include costs of “false positives” (**finding violations when the conduct did not harm competition),** costs of “false negatives” (**not finding violations when the conduct harmed competition**), and **transaction costs** associated with use of legal process.17 **False positives** and **false negatives** are harmful **to the economy as a whole** for reasons that **go beyond** the conduct **in the case under review**:18 **False positives** and **false negatives** may **chill** beneficial conduct by other economic actors (potentially in other industries) that must comply with the rule; these errors may also fail to deter harmful conduct by other economic actors to which the same rule would apply. **False positives** and **false negatives** do not neatly map to overdeterrence and underdeterrence, respectively, however, because the deterrence consequences of **legal errors** depend in part on the way that those errors affect the marginal costs and benefits of conduct undertaken in the shadow of the law19.

**FN18** - From an economic perspective, antitrust rules benefit society primarily by deterring harmful conduct. See generally Jonathan B. Baker, The Case for Antitrust Enforcement, J. ECON. PERSP., Autumn 2003, at 27; cf. Louis Kaplow, Burden of Proof, 121 YALE L.J. 738 (2012) (highlighting a tradeoff between the benefits of deterrence and costs of chilling beneficial conduct that arises when the burden of proof in adjudication is set to maximize social welfare). Accordingly, the evaluation of **error costs** must ~~look to~~ (consider) the consequences of the decision or legal rule for conduct **by other firms**, **not simply to the incidence** of the decision on the parties to the case. For example, restricting analysis to the parties before the court would yield the misimpression that draconian punishments for parking in front of a fire hydrant will eliminate error costs. The prospect of such punishments would lead to 100% compliance with the no-parking rule, so there would be no court cases, no possibility for a court erroneously to convict or acquit a defendant, and no litigation expenditures. Yet such punishments would also chill parking in front of a hydrant when its social benefits (**e.g., allowing a doctor to arrive in time to save a life**) would outweigh its social costs. Such punishments would also discourage socially beneficial parking near hydrants (by drivers who fear that an aggressive parking enforcer would wrongly conclude that the hydrant is blocked and that a court would uphold the ticket). Restricting analysis to the parties before the court would yield the same misimpression with respect to an enforcement policy taken to the opposite extreme: A complete absence of enforcement of the rule prohibiting parking in front of hydrants would also lead to no court cases, and so would generate no judicial errors and no transaction costs of litigation. Yet such a rule would not deter parking in front of hydrants when the social cost (**the cost of impeding fire department access in the event of a fire discounted by the probability that a need for access would arise**) would exceed the social benefit.

**FN19** See generally Warren F. Schwartz, Legal Error, in 1 ENCYCLOPEDIA OF LAW AND ECONOMICS 1029 (Boudewijn Bouckaert & Gerrit De Geest eds., 2000). For example, a rule change that increases the frequency or cost (penalty) of **false positives** may increase deterrence, but it **could also do the reverse**. The latter may occur if more false positives mean that firms no longer obtain enough benefit from staying within the line separating legal and illegal behavior to justify being careful. **For this reason**, uncertainty about a **rule** or its **application** can **reduce compliance**. See generally Hendrik Lando, Does Wrongful Conviction Lower Deterrence?, 35 J. LEGAL STUD. 327, 329–30 (2006) (providing a simple technical example); Richard A. Posner, An Economic Approach to the Law of Evidence, 51 STAN. L. REV. 1477, 1483–84 (1999) (greater accuracy in judicial determinations increases the returns to compliance with legal rules); Steven C. Salop, Merger Settlements and Enforcement Policy for Optimal Deterrence and Maximum Welfare, 81 FORDHAM L. REV. 2647, 2668–69 & 2669 n.60 (2013) (a firm’s incentive to comply with a rule may fall **identically** when the probability of either type of error increases).

#### A new round of US Econ decline kills global economic stability.

* Even if other nations comprise a larger statistical share of the global economy, uncertainty in the US – not other nations – is what would trigger a global spiral.

Bloom ‘21

et al ; Nicholas Bloom Professor of Economics, School of Humanities and Sciences Senior Fellow, Stanford Institute for Economic Policy Research - “From COVID-19 to Brexit, this is how uncertainty affects the global economy” – WEF – January - #E&F - https://www.weforum.org/agenda/2021/01/global-uncertainty-index-economics-us-uk-covid-coronavirus-pandemic-brexit-china/

Economic growth in key systemic economies, like those of the United States and European Union, is a key driver of economic activity in the rest of the world. Is this also true when it comes to global uncertainty? For example, given the higher interconnectedness across countries, should we expect that uncertainty from the U.S. election, Brexit, or China-U.S. trade tensions spill over and affect uncertainty in other countries?

To answer this question, we construct an index that measures the extent of “uncertainty spillovers” from key systemic economies—the Group of 7 (G7) countries plus China—to the rest of the world. In particular, we identify uncertainty spillovers from systemic economies by text mining the Economist Intelligence Unit country reports, covering 143 countries from the first quarter of 1996 to the fourth quarter of 2020.

Uncertainty spillovers from each of the systemic economies are measured by the frequency that the word “uncertainty” is mentioned in the reports in proximity to a word related to the respective systemic-economy country. Specifically, for each country and quarter, we search the country reports for the words “uncertain,” “uncertainty,” and “uncertainties” appearing near words related to each country. The country-specific words include country’s name, name of presidents, name of the central bank, name of central bank governors, and selected country’s major events (such as Brexit).

To make the measure comparable across countries, we scale the raw counts by the total number of words in each report. An increase in the index indicates that uncertainty is rising, and vice versa.

Our results reveal two key facts:

First: Yes, uncertainty in systemic economies matters for uncertainty around the world.

Second: Only the United States and the United Kingdom have significant uncertainty spillover effects, while the other systemic economies play a little role, on average.

Starting with the United States, the chart below displays the global (excluding the United States) average of the ratio of uncertainty related to the United States to overall uncertainty. It shows that uncertainty related to the United States has been a key source of uncertainty around the world since the past few decades

For instance, during the 2001–2003 period, U.S.-related uncertainty contributed to about 8 percent of the uncertainty in other countries—about 23 percent of the increase in global uncertainty from the historical mean. n the last 4 years, U.S.-related uncertainty has contributed to about 13 percent of uncertainty in other countries—with peaks of about 30 percent—and approximately 20 percent of the increase in global uncertainty from historical mean.

#### Econ *stability* structurally dampens multiple existential risks

* Extinction via Great Power Conflicts;
* Extinction via engineered pandemics ;
* Extinction via Nuclear war

Ord ‘20

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While I've presented this analysis in terms of which risks should get the highest priority, these exact same principles can be applied to prioritizing between different risk factors or security factors. And they can help prioritize between different ways of protecting our potential over the long term, such as promoting norms, working within existing institutions or establishing new ones. Best of all, these principles can be used to set priorities between these areas as well as within them, since all are measured in the common unit of total existential risk reduction.

In the course of this book, we have considered a wide variety of approaches to reducing existential risk. The most obvious has been direct work on a particular risk, such as nuclear war or engineered pandemics. But there were also more indirect approaches: work on risk factors such as great-power war; or on securitv factors such as a new international institution tasked with reducing existential risk. Perhaps one could act at an even more indirect level. Arguably risk would be lower in a period of stable economic growth than in a period with the turmoil caused by deep recessions. And it may be lower if citizens were better educated and better informed.

### 1NC – Adv

#### The United States federal government should:

[Innovation Plank]

#### ---increase scrutiny of Chinese investments and tech firms collaborating with China,

#### ---increase negotiations with China over common standards for emerging technology usage,

#### ---establish a National Emerging Technology Council,

#### ---significantly increase investments in science and technology including artificial intelligence, education, infrastructure, and reduce restrictions on global talent and companies,

[Inequality Plank]

#### ---establish a universal basic income.

#### Solves China tech supremacy.

Gewirtz 19 (Julian Baird Gewirtz, Academy Scholar @ Harvard’s Weatherhead Center for International Affairs, author of Unlikely Partners: Chinese Reformers, Western Economists, and the Making of Global China; “China’s Long March to Technological Supremacy;” 08-27-19, Foreign Affairs, <https://www.foreignaffairs.com/articles/china/2019-08-27/chinas-long-march-technological-supremacy>, TM)

A RACE AGAINST TIME

The goal of surpassing other countries technologically does not mean that China’s rulers seek global military supremacy. But even in best-case scenarios, China’s transition from catching up to surpassing will be destabilizing, as other countries confront Chinese ambitions for greater prosperity and security and feel their relative power decrease. And for China, building 5G networks for other countries and making AI breakthroughs clearly advance CCP aims far beyond narrowly construed self-reliance. Even if firms such as Huawei and ZTE are not incontrovertibly compromised by the state, their work clearly serves CCP interests.

Technology will remain at the heart of U.S.-Chinese tensions well beyond the end of the current trade war. Technology, to the CCP, is power in practice—it is historical change in material form. The roots of “catch up and surpass” demonstrates that the CCP’s approach to technology is far more deeply entrenched than many analysts realize. If China’s rulers feel their technological rise is under threat, they are likely to react more forcefully and uncompromisingly than policymakers may expect—as the Chinese response to Washington’s effort to block Huawei’s global 5G dominance has demonstrated.

An all-out rivalry between the world’s two technology leaders would be immensely costly, disruptive, and destructive. Instead, policymakers should focus on establishing and enforcing new rules for the race already underway, so that competition can occur fairly and be at least somewhat bounded. Within the United States, that will require scrutinizing Chinese investments and acquisitions of U.S. firms, well beyond the traditional purview of the Committee on Foreign Investment in the United States, as well as the footprint of both Chinese firms in the United States (such as Baidu’s AI lab in Silicon Valley) and U.S. firms in China (such as Google’s AI lab in Beijing). In addition, Washington should seek to begin negotiations with China as soon as possible to explore common rules for emerging technologies. Such agreements were possible with the Soviet Union during the Cold War. Today, they can be effective again if they are based on deep understanding of the technologies under discussion and the importance of tech to both countries’ conceptions of national power. For the U.S. government, that may require creating or improve policymaking institutions, such as upgrading the Office of Science and Technology Policy (which currently runs the National Science and Technology Council) into a new National Emerging Technology Council. The National Emerging Technology Council would serve as a consistent, high-level body, overlapping the National Security Council and the National Economic Council, to coordinate more effectively across the whole of government and bring empowered expertise to bear on both domestic policymaking and international negotiations.

The U.S. government’s response should not be premised on the notion, evidently in vogue in both Washington and Beijing, that all scientific and technological activity is a zero-sum competition between states. The history of ganchao suggests that so-called technological decoupling between China and the United States will continue in areas where it is most difficult to distinguish between commercial and military applications. But unwinding interdependence carries significant costs, and so U.S. policymakers should attempt to draw distinctions between sectors in China that feature strong private-sector leadership and those dominated by the state—not all “Chinese” technology is the same. Research institutions and private companies will also need much more help evaluating potential research cooperation with Chinese counterparts, to guard against problematic partnerships while preserving the great value of international exchange to the progress of scientific research.

Above all, Washington must not view countering China’s technological advancement as a substitute for investing in a major effort at home. The Trump administration’s repeated attempts to cut budgets for the National Science Foundation and other government S & T funding are profoundly self-defeating at a time of intensified U.S.-Chinese tech competition. China’s technological advancement will challenge not only U.S. power but also the United States’ sense of itself as a global leader and innovator. This demands significant U.S. domestic investment in S & T—in government research labs and private research institutions for certain, and perhaps in private companies directly. It will also require mobilizing the American people behind making significant improvements to the education, infrastructure, and immigration systems, which are sources of the country’s enduring strength. If there is one thing that U.S. policymakers can learn from the history of ganchao, it is that the world still wants what the United States has.

#### UBI solves inequality.

Santens 17 – Scott, founding member of the Economic Security Project at the World Economic Forum, BS in psychology from the University of Washington, “Why we should all have a basic income”, World Economic Forum, 1-15, https://www.weforum.org/agenda/2017/01/why-we-should-all-have-a-basic-income/

Consider for a moment that from this day forward, on the first day of every month, around $1,000 is deposited into your bank account – because you are a citizen. This income is independent of every other source of income and guarantees you a monthly starting salary above the poverty line for the rest of your life.

What do you do? Possibly of more importance, what don’t you do? How does this firm foundation of economic security and positive freedom affect your present and future decisions, from the work you choose to the relationships you maintain, to the risks you take?

The idea is called unconditional or universal basic income, or UBI. It’s like social security for all, and it’s taking root within minds around the world and across the entire political spectrum, for a multitude of converging reasons. Rising inequality, decades of stagnant wages, the transformation of lifelong careers into sub-hourly tasks, exponentially advancing technology like robots and deep neural networks increasingly capable of replacing potentially half of all human labour, world-changing events like Brexit and the election of Donald Trump – all of these and more are pointing to the need to start permanently guaranteeing everyone at least some income.

A promise of equal opportunity

“Basic income” would be an amount sufficient to secure basic needs as a permanent earnings floor no one could fall beneath, and would replace many of today’s temporary benefits, which are given only in case of emergency, and/or only to those who successfully pass the applied qualification tests. UBI would be a promise of equal opportunity, not equal outcome, a new starting line set above the poverty line.

### 1NC – OS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The Response

What needs to be done and who should do it?

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

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

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

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

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

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

4. Political Feasibility

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

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

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

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

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

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

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

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

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

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

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

5. Are We Democratic Enough Ourselves?

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

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

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

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

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

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

6. Two Dominant Tech Blocks

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

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

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

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

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

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

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

7. Harms of Doing Nothing

The described advantages of the establishment of an alliance must be weighed against disadvantages, unintended consequences and the harms of doing nothing.

First, no alliance means fragmentation and division, without synergetic effects. A lack of action entails less chance of winning the race for tech dominance and securing the chance to set and control global standards. Standards that preserve democratic values. The danger of global autocratic values in technology and infrastructure increases in this analysis, because there is no en bloc counterbalance to emerging countries such as China, the country of the large numbers of consumers, hordes of AI talent, and huge amounts of machine learning training data, regurgitated by labelling farms. China has massive government budgets for the development of smart algorithms and quantum technology applications. Currently it’s everybody for himself; that won’t help us win the race. We need an alliance instead of division.

Second, quantum technology enhances AI. Together with blockchain it promises machine learning on steroids. Quantum and AI hybrids will give to the world a new perspective of science itself. In this context, it is crucial to raise awareness of their incredible potential for good, and their anthropogenic risks. The Fourth Industrial Revolution will bring about a world in which anything imaginable to improve, or worsen the human condition, can be built in reality.

Authoritarian countries obtaining this powerful technology and using it against us, poses serious national cybersecurity (cyberwarfare, hacking) threats.55 More importantly, the regimes would have the ability to impose their non-democratic values on us through technological expansionism. From our liberal-democratic viewpoint, this could lead to a dystopian scenario. AI driven facial recognition systems used for shadowing and social credit systems would become the standard. Surveillance machines are a dictator’s dream. Authoritarian a-moral machina sapiens will take over creation and invention. Privacy, mental security and freedom of thought will become a distant memory.

Our society will be better off when we forge Democratic Alliances. A united democratic tech block has a greater chance of winning the race for AI & quantum dominance.

Third, long term risks of underinvesting in 4IR technology are no less than existential. The US needs to invest heavily in safe & responsible AI and quantum. The market cannot pull this off on its own. The state should take the lead and launch a mission oriented, 2030 US Standards plan, backed by large-scale funding. 56 This plan should be sharply demarcated, and executed by golden triangle, public-private partnerships. These partnerships can be based on the triple helix innovation model, which guarantees synergistic effects between government, academia and business.

The portrayed advantages of bolstering an alliance, and actively shaping technology for good evidently outweigh the harms of remaining passive or indecisive. It is critical that the US does not hang back in a never-ending balancing of stakeholder concerns but that it is confident in formulating a vision and focussed in accomplishing its well defined national and global policy objectives. By doing nothing the US will fall behind economically. The US and the EU should set out the path along transatlantic lines and guide their democratic allies toward a Strategic Tech Alliance.57

### 1NC – States

#### Text: The 50 states and relevant territories should engage in multistate antitrust action and enforcement over recognition of protection of competition as the purpose of antitrust law for the private sector and favoring structural remedies, including blocking mergers, and instituting breakups over conduct remedies.

#### States solve best---multistate organizations, expanded jurisdiction, and can “fill the gap”

Rauch 20 Daniel E. Rauch J.D. Yale Law School. (2020 ). ARTICLE: SHERMAN'S MISSING "SUPPLEMENT": PROSECUTORIAL CAPACITY, AGENCY INCENTIVES, AND THE FALSE DAWN OF ANTITRUST FEDERALISM. *Cleveland State Law Review*, 68, 172. <https://advance-lexis-com.proxy2.cl.msu.edu/api/document?collection=analytical-materials&id=urn:contentItem:5YDM-6NS1-FCK4-G4MV-00000-00&context=1516831>. {DK}

In 2020, as in 1890, states attorneys general have much to offer antitrust enforcement. Illegal anticompetitive conduct is often concentrated locally, rather than nationally, making state-level enforcement especially appropriate. 202Link to the text of the noteMany states have antitrust statutes (or bodies of state law) that allow for prosecutions that the federal laws do not. 203Link to the text of the noteState governments often will have better knowledge of local economic conditions than distant agencies in Washington, making them natural choices for [\*210] antitrust enforcement. 204Link to the text of the noteAnd if the federal government fails to enforce the antitrust laws, state attorneys general often have the ability and political incentives "step up" to "fill the void." 205Link to the text of the note

Yet, if the early failure of antitrust federalism holds a single lesson, it is that even such compelling political, historical, and economic imperatives are, without more, insufficient to spur state antitrust action. Unless state prosecutors have the capacity and incentives to take on the antitrust challenge, they will not act.

What does this mean for today's state antitrust enforcers? On one hand, the years since 1890 have seen several innovations that substantially mitigate the problem of prosecutorial capacity. Multistate organizations like the National Association of Attorneys General (NAAG) have allowed for coordination and information sharing between attorneys general on antitrust matters, thus reducing the costs and burden of such cases. 206Link to the text of the noteLikewise, the rise of multistate antitrust suits brought jointly by dozens of states allows for cost-and-capacity-sharing. 207Link to the text of the noteChanges in federal law, like the Hart-Scott-Rodino Act of 1976, created an economic incentive for states to pursue antitrust cases by codifying the ability of state attorneys general to sue as parens patriae and by offering states treble damages when they prevail (a strong economic incentive if ever there was one). 208Link to the text of the note

Going further, the federal government has sometimes expressly subsidized state antitrust efforts, as with the supplemental funding offered in the Crime Control Act of 1976. 209Link to the text of the noteAnd in some states, the capacity of the attorney general's office has increased to levels inconceivable at the turn of the century: New York's Attorney General, for instance, supervises over 1,800 employees, 210Link to the text of the notewhile California employs a staggering [\*211] 4,500. 211Link to the text of the notePerhaps because of these shifts, it is unsurprising that in recent times at least some state attorneys general have heeded the call to enforce state and federal antitrust laws, from local investigations of healthcare consolidation 212Link to the text of the noteto multistate actions against Silicon Valley behemoths like Apple and Amazon. 213Link to the text of the note

## Innovation

### Turn

**Tech innovation high --- expanding the scope of antitrust laws stifles it --- Causes China tech dominance**

**Packard 6-22** --- Clark Packard, Trade Policy Counsel, Finance Insurance & Trade, R-Street, “Hamstringing America’s most innovative firms is no way to compete with China”, JUN 22, 2021, https://www.rstreet.org/2021/06/22/hamstringing-americas-most-innovative-firms-is-no-way-to-compete-with-china/

The United States is locked into a **geopolitical competition with China** over the commanding heights of the 21st century economy. Much of the competition revolves around the nexus of international trade and investment and technology. **Washington has very legitimate concerns about China’s pursuit of indigenous innovation through high tech industrial policy**, but the situation warrants a smart response. At a time when policymakers are signaling their desire to outcompete China economically, **why are they also rushing to** ~~hobble~~ **[stifle] private sector American tech**nology **and innovation?**

Over the last several weeks, lawmakers have introduced five separate bills in United States House of Representatives aimed at cracking down on “Big Tech.” I’m not an antitrust scholar, but as my colleague Dr. Wayne Brough has written, the bills would, if enacted, “impose the most significant overhaul of the nation’s antitrust laws in our country’s history.” Rather than broad and durable antitrust principles that apply to all sectors of the economy, which have guided our competition policy for more than a century, the legislation under consideration is aimed squarely at large tech companies in the United States.

It is worth considering the **geopolitical and international economic ramifications of such a radical departure from existing law.**

In 2018, the United States released a report documenting China’s predatory commercial practices, which served as an indictment of sorts. The overarching theme of the report is that Beijing uses a number of unfair and pernicious methods to acquire American technology with the ultimate goal of supplanting the United States as the global leader in high tech innovation. Specifically, the report alleges that China pressures American firms into transferring technology to Chinese joint-venture partners as the cost of doing business—reaching the 1.4 billion potential consumers—in the country; China abuses intellectual property; engages in targeted foreign investment to acquire strategic American firms and assets; and with pervasive state support, hacks into commercial networks to steal trade secrets. On top of that, China provides massive subsidies to its leading technology firms to pursue research and development in critical areas. **These are very serious problems**, and demand a thoughtful and targeted response.

Instead, the United States has flailed at China. The Trump administration imposed tariffs, which triggered predictable retaliation against American exporters, imposed significant costs onto American consumers—both families and firms—and will almost certainly fail to change Beijing’s predatory commercial practices. It is estimated that the tariffs cost about 300,000 American jobs and lowered market capitalization by about $1.7 trillion through diminished investment, according to the New York Federal Reserve. In other words, the tariffs made the United States weaker and less competitive. Now, some in Congress want to pursue misguided antitrust policies that will unintentionally undermine the United States’ global competitiveness.

The firms targeted by the proposed legislation are among America’s **most globally competitive and innovative.** They drive **significant investment in cutting-edge tech**nologies like robotics and artificial intelligence, the types of research China is pursuing through its Made in China 2025 indigenous innovation industrial policy. A recent report from the Progressive Policy Institute (PPI) highlights how many of the largest American tech firms—Amazon, Alphabet (Google’s parent company), Intel, Facebook, Microsoft and Apple—were among the top 15 nonfinancial firms driving U.S. capital expenditures in 2020. Together, PPI estimates that these six firms made nearly $90 billion worth of private investment in 2020—up 6 percent from 2019, which is remarkable considering that the U.S. economy was lagging in 2020 due to the outbreak of COVID-19. Cracking down on these firms will mean less investment in research and development.

These American firms already must compete with heavily subsidized foreign competitors and face discriminatory foreign practices, particularly in China. Despite these hurdles, the American tech industry pushes the envelope on exactly the type of research and development that policymakers in the United States should welcome. These firms lead the world in current and next-generation technologies. Instead of embracing this type of American global commercial and technological leadership, or at least staying neutral toward it, the legislation under consideration would **favor foreign competitors** by [stifling] ~~kneecapping~~ our domestic technology firms with **heavy-handed regulation**, which will almost certainly benefit their foreign competitors.

The American tech industry is the envy of the world. That’s why China, the European Union and others are trying to mimic it through subsidies and discriminatory practices against foreign competition. Yet those policies are no match for a relatively free and dynamic economy fostered by existing competition policies. It simply **belies common sense** that the way to outcompete Beijing is by making the United States **weaker, less efficient and less dynamic through misguided efforts to single out** our most **globally competitive and successful firms**.

**Killer acquisition enforcement magnifies the link --- Identifying and prosecuting acquisitions is resource intensive and risk of blowback high**

**Madl 20** --- Amy C. Madl Stanford University, J.D. 2019 and Ph.D. candidatein Chemical Engineering, expected 2020, “Killing Innovation?: Antitrust Implications of Killer Acquisitions”, Yale Journal on Regulation Bulletin Vol. 38:28 2020, https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1002&context=jregonline

But identifying a killer acquisition ex ante or ex post **is not a trivial pursuit**. Firms routinely choose to discontinue product lines and development projects; therefore, determining the primary business rationale when a firm acquires and subsequently abandons a technology **is an error-prone endeavor**. Nevertheless, “pure” killer acquisitions, in which a firm never intended to develop an acquired technology, **can be a rational business decision**.19 Specifically, when there is any degree of acquirer-target product overlap, acquirers have stronger incentives to discontinue development than target firms because some of their existing profits will be cannibalized by the substitute product.20 Accordingly, the profit-protection benefits accruing to a monopolist from acquiring property rights to prevent entry will sometimes substantially exceed the benefits to the monopolist of introducing the new innovation, as well as the value of the new innovation to the prospective new entrant.21

However, the rational conditions for acquiring to kill depend on the probability of project success, the expected profits for the acquirer with and without acquisition, the development gains for both the new entrant and the acquirer, the new project’s development costs, and the project’s liquidation value.22 Firms considering acquisitions may only know some of these values, or make decisions based on uncertain or incorrect valuations. For example, in the pharmaceutical industry, determining the probability of project success, even in late-stage clinical trials, is at best an imperfect science.23 Moreover, information asymmetries and psychological errors may cause the new entrant and incumbent to estimate critical parameters differently, distorting the circumstances in which a killer acquisition appears rational to both parties. Therefore, attempts by courts and antitrust agencies to determine if specific acquirers could rationally acquire new technologies just to kill them may not shed much light on the party-perceived economics of the transaction, let alone their true motivations.

This Article argues that difficulties identifying killer acquisitions **caution against increased scrutiny** of overlapping acquisitions. Part I briefly discusses an influential recent working paper on potential killer acquisitions in the pharmaceutical industry. Part II considers incumbent motivations for pharmaceutical acquisitions, focusing on cases of overlap in innovation markets where neither the acquirer nor the target markets a product. Without condoning killer acquisitions, Part III argues that neutral or pro-competitive motivations predominate for enough overlapping acquisitions that heightened review is **unlikely to increase social welfare**. Additionally, because courts lack experience with killer acquisitions, as well as obvious means of identifying them, Part III advocates for rule of reason review of overlapping acquisitions. Finally, Part IV considers the probable prevalence of killer acquisitions outside the pharmaceutical industry and notes structural factors that promote these acquisitions.

#### Killer acquisition is rare and doesn’t hurt innovation

**Madl 20** --- Amy C. Madl Stanford University, J.D. 2019 and Ph.D. candidatein Chemical Engineering, expected 2020, “Killing Innovation?: Antitrust Implications of Killer Acquisitions”, Yale Journal on Regulation Bulletin Vol. 38:28 2020, https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1002&context=jregonline

Intentionally killing competing innovations to protect existing product markets runs counter to the goals of both federal intellectual property law and antitrust law. But many overlapping acquisitions are not killer acquisitions, and these acquisitions may promote dynamic efficiency, or at least cause no net harm to consumers. Accordingly, heightened antitrust scrutiny of overlapping transactions—in the form of per se condemnation, quick look review, or reduced administrative review thresholds— would increase transaction costs without producing significant welfare gains for consumers relative to rule-of-reason review. Some anticompetitive mischief may sneak through under the rule of reason, but current evidence does not suggest that many firms are committing murder—at least where social welfare is concerned.

#### Market share will self-correct

**Crews & Young 19** --- Clyde Wayne Crews, vice president for policy and a senior fellow at the Competitive Enterprise Institute, He holds a Master of Business Administration from William and Mary, Ryan Young, Senior Fellow at the Competitive Enterprise Institute, M.A. in economics from George Mason University, “The Case against Antitrust Law”, Competitive Enterprise Institute, 04/16/2019, <https://cei.org/studies/the-case-against-antitrust-law/>

Government usually **stifles competition**. If antitrust regulation is to be retained, it should **not be a first-resort policy**. If a company has an overwhelming competitive advantage, it is important to first ask what is causing it. If the advantage is due to superior performance, then consumers are not being harmed.

**In most cases,** dominance does not last long, as evidenced by how quickly any list of America’s largest companies changes from year to year. If a company does remain dominant for a long period of time, one of two possibilities must be true. The first option is that **it continues to be consumers’ preferred option**. The second is that it is engaging in rent- seeking behavior. In the first case, there is no need for an antitrust intervention. In the second case, **the solution is not antitrust regulation,** but to take away the government’s power to tilt the scales in rent-seekers’ favor.

### Authoritarianism

#### Plan can’t solve --- Strong democracies will overcome digital authoritarianism --- weak democracies won’t

Weiss 19 --- Jessica Chen Weiss is an associate professor of Government at Cornell University, Testimony at U.S. House of Representatives Permanent Select Committee on Intelligence, May 16, 2019, https://docs.house.gov/meetings/IG/IG00/20190516/109462/HHRG-116-IG00-Wstate-ChenWeissJ-20190516.pdf

China also rightly gets heat from Western observers for exporting surveillance and censorship technologies. China’s heavy investments in these technologies have made it cheaper for other authoritarian and would-be authoritarian regimes to monitor their citizens. Yet as with Chinese lending, the story of Chinese technology is more complicated than it first appears. The diffusion of digital authoritarianism is not the same thing as an intentional effort to remake other governments in China’s image.

Although these systems can help governments monitor and control their people, how exactly they are used depends on local politics. Cameras can replace more brute-force methods of surveillance, as in Ecuador, which installed a surveillance system with China’s help. But as the New York Times reported, many Ecuadorans have complained that the system isn’t effective against crime, as there aren’t enough local personnel to monitor the footage or respond to crimes caught on camera. And the Ecuadoran administration that came to power in 2017, which has pledged to reverse some of its predecessor’s autocratic policies, has begun an investigation into the system’s abuses, including inviting the Times to review its records.

Ultimately, the political effects of technology can cut both ways. Just as the internet was not a universal harbinger of democratic freedom, technology does not magically enable governments to control society and repress opposition. Technology can empower the state, but strong democratic institutions – including legislation to restrict surveillance and protect citizens’ privacy – can also constrain the power of technology.

### More d

**No risk of US – China war –** diplomatic ties, economic interdependence, geography, nuclear postures, balancing powers, no ideological conflict **–** any crisis won’t escalate

**Shifrinson, 19** – Joshua Shifrinson (Assistant professor of international relations at Boston University, “The ‘new Cold War’ with China is way overblown. Here’s why,” <https://www.washingtonpost.com/news/monkey-cage/wp/2019/02/08/there-isnt-a-new-cold-war-with-china-for-these-4-reasons/?noredirect=on&utm_term=.2f92e43bb9f3>)

Is a new Cold War looming — or already present — between the United States and China? Many analysts argue that a combination of geopolitics, ideology and competing visions of “global order” are driving the two countries toward emulating the Soviet-U.S. rivalry that dominated world politics from 1947 through 1990. But such concerns are **overblown**. Here are four big reasons why. 1. The historical backdrops of the two relationships are very different When the Cold War began, the U.S.-Soviet relationship was fragile and tenuous. Bilateral diplomatic relations were barely a decade old, U.S. intervention in the Russian Revolution was a recent memory, and the Soviet Union had called for the overthrow of capitalist governments into the 1940s. Despite their Grand Alliance against Nazi Germany, the two countries shared few meaningful diplomatic, economic or institutional links. In 2019, the situation between the **U**nited **S**tates and China is very different. Since the 1970s, **diplomatic interactions**, **institutional ties** and **economic flows** have all **exploded**. Although each side has criticized the other for domestic interference (such as U.S. demands for journalist access to Tibet and China’s espionage against U.S. corporations), these issues did not prevent cooperation on a host of other issues. Yes, there were tensions over the past decade, but these occurred against **a generally cooperative backdrop**. 2. **Geography** and powers’ **nuclear postures** suggest East Asia is **more stable** than Cold War-era Europe The Cold War was shaped by an intense arms race, nuclear posturing and crises, especially in continental Europe. Given Europe’s political geography, the United States feared a “bolt from the blue” attack would allow the Soviet Union to conquer the continent. Accordingly, the United States prepared to defend Europe with conventional forces, and to deter Soviet aggrandizement using nuclear weapons. Unsurprisingly, the Soviet Union also feared that the United States might attack and wanted to deter U.S. adventurism. Concerns that the other superpower might use force and that crises could quickly escalate colored Cold War politics. Today, the **U**nited **S**tates and China spend proportionally far less on their militaries than the United States and the Soviet Union did. Though an arms race may be emerging, U.S. and Chinese nuclear postures are **not nearly as large or threatening**: Arsenals remain far **below the size and scope** witnessed in the Cold War, and are kept at **a lower state of alert**. As for geography, East Asia is not primed for tensions akin to those in Cold War Europe. China can threaten to coerce its neighbors, but the water barriers separating China from most of Asia’s strategically important states make outright conquest significantly harder. Of course, as scholars such as Caitlin Talmadge and Avery Goldstein note, crises may still erupt, and each side may face pressures to escalate. Unlike the Cold War, however, U.S.-Chinese confrontations occur at sea with relatively **limited forces** and **without clear territorial boundaries**. This suggests there are **countervailing factors** that may give the two sides **room to negotiate** — and **limit the speed** with which a crisis unfolds. 3. The Cold War had just two major powers The Cold War took place in a bipolar system, with the United States and Soviet Union uniquely powerful, compared with other nations. This dynamic often pushed the United States and the U.S.S.R. toward confrontation and contributed to more or less fixed alliances; moreover, it encouraged efforts to suppress prospective great powers, such as Germany. In 2019, it’s not at all clear we are back to bipolarity. Analysts remain divided over whether the U.S. unipolar era is waning (or is already over) — and, if so, whether we are heading for a new period of bipolarity, modern-day multipolarity or something else. Regardless, most analysts accept that other countries will play a central role in East Asian security affairs. **Russia**, for example, still benefits from legacy military investments, **India** is developing economically and militarily, and **Japan** is beginning to build highly capable military forces to complement its still-significant economic might. Even if these nations aren’t as powerful as the United States or China, their presence makes for **more fluid diplomatic arrangements** and more diffuse security concerns than during the U.S.-Soviet competition. The resulting security dynamics are therefore likely to look very different. 4. Ideology plays less of a role in U.S.-Chinese relations Many people see the Cold War as an ideological contest between U.S.-backed liberalism and Soviet-backed communism. But that’s not the whole story. The early 20th century saw liberalism, communism and fascism vie for ideological preeminence. With fascism defeated alongside Nazi Germany, the postwar stage was set for a struggle between communism and liberalism to reinforce the U.S.-Soviet contest. That each ideology claimed universal scope ensured that the ideologies served as rallying cries for Third World conflicts, which were subsequently associated with the U.S.-Soviet struggle. The respective “ideologies” of the United States and China do not favor this type of contest today. Indeed, analysts calling for a hard-line stance against China have faced difficulties even identifying a coherent Chinese ideological alternative. And while some researchers claim that a nascent ideological contest pitting an “autocratic” China against the “liberal” **U**nited **S**tates is emerging, this narrative ignores the political contests that shape Chinese politics (and have parallels in U.S. politics). Autocracies and democracies often cooperate. And on one important ideological issue — how they organize their economic lives — China and the **U**nited **S**tates have both embraced economic growth via trade, the private sector and semi-free markets. Likewise, while a clearer Chinese ideological “brand” may eventually emerge, it is unclear whether the ideology would claim universal applicability. This is not to deny that there are tensions between the United States and China. What we are seeing, however, is **not a new cold war** but a reversion to a pre-1945 form of great power politics. What changed? Put simply, the United States no longer enjoys preeminence as the only superpower, as it did in the immediate post-Cold War era. The ideological, historical and geopolitical differences between today and the Cold War years far outweigh the similarities. As David Edelstein notes, at times it’s hard to understand what the United States and China are competing over. If that’s true, then there’s reason to believe there are more nuanced ways of understanding the tensions — and options for **managing great power politics** — than a Cold War reboot.

**No impact - China won’t weaponize AI**

**Wu et. al.,** Researcher at the National Laboratory of Pattern Recognition, Institute of Automation, Chinese Academy of Sciences, **2017**

(Huai-Yu, Feiyue Wang, Chunhong Pan, “Who Will Win Practical Artificial Intelligence? AI Engineerings in China,” February 6 2017, <https://arxiv.org/abs/1702.02461>)

The AI epidemic has triggered a heated discussion among China’s intelligentsia. Wu Gansha, former president of the Intel China Research Center, wrote a paper entitled Race with the Machine: Win or Die, sharing his opinion that the intelligence of machines would finally surpass human beings, but he thought that it was important to adopt an attitude of prediction but not forecasting. Yu Kai, former vice-president of the Baidu Research Institute, thought that there must be a clear direction for the development of technology. If humans do not take any control over technology, then AI will turn into an evil thing. However, if humans assume sensible control, then AI will actually represent humanity. Professor and Executive Director from the School of Software of the Nankai University, Li Qingcheng, who translated the book The Singularity Is Near: When Humans Transcend Biology into Chinese, further thought that humanity should guide the development of scientific technology and that the binding of the robot to Asimov’s three laws of robotics was not reliable; therefore, it would be necessary to constrain the creators of the robot-humans. At the same time, China’s traditional culture stressed the human factors more. Although current AI has aroused fresh interest around the world, China’s industry insiders have a calm understanding. According to the opinion of the president of Microsoft Research Asia, Hong Xiaowen, it was first necessary to make the differences between Intelligence, Intellect and Wisdom clear, while the machine was still at the stage of intelligence. Professor Zhou Zhihua from the Nanjing University simply divided AI into strong AI and weak AI, and holds that the current scientific research is mainly in the area of weak AI. Professor Zhang Changshui from Tsinghua University considers11 that even for weak AI, current machine-learning methods still faces some challenges, including problems of high-dimensional space, difficulty in seeking the best solution and poor interpretability. In conclusion, it is very important for us to regard AI as a huge and complicated engineering subject (not simply as a pure scientific subject) formed by many scientific theories, which will have a great influence for AI to be practically possible. From an overall perspective, China is still a follower in the field of AI science. However, from the impressive record of academic publications, state-level investment and the broad participation and support of the whole society, China could catch up quickly in multiple aspects. There are plenty of reasons to believe that, based on centralized support by the national resources in computing ability, big data, labor cost, China will achieve top rankings in AI engineerings soon. China will do a very good job by applying AI in engineerings with the faith of Pragmatic. Moreover, under the influence of the Confucian school of thought’s golden mean and harmony over the past thousands of years, human intelligence based on carbon and AI based on silicon could coexist in China, with neither replacing the other. In the future, they will mix and evolve into a new form of intelligence. Such intelligence would not only give play to the powerful ability of memory, computing and recognition but would also develop and evolve toward people and foremost toward humanism.

## Inequality

### Top

#### Gridlock inevitable but manageable – things like executive orders solve but passing necessary laws still happens --- Hard infrastructure proves

#### Plan takes decades to be enforced and trickle up

**Tons of alt causes to global coop – trade wars, digital protectionism, rising populism, WTO power struggle, BRI, IP disputes, etc…**

#### Market concentration doesn’t lower wages

Kennedy 20 --- Joe Kennedy, PhD, is a senior fellow at the Information Technology and Innovation Foundation. He focuses on economic policy., “Monopoly Myths: Is Concentration Eroding Labor’s Share of National Income?”, Oct 13th 2020, https://itif.org/publications/2020/10/13/monopoly-myths-concentration-eroding-labors-share-national-income

WHY MARKET POWER IS NOT LIKELY TO BE THE CAUSE OF A DECLINE IN LABOR’S SHARE OF INCOME

Central to the arguments presented in the previous section is the theory that lax antitrust enforcement has encouraged firms to acquire market power, which allows them to raise prices and reduce wages while increasing profits. Earlier papers in ITIF’s Monopoly Myths series challenge each of these arguments.27

First, although concentration has been increasing in many industries, in most, it is still far below the levels that normally trigger antitrust concern, especially when markets are defined more narrowly.28 Moreover, recent studies show that concentration in local markets—which are the most relevant for many industries, including restaurants and retail shopping—is actually decreasing. Esteban Rossi-Hansberg and two other economists looked at competition in local markets between 1990 and 2014 and found that while concentration increased at the national level, it fell in local markets. Although large firms captured a growing portion of the national market, their expansion into new markets increased local choice. The entry of a top firm reduced local concentration for at least seven years.29

Some studies have also shown concentration falling in labor markets. Kevin Rinz of the U.S. Census Bureau arrived at this conclusion using data from the Longitudinal Business Database and IRS W-2 forms. He estimated that in 2015 earnings were about 1 percent higher than they would have been if local competition had remained at its 1976 level.30 Economists Anna Stansbury and Lawrence Summers also noted that local labor market concentration has declined over time, which should help workers. Most workers are not in highly concentrated labor markets, especially when considering the full range of occupations many workers could fill.31

David Berger et al. looked directly at local labor markets using data from the Longitudinal Business Dynamics database and defining local labor markets through a combination of three-digit NAICS codes for tradable industries and commuting zones. He then looked at a series of changes to state corporate income taxes and compared the reaction of company establishments within the same state. The model shows that existing imperfections in local labor markets are significant; costing workers on average 5.4 percent of their lifetime consumption. These lower wages cause them to work 19.6 percent less than otherwise. But the problem has been getting better, not worse. The team found that rising labor market power has not contributed to the declining labor’s share because the concentration of local labor markets declined between 1976 and 2014. The change in concentration equates to going from 5.0 to 7.1 equal-sized employers within each commuting zone.32

Second, although markups have been rising in many industries, they are notoriously hard to measure. They may not have been rising at all if functions such as marketing and R&D are included in variable costs. Indeed, most of any increase can be explained by the rising importance of hard-to-measure intangible assets, high fixed costs, rapidly diminishing marginal costs, and significant network effects. In these situations, it is possible for a company to have high markups but still lose money.33

Finally, looking at nonfinancial domestic corporate profits as a share of net value added shows that, although the profits share rose significantly in the first six years of this century, it remained below its share from 1950–1965. Since then, it basically held steady for several years, before declining for the last six years, giving back almost half of its gain.34

The studies showing a rise in market power also have some weaknesses. The De Loecker paper in particular has come under criticism from other scholars. Susanto Basu, for example, pointed out that the authors’ model produces implausible estimates for other economic values, such as implying that adding more capital to the production process actually decreases output.35 Economist Chad Syverson noted that, even if profits were zero in 1980, De Loecker’s finding that the pure profit rate jumped from 1 percent to 8 percent means firms succeeded in turning 25 percent of all revenues into profits in 2016, which is significantly higher than other estimates.36 For example, in 2016, domestic corporate profits as a share of net value added was 17.7 percent. Syverson also pointed out that the fastest rise in markups occurred between 1980 and 2000, while much of the decline in labor’s share did not take place until after 2000.37

More broadly, these studies use econometric models and firm data to measure the relationship between concentration, profits, and margins on the one hand, and the decline in labor’s share and wages on the other. The outcomes can be heavily dependent on the specific model being used. In addition, their samples are never complete. At most, they show the relationships that prevail in a portion of the economy. Moreover, the models only show correlation. The causal relationships may run both ways and involve many more variables. Finally, some studies use a fairly comprehensive source of corporate data such as Compustat, and in doing so, ignore the noncorporate sector. Because corporations are on average larger and more efficient than other kinds of firms, this would skew the data toward a smaller labor share among these firms, but not necessarily in the broader economy.38 This gets to the importance of looking at the issue through macroeconomic data that is representative of the entire economy.

**No empirical or statistical evidence that antitrust decreases inequality**

Jonathan **Klick** **et al. 19**—University of Pennsylvania Law School, Erasmus School of Law; Elyse Dorsey, Adjunct Professor at Antonin Scalia Law School; Joshua D. Wright, Law professor at George Mason University, executive director of the Global Antitrust Institute, former member of the Federal Trade Commission; Jan Rybnicek, Freshfields Bruckhaus Deringer LLP. ("Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust," January 9, 2019, from George Mason Law & Economics Research Paper No. 18-29, Arizona State Law Journal, 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3249524)

On the whole, the relationship between the enforcement metrics and consumption is **comparable** for the households in both the **first and fifth income quintiles**. There is not much **empirical evidence** to substantiate the proposed correlation between antitrust enforcement activity and inequality. And certainly not evidence **significant enough** to justify the aggressive policy proposals recently injected into discussion of competition policy.

Stepping away from this aggregate analysis for a moment, it is interesting to note that the new(-old) focus on “big is bad” when it comes to inequality ignores an impressive literature on the effects of one of the biggest players in the US in recent decades – Walmart. Work by Jerry Hausman and Ephraim Leibtag shows that when Walmart Supercenters enter a market, food prices paid by consumers in the market drop by about 3 percent, and because they have detailed longitudinal data on household expenditures, they are able to estimate household welfare effects due to this price decrease. They find that the welfare effects are **substantial** and they are most pronounced for those at the lower end of the socio-economic spectrum.158 In addition to this price effect, David Matsa shows that Wal-Mart’s entry into a market induces competitor supermarkets to improve the quality of their service so as to avoid losing even more business to Wal-Mart and its lower prices.159 Thus, in the posterchild case for big is bad, the behemoth Wal-Mart would appear to improve inequality by its very existence.

Although we believe **consumption** is the most relevant measure for assessing the welfare effects (in absolute or, as here, in relative terms) of antitrust policy, we provide similar analyses of **income** and wealth. Using Census data,160 in Table 6, we again provide estimates from an AR(1) distributed lag model examining the effects of DOJ investigations, both merger specific and total, on the income shares received by those individuals in the first quintile and the fifth quintile, while also controlling for a background linear trend.

As with consumption measures, there is generally **no statistically significant effect** (individually or jointly) of current or past investigations (regardless of whether we focus on merger-specific or total investigations) on the **income** shares of those at the **bottom or the top** of the income distribution. Putting aside statistical significance, while past investigations are associated with increases in the income share received by those at the bottom of the distribution, current investigations have the **opposite effect**. Further, many of the investigation coefficients are **positive for the fifth quintile** income share as well. If we examine **combined ratios of the shares** as we did with the consumption data, we still find **no support** for the assumption that an increase in antitrust enforcement has **any systematic effect on inequality**.16

**Inequality is inevitable**

**Prins 14** [Nomi Prins Contributor at Truth Dig, 3-11-2014 <http://www.truthdig.com/report/item/the_inevitability_of_income_inequality_20140311>]

There’s been a lot of discussion about the historically high levels of income and wealth inequality lately—mostly from people on the shorter end of that stick—with good reason: **There’s no end in sight.** In his new book, “Capital in the Twenty-First Century,” economist Thomas Piketty argues that worsening inequality is inevitable in a mature capitalist system, based on his analysis of 200 years of data. But inequality isn’t just an evolving condition like a ~~crippling~~ allergy that comes and goes, or just grows, enumerated by horrifying statistics. Nor is it just the result of a capitalist-utopian idea of free markets in which everyone gets a fair shot armed with equal information (which simply don’t exist in the real world, where markets are routinely gamed by the biggest players). Inequality is endemic to the core structure of an America that operates more as a plutocracy than a democracy. It is an inherent result of the consolidation of a substantial amount of both financial power and political influence in the hands of a few families. In my upcoming book, “All the Presidents’ Bankers,” I trace the lineage of the banking and political families and their associates who have had the most combined influence on American policy. Inequality of income or wealth is a byproduct of the predisposition and genealogy of this coterie of America’s power elite. True, being born into wealth means having a greater chance of accumulating more of it—but take it a step further. Expanding on the adage of “it takes money to make money,” we get a much better idea of why inequality is so rampant: Because aside from income and wealth issues, it takes power to keep power. By nature of the construct and self-reinforcing behavior of a small circle of American families and their enterprises—particularly over the past century since financial capitalism replaced productive capitalism as the means to expand power, wealth and influence—a comparative handful of families and their connections run Wall Street and Washington collectively. They run America as two sides of one political-financial coin, not as divided factions but as co-influencers of policy through public and private office.

#### --- Trumpism inevitable

* 1AC Kupchan and Trubowitz ev presumes that worker support can invert the effects of Trumpism and nativism.
* That’s not possible – it’s taken on a life of it’s own.

Sherman ‘21

Gabriel Sherman is a special correspondent for Vanity Fair. Most recently, Sherman served as national-affairs editor at New York magazine, and he is a regular contributor to NBC News and MSNBC. “2016 ON STEROIDS”: THE RACE TO INHERIT TRUMP’S MAGA BASE IS ALREADY ON—AND THE KNIVES ARE OUT” – Vanity Fair: Hive – October, 2021 - #E&F - https://www.vanityfair.com/news/2021/09/the-race-to-inherit-trumps-maga-base-is-already-on

With the 2024 election in sight, Republican presidential contenders such as Ron DeSantis, Ted Cruz, and Mike Pompeo have begun racing each other to the bottom to claim the party’s base. That is, unless his MAGA-ness himself gets in the ring.

On the evening of July 19, several dozen Republican donors gathered for dinner in a private room at the St. Regis Aspen to hear Nikki Haley deliver a speech. The former South Carolina governor had been invited by the Republican Governors Association, which was holding its typically drama-free summer meeting at the exclusive Rocky Mountain resort. It would be a prime platform for Haley to court 27 red-state governors as she lays the groundwork for a future presidential run. But when Haley took the stage, attendees noticed that Florida governor Ron DeSantis was conspicuously absent. According to an attendee, DeSantis was holding his own fundraiser 20 miles up the road in Basalt, Colorado. “Ron was pissed he didn’t get asked to speak,” the attendee later recalled

Welcome to the 2024 Republican presidential primary.

At this nascent stage, it’s common for prospective candidates to compete fiercely for donor dollars and Fox News airtime. But the 2024 contest is playing out like no other in memory. That’s because the race is either entirely wide open or over before it begins. The outcome hinges on the whims, grievances, and obsessions of one Donald J. Trump.

The 45th president retains a psychic grip on the MAGA-fied Republican base more than six months after leaving office despite two impeachments, the horrors of the January 6 Capitol riot, and nearly 350,000 U.S. COVID-19 deaths. In July, Trump dominated the Conservative Political Action Committee straw poll with 70 percent of the vote. (DeSantis came in a distant second, with 21 percent.) “It’s a metaphysical impossibility that anybody, even a senator named Jesus H. Christ, could beat Trump in a Republican primary if he runs,” said Michael Caputo, a veteran of Trump’s 2016 campaign who briefly served as spokesman for the Department of Health and Human Services.

The candidates know this. Haley, who served as Trump’s U.N. ambassador, told The Associated Press in April that she wouldn’t run if Trump did. Others, such as DeSantis, Texas senator Ted Cruz, and former secretary of state Mike Pompeo, tell reporters they’re merely focused on the midterms. But just because candidates won’t openly challenge Trump doesn’t mean they’re not testing the waters in the event Trump doesn’t jump in. “If Trump doesn’t run, you’re going to have 2016 on steroids. There will be 25 to 30 people running for president,” a prominent Republican said. Could the field include Tucker Carlson? Sean Hannity? Even congresswoman conspiracist Marjorie Taylor Greene? Anything’s possible.

Given Trump’s long history of turning will-he-or-won’t-he speculation into a media spectacle, there’s little chance he’ll declare his 2024 intentions until after the midterms at the earliest. “I think that people will be very happy with my decision,” Trump told me when we spoke in mid-August. He was on the phone from his golf club in Bedminster, New Jersey. Removed from office, his mood was relaxed and upbeat. “I think MAGA is stronger than it’s ever been before,” he said. Trump particularly relished New York governor Andrew Cuomo’s resignation, announced two days before. “I thought he was a tough guy. Maybe he wasn’t,” Trump said.

Mostly, though, Trump seemed to enjoy watching his potential 2024 rivals being forced to anticipate his next move. “Knowing Trump, he’ll dangle it right up to the New Hampshire primary filing deadline,” a Trump confidant told me. Which means candidates are stuck waiting for Trump to get in or get out while they pretend not to be campaigning even as they knife one another behind the scenes. “It’s a holding pattern,” a frustrated Haley adviser said. “It’s unlike any previous race.”

After Mitt Romney lost to Barack Obama in 2012, the Republican National Committee famously commissioned an “autopsy” to diagnose the party’s problems with voters. The internal review produced a 100-page report that advised candidates to broaden the party’s appeal to Hispanics, Blacks, and women. Three years later, that blueprint was blown up when Trump descended his golden escalator and labeled Mexican immigrants “rapists.” “The Republican Party became a cult of personality,” said Sally Bradshaw, a former Jeb Bush adviser who coauthored the 2012 RNC autopsy. (Bradshaw quit the GOP in 2016. She now runs an independent bookstore in Tallahassee, Florida.)

Republicans didn’t even bother with a self-assessment following Trump’s loss to Joe Biden. “The reason there wasn’t an audit this time is the people left in the party don’t care about solving problems,” Bradshaw said. If anything, the party’s takeaway from 2020 is that the base wants it to become more Trumpian. A Reuters/Ipsos poll in May reported that 61 percent of Republicans agree with Trump’s big lie, that Biden stole the election. A Politico poll in June found that 3 in 10 Republicans subscribed to the conspiracy theory that Trump will be “reinstated” as president.

**LIO resilient.**

**Ikenberry ’18** [John; June 28; Professor of International Relations at Princeton University; Ethics & International Affairs, “Why the Liberal World Order Will Survive,” vol. 32, no. 1]

Self-Reinforcing Characteristics of Liberal International Order

The United States has **dominated** the post-war **international order**. It is an order built on **asymmetries of power**; it is hierarchical. But it is **not** an **imperial system**. It is a **complex** and **multilayered** political formation with **liberal characteristics**— openness and **rules-based** principles—that generate incentives and opportunities for other states to **join** and **operate within** it.

Four characteristics reinforce and draw states into the order. First, it has **integrative tendencies**. Over the last century states with **diverse characteristics** have found pathways into its “**ecosystem**” of rules and institutions. Germany and Japan found roles and positions of authority in the post-war order; and after the cold war **many more states**—in **Eastern Europe**, **Asia**, and elsewhere—have joined its **economic** and **security partnerships**. It is the **multilateral logic** of the order that makes it relatively **easy** for states to **join** and rise up within the order. Second, the liberal order offers opportunities for leadership and **shared authority**. One state does not “**rule**” the system. The system is built around **institutions**, and this provides opportunities for shifting and expanding **coalitions** of states to **share leadership**. Formal institutions, such as the IMF and World Bank, are led by boards of directors and weighted voting. Informal groups, such as the G-7 and G-20, are built on principles of **collective governance**. Third, the actual **economic gains** from participation within the liberal order are **widely shared**. In colonial and informal imperial systems, the gains from trade and investment are disproportionately enjoyed by the lead state. In the existing order, the “profits of modernity” are distributed across the system. Indeed, China’s great economic ascent was **only possible** because the liberal international order **rewarded** its pursuit of **openness** and **trade-oriented** growth. For the same reason, states in **all regions** of the world have made **systematic efforts** to integrate into the system. Finally, the liberal international order accommodates a **diversity** of models and strategies of growth and development. In recent decades the Anglo-American model of neoliberalism has been particularly salient. But the post-war system also **provides space** for other capitalist models, such as those associated with European social democracy and East Asian developmental statism. The global capitalist system might generate some pressures for **convergence**, but it also provides space for the **coexistence** of alternative models and ideologies.

These aspects of the liberal international order create **incentives** and **opportunities** for states to **integrate** into its core economic and political realms. The order allows states to **share** in its economic spoils. Its **pluralistic** character creates possibilities for states to “**work the system**”—to join in, **negotiate**, and **maneuver** in ways that **advance their interests**. This, in turn, creates an order with **expanding constituencies** that **have a stake** in its continuation. Compared to imperial and colonial orders of the past, the existing order is **easy to join** and **hard to overturn**.

**--- Multilat fails**

**Gray 7** (Colin S. Gray, Director of the Centre for Strategic Studies within the Department of Politics and International Relations at the University of Reading, 6/11/07, War, Peace, and International Relations, p. 277, JH)

What is known with confidence about this most vital, yet variable, condition known as peace? Strategic history suggests strongly that **peace cannot be constructed by means of institutional engineering**. Such construction can be useful to polities that wish to use it. Institutions and procedures that facilitate communication, perhaps improve mutual understanding, and provide mechanisms for interstate arbitration have roles to play on behalf of order. But **those roles will be fulfilled only when the political players are prepared to negotiate and compromise**. There is nothing magically transformative about participation in international institutions. States, as well as other security communities that generally are not represented in the UN, frequently prefer to act unilaterally, or with allies, in defence of their vital interests. In most of those situations, international political architecture and its norms and procedures can be of only limited value for international order. The existence of the UN facilitates multinational efforts to contain, limit and even halt a war, should the belligerent parties agree to be contained, limited and prevented from fighting to a finish. The story was the same for the Concert System in the nineteenth century and the League of Nations in the twentieth. The functioning of such institutions must reflect their political contexts. They have been as helpful for international order as their leading members would permit. An international institution constructed to advance the prospects for good order and peace can be used or abused on behalf of disorder and war. States can behave in the UN in such a way as to block decisions for collective action to suppress disorderly behaviour. **International institutions**, with the UN as the prime example, **cannot themselves contribute in a vital way to a more orderly world.** Rather, they should be viewed as the faithful products of world order and disorder. States determined to cooperate will use the good offices and fora of those institutions. States determined upon conflict will use them as an arena for propaganda and coalition-building and, if need be, will employ their rules to paralyse the international community. Michael Howard explains why world peace cannot be constructed by the invention, or reform, of institutions: The establishment of a global peaceful order thus depends on the creation of a world community sharing the characteristics that make possible domestic order, and this will require the widest possible diffusion of those characteristics by the societies that already possess them. World order cannot be created simply by building international institutions and organizations that do not arise naturally out of the cultural disposition and historical experience of their members. Their creation and operation require at the very least the existence of a transnational elite that not only shares the same cultural norms but can render those norms acceptable within their own societies and can where necessary persuade their colleagues to agree to the modifications necessary to make them acceptable. (Howard, 2001: 105) This is a fair summary of historical experience. Just as peace cannot be constructed by ingenious institution-building, nor can it be mandated by law, custom or norms. When obedience to those restraints is predicted to work towards results sharply contrary to states’ national interests, they will be ignored.

**Insurrection thumps global coop**

**Bhadrakumar 21** [M.K. Bhadrakumar, former diplomat, currently a freelance journalist 1-9-2021 https://www.newsclick.in/whither-american-democracy]

It will take **decades** before American officials can talk to foreign countries about the importance of elections and peaceful transfer of power without the horror of Wednesday’s event being thrown back at their face. Without doubt, **America has been fundamentally weakened on the international stage.**

It has become a **hopeless** task to try to restore US **deterrence** and **prestige**. Rival powers will **see new vulnerability** in the United States. Even the US’ firmest **allies** in Europe are wondering why they should place trust in the transatlantic alliance with NATO at its centre when American politics has become so febrile.

The general perception is that President Trump incited the “insurrection”, to borrow the expression used by president-elect Joe Biden. Chancellor Angela Merkel of Germany and Prime Minister Boris Johnson of Britain on Thursday also placed the blame squarely on Trump. In a fit of anger and despair, Democrats are demanding “dismissal” of Trump from the presidency.

Meanwhile, a glaring anomaly that caught the attention is the apparent **ineptness of security agencies** to prevent the mayhem in the Capitol building. The very fact that the security forces could not prevent such an event taking place in the citadel of US democracy bears testimony to **a dysfunctional system.**

### Alt causes

#### Tons of alt causes

-Trade Liberalization -Automation -Technology -manufacturing collapse -education -healthcare -minimum wage -less powerful unions - climate change

**Bhatt et al 2020 (**Anjali, Melina Kolb, and Oliver Ward. Assistant Professor in the Organizational Behavior Unit at HBS and a Fellow at the Santa Fe Institute for the study of complex adaptive systems. Melina Kolb is Assistant Vice President for Digital Communications at Peter G. Peterson Institute for International Economics. “How to Fix Economic Inequality?” <https://www.piie.com/microsites/how-fix-economic-inequality> first published on November 17, 2020 and last updated December 17, 2020, MSU-MJS)

Technology and trade are factors, but policies determine outcome. Automation and trade liberalization have profoundly transformed labor markets across advanced economies, giving disproportionate advantages to highly skilled and educated workers, and research shows these forces have played a role in widening inequality. But it is important to emphasize the role of governments in mitigating these effects. The United States and Europe have very different levels of inequality despite similar levels of technological change and trade liberalization. Divergent policies among countries must logically have influenced their disparities in the growth in inequality. Figure 14: Imports from emerging-market countries as percent of GDP, 1988–2014 Trade data show how the United States and many European countries have increased their imports from emerging-market countries at similar levels since 1980, suggesting factors other than trade are influencing differences in inequality levels. How have technology and globalization widened inequality within the United States? Economists generally think globalization has contributed marginally to rising US wage inequality but that technology has played a much bigger role. For the last half century, the United States has generated tremendous economic growth and wealth as a result of technological innovations and international trade and investment. Tech giants emerged with the advent of the internet. Businesses tapped global supply chains, technology breakthroughs, and international markets to expand their reach, turning some into multinational powerhouses, generating high-end jobs, and making a whole new range of products affordable for consumers. But some workers have lost out. US industrial production is still at historically high levels, but automation makes that achievement possible with far fewer workers. The US economy, like many advanced economies, has been driven more by services (information, business and professional services, health care, restaurants, travel, financial services) and less by manufacturing, with consumers spending a smaller percent of their incomes on manufactured goods than they used to. Figure 15: Percent of US employment in manufacturing vs. nonmanufacturing industries, 1939–2019 Manufacturing as a share of total employment has been in decline since the 1940s. Technology has reduced demand for certain low- and middle-wage workers, such as in factory assembly lines, and increased demand for high-skilled, higher-paid workers. To cut costs and stay competitive, many businesses outsourced manufacturing production from domestic factories to countries like China, Vietnam, and Mexico, displacing some domestic manufacturing jobs. (A Peterson Institute study finds about 156,000 US manufacturing jobs were lost on net each year between 2001 and 2016 from expanded trade, or less than 1 percent of the workers laid off in a typical year).1 Men and workers without a college degree have been hardest hit, especially in factory towns outside major US cities. Many of these workers have dropped out of the labor force. By contrast, highly educated and skilled workers, particularly in urban areas, earned a premium. Learn more about the effects of trade and investment in this guide, “What Is Globalization?” Governments have cut top tax rates. Tax policy is one of the most important factors in determining inequality levels in advanced economies. Taxes in the United States and many other rich countries have become less progressive in the past 50 years, meaning that tax obligations have declined for those with the highest incomes. The top earners used to pay much higher tax rates on their income than they do now. Less progressive taxation has accelerated the growth of top incomes. Figure 16: Average tax rate by pretax income group in the United States The average tax rate paid by the top 1 percent of US earners has steadily declined over many decades; since 2010, the highest-earning individuals have been paying an average tax rate roughly equal to or even less than other Americans. (Income levels of taxpayers do not account for government transfers). Figure 17: Top marginal income tax rate, 1900–2020 In the 1950s, the top US marginal income tax rate was above 90 percent, a legacy of the war-footing economy of World War II. It is now just below 40 percent. (In the United States, the top marginal tax rate is charged only on earnings above $510,000 for an individual). Other countries, like Japan and France, had similar declines. Figure 18: Change in top marginal tax rate vs. change in share of income held by top 1 percent since the 1970s As top marginal tax rates have declined in many richer countries, the share of income going to the top 1 percent of earners has grown. Countries like Germany, Spain, Denmark, and Switzerland cut top tax rates by little or not at all, and also experienced little to no increase in top income shares. Poor Americans are much less likely to attain higher education than rich Americans. In the United States, 90 percent of children with parents in the top 10 percent of the income distribution will likely attend college. For children with parents in the poorest 10 percent, less than a third will. American families are more burdened by college tuition costs than families in Europe, where higher education is more likely to be free or subsidized. US college tuition for four-year institutions has risen five-fold since 1985, adjusted for inflation, reaching $27,000 a year on average in 2017. US children today are less likely to exceed their parents’ standard of living because education levels are failing to grow at the rate required to meet the demand for a more educated workforce. Healthcare in the United States is not universal. The United States is the only wealthy nation without universal health coverage. Healthcare expenditures grew from 5 percent of GDP in 1960 to almost 18 percent in 2018. Americans spend more than double on healthcare per person than other wealthy countries on average, many of which have some form of publicly funded healthcare system, yet the country lags on many health outcomes such as life expectancy and infant mortality. In 2018, 8.5 percent of people, or 27.5 million, did not have health insurance at all (though the Affordable Care Act made some headway in reducing the number after 2010). Employers that provide health benefits to workers shoulder the costs of rapidly rising insurance premiums. The US federal minimum wage has fallen. The US federal minimum wage, currently $7.25 an hour, has dropped by almost 30 percent since the 1960s when adjusted for inflation. More than half of US states have set higher minimum wages but the rest have not. France’s minimum wage grew more than 80 percent between 1980 and 2016 when adjusted for inflation, to almost €10 or nearly $12 an hour. Unions are less powerful than they used to be. Union membership has long been declining across rich countries, especially in the United States. In the 1950s, approximately one-third of all US workers belonged to a union. In 2019, that figure was just 10 percent. Most European countries still have much higher shares of workers in unions than the United States. Some European countries (Germany, for example) also have employees on corporate advisory boards or board seats that can be reserved for trade unions, increasing their influence over wages and workplace regulations. Americans are moving less often while cities attract high-paying jobs. In the past three decades, the share of the US population making an interstate move fell by half, limiting the ability of families to pursue new job opportunities in response to declines in manufacturing jobs. It’s not clear why mobility fell, but rising housing prices in areas of opportunity may be a factor. In cities, wages for highly educated workers grew faster than for the less educated, widening the income gap between urban and nonurban areas. The economic fallout from the COVID-19 pandemic has disproportionately harmed already vulnerable groups. Low-income workers, minorities, and women are among those who have suffered the biggest economic losses. (See Section 5) Climate change hits the poorest the hardest. Extreme weather patterns attributed to climate change are widening inequality. Low-income groups tend to be more exposed to environmental threats, like flooding, hurricanes, and heat waves, and live in communities without effective disaster relief strategies. Additionally, certain policy responses to limit the climate crisis could disproportionally affect low-income workers. An example is the French government’s attempt to implement a fuel tax, which provoked street protests throughout the country.

# 2NC---Harvard R1

## CP---Section 5

### 2NC---O/V

### 2NC---AT: PDB

### 2NC---AT: Perm Do CP

#### First, expand the scope---regulations don’t.

Lane 92 --- Mills Lane, Judge on the Second District Court of Nevada, “STATE, GAMING COMM'N V. GNLV CORP”, https://www.casemine.com/judgement/us/5914875dadd7b049344e3895

Moreover, an administrative agency is not required to promulgate a regulation where regulatory action is taken to enforce or implement the necessary requirements of an existing statute. K-Mart Corp. v. SIIS, 101 Nev. 12, 17, 693 P.2d 562, 565 (1985). "An administrative construction that is within the language of the statute will not readily be disturbed by the courts." Dep't of Human Res. v. UHS of The Colony, Inc., 103 Nev. 208, 211, 735 P.2d 319, 321 (1987). The Commission did not engage in ad hoc rule-making because the Commission did not expand the scope of the statute, but merely enforced the requirements of NRS 463.3715(2) in accordance with the plain dictates of the statute.

#### Contextual evidence proves---guidance documents interpreting Section 5 don’t expand the scope---merely alter enforcement.

Federal Register: Rules and Regulations - ‘9 (Federal Trade Commission - *16 Code of Federal Regulations*- 255 Guides Concerning the Use of Endorsements and Testimonials in Advertising Federal Acquisition Regulation; *Final Rule* - “Rules and Regulations” - Federal Register - Vol. 74, No. 198 - Thursday, October 15, 2009 - #E&F - https://www.ftc.gov/sites/default/files/documents/federal\_register\_notices/guides-concerning-use-endorsements-and-testimonials-advertising-16-cfr-part-255/091015guidesconcerningtestimonials.pdf)

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

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

#### Comparative evidence also proves---interpretations don’t expand the scope, merely clarify.

CFR ‘76

Code of Federal Regulations - Note: “The Board” – internally referenced – is the “Cost Accounting Standards Board”. The Code of Federal Regulations of the United States of America - Pt. 401, Preamble C - Amendment published 11-30-76 - Preamble C Preamble to the addition of Appendix -- Interpretation No. 1 added on Nov. 30, 1976, at 41 FR 52427. Interpretation No. 1 to Part 401, Cost Accounting Standard, Consistency in Estimating, Accumulating and Reporting Costs, is being published today by the Cost Accounting Standards Board pursuant to Section 719 of the Defense Production Act of 1950, as amended. (Pub.L.91-379, 50 U.S.C.App. 2168 – modified for language that may offend - Pages 255-6

Comments of particular significance with respect to the proposed Interpretation are discussed below.

1. Need for an Interpretation

Several commentators stated that the Interpretation expands the scope and is not consistent with the intent of Part 401, which they say requires only a comparison of actual costs with estimated costs for direct material. They argued that the Defense Contract Audit Agency (DCAA) guidance to its field auditors in October 1973 satisfactorily explained the meaning of Part 401. In general, these commentators felt that an Interpretation to CAS 401 was not needed.

The Board's research indicates that an Interpretation is needed. Numerous and widespread questions have been raised concerning whether application of a percentage factor to a base as a means of estimating the costs of certain additional direct material requirements is in compliance with Part 401 when the contractor accumulates direct material costs in an undifferentiated account. The Board notes that a similar question with respect to direct labor is specifically addressed in Part 401. Section 401.60(b)(5). In that Illustration, the accumulation of total engineering labor in one undifferentiated account is not in compliance with Part 401 where the contractor estimates engineering labor by cost function. Part 401 does not, however, specifically address the consistency requirement for direct materials, nor did the DCAA guidance specifically cover this matter. Accordingly, the Board concludes that this Interpretation is needed.

In ~~view~~ (light) of the fact that the Interpretation clarifies what is already required by Part 401, the Board does not agree that it expands the scope of the Standard.

#### Second, prohibitions must forbid by law.

Brunetti ‘8

Petition before SCOTUS - Kenneth A. Brunetti - Counsel of Record, Miller & Van Eaton, PLLC - BRIEF FOR THE RESPONDENT IN OPPOSITION, On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit, IN THE SUPREME COURT OF THEUNITED STATES – Filed on December 19th, 2008 - #E&F – continues to footnote - https://www.scotusblog.com/wp-content/uploads/2009/01/08-626\_bio.pdf

The FCC has consistently required evidence that a provision, as applied, has prohibitory effects, and rejected challenges based on the mere possibility that authority might be exercised in a manner that arguably "prohibits or has the effect of prohibiting" the ability of a provider to offer services. Cal. Pay phone, 12 F.C.C.R. at 14209 \ 38 (emphasis added). The FCC accordingly rejected a Section 253 petition because the complainant had failed to show that the challenged regulation made it "impractical and uneconomic" or eliminated any "commercially viable opportunity" to enter the market. 12 F.C.C.R. at 14210 If 41.12 As the FCC's cases demonstrate, this reading of Section 253 provides ample protection against requirements that actually prohibit or "have the effect of prohibiting" market entry - it does not, as Level 3 claims, limit Section 253(a) to protecting against "far-fetched and entirely imaginary5' ordinances.13 As discussed, infra, the FCC test has been adopted in the First, Second, Eighth, Ninth, and Tenth Circuits.

12 This applies the primary and ordinary meaning of the term "prohibit," which is to "forbid by law," and not merely "impede," as Level 3 would have it. Black's Law Dictionary, 8th Ed. 2004.

#### Regulations are NOT 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.

### 2NC---AT: No Teeth

#### Deterrence effect solves

Melamed ‘16

A. Douglas Melamed - Professor of the Practice of Law, Stanford Law School – “PREPARED STATEMENT For the SENATE COMMITTEE ON THE JUDICIARY SUBCOMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS on SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT” - April 5, 2016 #E&F - https://www.judiciary.senate.gov/imo/media/doc/04-05-16%20Melamed%20Testimony.pdf

(2) Some have emphasized that only the FTC can enforce Section 5 and that the only remedy for Section 5 is a “cease and desist” order issued by the FTC. Because there are no treble damages for Section 5 violations, it is suggested, there should be no fear that businesses will be unfairly punished for engaging in conduct that they did not understand to be unlawful or that businesses will be deterred from engaging in procompetitive conduct for fear of violating an ambiguous Section 5. Of course, if that were true, the prospect of standalone Section 5 enforcement would also not deter anticompetitive conduct.

There are two problems with this argument. First, the premise that remedies for violating Section 5 are inconsequential is incorrect. The FTC has for decades taken the position that its authority to issue “cease and desist” orders permits it to enter broad injunction orders that require parties to take a wide range of actions to rectify alleged harm and to ensure that they will not engage in the future in what the FTC regards as conduct similar to that alleged to have violated Section 5. Businesses sometimes find the prospect of such intrusive or sweeping restrictions on how they conduct their business to be far more worrisome than the prospect of treble damage liability.

### 2NC---AT: Rollback

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

Salop ‘21

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

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

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

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

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

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

Raso ‘10

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

5. Judicial Challenge

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

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

Dagen ‘10

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

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

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

Dagen ‘10

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

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

### 2NC---Condo

## ADV---Innovation

### 2NC---AT: I/L---Market Concentration

#### Market share will self-correct

**Crews & Young 19** --- Clyde Wayne Crews, vice president for policy and a senior fellow at the Competitive Enterprise Institute, He holds a Master of Business Administration from William and Mary, Ryan Young, Senior Fellow at the Competitive Enterprise Institute, M.A. in economics from George Mason University, “The Case against Antitrust Law”, Competitive Enterprise Institute, 04/16/2019, <https://cei.org/studies/the-case-against-antitrust-law/>

Government usually **stifles competition**. If antitrust regulation is to be retained, it should **not be a first-resort policy**. If a company has an overwhelming competitive advantage, it is important to first ask what is causing it. If the advantage is due to superior performance, then consumers are not being harmed.

**In most cases,** dominance does not last long, as evidenced by how quickly any list of America’s largest companies changes from year to year. If a company does remain dominant for a long period of time, one of two possibilities must be true. The first option is that **it continues to be consumers’ preferred option**. The second is that it is engaging in rent- seeking behavior. In the first case, there is no need for an antitrust intervention. In the second case, **the solution is not antitrust regulation,** but to take away the government’s power to tilt the scales in rent-seekers’ favor.

### 2NC---AT: Tech Leadership !

#### No China war or rise.

Norrlof ’21 [Carla; March 23; Visiting Professor at the Finnish Institute of International Affairs in Helsinki, Senior Fellow at The Atlantic Council and at Massey College, Associate Professor at the University of Toronto, and Research Associate at The Graduate Institute of Geneva; The Washington Quarterly, “The Ibn Khaldûn Trap and Great Power Competition with China,” vol. 44]

The return of great power rivalry has been the defining feature of the 21st century. Since the beginning of the new millennium, China and Russia have openly defied the United States and upset the stability of the liberal international order. Both China and Russia share physical and material attributes possessed by the United States that are traditionally required for great power status: land mass, a sea portal, a large population, and technology to field and develop a competitive military capability. Most scholars and policymakers agree that China presents the largest challenge to US interests and the US-led liberal international order. Economic and military growth in China has been astounding, surpassing Russian expansion. China’s outward extension is not primarily resource-based as is Russia’s but multidimensional, posing a structural challenge to US military and economic dominance.

Much ink has been spilled over the nature of US-China rivalry and whether the two great powers are destined for war. Structural factors figure prominently when predicting US-China relations. A famous deadly Greek trap describes how the fear of a hegemonic power sparks catastrophic war with a rising power. In the History of the Peloponnesian War, Thucydides writes, “What made war inevitable was the growth of Athenian power and the fear which this caused in Sparta.” 1 Thucydides’ statement has been widely adopted as a metaphor for the dangers associated with great-power transition. Both A.F.K. Organski’s power transition theory and Robert Gilpin’s realism see great-power wars as most likely to occur when a rising challenger is about to surpass a declining hegemonic power. 2 Today, the Thucydides Trap is highly relevant insofar as we have a clear incumbent power, the United States, and according to many measures of great powerhood, a clear rising power—China—with military, manufacturing, and commercial, and corporate power.

However, the analogy mismatches international hierarchy and regime type. In classical times, the incumbent land power, Sparta, was the authoritarian power who feared the rise of the democratic maritime power, Athens.3 This incongruity is not even the biggest problem with the analogy. In order for the Thucydides Trap to apply, China would have to significantly narrow the power gap with the United States. While China has caught up with the United States in important respects, it has not caught up with the United States in terms of the logic and networks that inform dominance in the key economic and security areas required for power transition.4 Apart from the obvious inhibiting factors of nuclear weapons and economic interdependence, the United States and China are nowhere close to the power parity likely to spark a major power war between them. The Thucydides Trap is a powerful analogy for bellicose dynamics between a hegemonic power and a rising power, but in the near term, war between the United States and China for the reasons proposed in the Thucydidean analogy is highly unlikely.

#### China lags in digital tech.

Jun ’18 [Jun; August 3; dean of the School of Economics at Fudan University and director of the China Center for Economic Studies; Nikkei Asia, “The West exaggerates China's technological progress,” https://asia.nikkei.com/Opinion/The-West-exaggerates-China-s-technological-progress]

This is a serious misrepresentation. While it is true that digital technologies are transforming China's economy, this reflects the implementation of mobile-Internet-enabled business models more than the development of cutting-edge technologies, and it affects consumption patterns more than, say, manufacturing. This kind of transformation is hardly unique to China, though it is occurring particularly rapidly here, thanks to a huge consumer market and weak financial regulation.

Furthermore, it is not so obvious that these changes have anything to do with the government's industrial policies. On the contrary, the growth of China's internet economy has been driven largely by the entrepreneurship of privately owned companies like Alibaba and Tencent.

In fact, Western observers -- not just the media, but also academics and government leaders, including U.S. President Donald Trump -- have fundamentally misunderstood the nature and exaggerated the role of China's policies for developing strategic and high-tech industries. Contrary to popular belief, these policies do little more than help lower the entry cost for firms and enhance competition. In fact, such policies encourage excessive entry, and the resulting competition and lack of protection for existing firms have been constantly criticized in China. Therefore, to the extent that China relies on effective industrial policies, they do not create much unfairness in terms of global rules.

Having said that, what are China's actual technological prospects? The Chinese are certainly fast learners. Over the last 30 years, Chinese manufacturers have proved adept at seizing opportunities to emulate, adapt and diffuse new technologies.

But technological advances in the Chinese business sector occur at the middle of the smile curve (where gains are generally lower than at the innovative start of a new product or at the end, in marketing finished goods to consumers).

Foreign core-technology owners extract most of the added value from Chinese manufacturing. For example, in Danyang, a county of Jiangsu Province that is a production hub of optical lenses for global markets, manufacturers can produce the most sophisticated models. Yet they lack the core software to produce, say, progressive lenses, so they must pay a fixed royalty to a U.S. company for each progressive lens they make. Likewise, China's automobile manufacturers still import their assembly lines from developed countries.

Clearly, there is a big difference between applying digital technologies to consumer-oriented business models and becoming a world leader in developing and producing hard technology. The latter goal will demand sustained investment of time, human capital, and financial resources in sectors with long basic R&D cycles (such as pharmaceuticals).

Given this, China probably remains 15-20 years away from matching the R&D input of, say, Japan or South Korea, and when it comes to output -- the more important factor -- it is much further behind. While China can accelerate progress by attracting creative talent and strengthening incentives for long-term research, there are no real shortcuts when it comes to achieving the gradual shift from learning to innovating.

### 2NC---AT: Authoritarianism !

#### Plan can’t solve --- Strong democracies will overcome digital authoritarianism --- weak democracies won’t

Weiss 19 --- Jessica Chen Weiss is an associate professor of Government at Cornell University, Testimony at U.S. House of Representatives Permanent Select Committee on Intelligence, May 16, 2019, https://docs.house.gov/meetings/IG/IG00/20190516/109462/HHRG-116-IG00-Wstate-ChenWeissJ-20190516.pdf

China also rightly gets heat from Western observers for exporting surveillance and censorship technologies. China’s heavy investments in these technologies have made it cheaper for other authoritarian and would-be authoritarian regimes to monitor their citizens. Yet as with Chinese lending, the story of Chinese technology is more complicated than it first appears. The diffusion of digital authoritarianism is not the same thing as an intentional effort to remake other governments in China’s image.

Although these systems can help governments monitor and control their people, how exactly they are used depends on local politics. Cameras can replace more brute-force methods of surveillance, as in Ecuador, which installed a surveillance system with China’s help. But as the New York Times reported, many Ecuadorans have complained that the system isn’t effective against crime, as there aren’t enough local personnel to monitor the footage or respond to crimes caught on camera. And the Ecuadoran administration that came to power in 2017, which has pledged to reverse some of its predecessor’s autocratic policies, has begun an investigation into the system’s abuses, including inviting the Times to review its records.

Ultimately, the political effects of technology can cut both ways. Just as the internet was not a universal harbinger of democratic freedom, technology does not magically enable governments to control society and repress opposition. Technology can empower the state, but strong democratic institutions – including legislation to restrict surveillance and protect citizens’ privacy – can also constrain the power of technology.

#### Use of authoritarian tech is inevitable and dependent on a country’s impulses

Williams 21 --- Alexandria Williams, Nairobi-based journalist and podcast producer. Her work focuses on technology in China and the future of China’s tech giants in Africa, “Some Myths Versus Realities of Africa-China Tech Narratives”, May 27th 2021, https://medium.com/@AINowInstitute/some-myths-versus-realities-of-africa-china-tech-narratives-75c97f43bf8a

I realized that half-truths and misunderstandings abounded. In 2018, news of a Guangzhou-based company called Cloudwalk installing facial-recognition-enabled cameras on the streets of Zimbabwe hit the media. According to outlets reporting the story, China’s government was exporting digital authoritarianism to Africa and using the African population to train facial recognition tech. Arguments like these contained compelling insights but completely sidestepped citizens’ agency and the varied experience of different African nations, flatlining all residents into a monolithic category of oppressed experimental subjects. This oversight and lack of attention to the difference would become the defining characteristic of the narratives I encountered in my work in the years that followed.

Myths about China’s tech presence in Africa

African nations have been engaging with China for centuries. In the 1400s, Ming Dynasty admiral Zheng He returned to China from a voyage to East Africa with a giraffe. China’s former premier Zhou Enlai toured ten countries in Africa in 1963, discussing anti-imperialism with African leaders along the way. In the modern era, China’s Belt and Road Initiative has paved the way for a host of new trade and infrastructure projects and connections on the continent. While this shared history has not always been mutually beneficial, it has helped build a sense of shared understanding which makes African governments and people more willing to take up Chinese technology.

As the ‘US-China tech war’ narrative has grown more mainstream, China’s tech companies have become increasingly aware of the distrust they face in Western markets. As a result, Africa has become a more attractive target, offering a market that has been historically ignored by tech companies (especially those based in the West). For example, while Twitter has been a popular platform in Kenya, Ghana, and Nigeria for years, the San Francisco-based social media company only opened an Africa office in Ghana in 2021. Tiktok on the other hand, which began international operations in 2017, joined a co-working space in Nairobi in early 2020.

The view from on the ground

The other side of the argument is the assumption made by those covering China in Africa that China is the cause of rising digital authoritarianism in the region. I and others with experience in the region will tell you that this idea is unfounded, and erases complex histories on the continent. History shows us that a number of African governments have had decades of practice exercising authoritarianism without China’s help or influence.

The heart of the ‘Silicon Savannah,’ Kenya’s capital Nairobi, was a site for Huawei’s 2014 ‘Safe Cities project, a suite of technologies aimed at ‘leaders’ with the goal of making dangerous cities safer to live in. In Kenya, this meant 1,800 CCTVs set up around downtown Nairobi to be monitored by the national police. Official figures from Huawei claim that there was a 46 percent drop in crime in Nairobi in the project’s first year, but these numbers have not been externally validated and are often debated.

If you ask most people in Nairobi why officially reported crime numbers have declined over the past few years, they won’t point to Huawei. They’ll attribute it to increased securitization following multiple rounds of terrorist attacks from 2011–2014. It hasn’t always been the case, but today, posh neighborhoods and popular hangout spots are patrolled by private security companies, trained dogs, and the occasional rifle-wielding soldier. Whether a crime was caught on video or not has little to do with how a crime is prosecuted, who is criminalized, and how data is (or is not) collected and recorded.

Neighboring Uganda has also contracted with Huawei to install city-wide facial recognition-enabled CCTV cameras. But Uganda’s government has utilized their Huawei cameras and other technology to the fullest extent, reportedly enlisting the help of the company’s technicians to tap into opposition leader Bobi Wine’s phones and regulate his movements.

These two cases highlight the fact that how African governments employ the Chinese technology they license has much more to do with the governments themselves. Uganda, a country whose president has been in power for more than thirty-five years, is known to be a riskier environment for media workers. Though Kenya is regarded as a nation of (relative) freedom, speaking out against the state is still regulated, even without the help of Chinese tech.

For example, in early April, there was a debate among Kenyans on Twitter about International Monetary Fund (IMF) loans. Kenyans flooded timelines, calling out the IMF for loaning money to the Kenyan government whom, they believed, was misappropriating funds. In the weeks that followed, one of the leaders of the Twitter movement was taken into custody. What led to his arrest was not China’s digital authoritarian influence, but rather Kenya’s very own Computer Misuse and Cybercrimes Act of 2018 which, among many things, prohibits the ‘false publication’ of information online.

The Consequences

Shirking the responsibility of rising digital authoritarianism in Africa by pinning the blame solely on China is dangerous. It fails to hold African governments and leaders accountable for their actions and agendas. Moreover, it misses a critical story: activists, journalists, and thinkers on the ground exercise their own agency and actively push back against suppression. Falling for the narrative that China has exported digital authoritarianism to Africa is a distraction that can be harmful to the future of tech, media, and journalism on the continent.

#### Democracy resilient but doesn’t solve

Doorenspleet 18 --- Renske Doorenspleet, associate professor at the Department of Politics and International Studies, Warwick University, in the United Kingdom, Chapter 7: CONCLUSION: RETHINKING THE VALUE OF DEMOCRACY”, First Online: 22 July 2018, Page 239-243, https://link.springer.com/chapter/10.1007/978-3-319-91656-9\_7

The value of democracy has been taken for granted until recently, but this assumption seems to be under threat now more than ever before. As was explained in Chapter 1, democracy’s claim to be valuable does not rest on just one particular merit, and scholars tend to distinguish three different types of values (Sen 1999). This book focused on the instrumental value of democracy (and hence not on the intrinsic and constructive value), and investigated the value of democracy for peace (Chapters 3 and 4), control of corruption (Chapter 5) and economic development (Chapter 6). This study was based on a search of an enormous academic database5 for certain keywords,6 then pruned the thousands of articles down to a few hundred articles (see Appendix) which statistically analysed the connection between the democracy and the four expected outcomes.

The first finding is that a reverse wave away from democracy has not happened (see Chapter 2). Not yet, at least. Democracy is not doing worse than before, at least not in comparative perspective. While it is true that there is a dramatic decline in democracy in some countries,7 a general trend downwards cannot yet be detected. It would be better to talk about ‘stagnation’, as not many dictatorships have democratized recently, while democracies have not yet collapsed.

Another finding is that the instrumental value of democracy is very questionable. The field has been deeply polarized between researchers who endorse a link between democracy and positive outcomes, and those who reject this optimistic idea and instead emphasize the negative effects of democracy. There has been ‘no consensus’ in the quantitative literature on whether democracy has instrumental value which leads some beneficial general outcomes. Some scholars claim there is a consensus, but they only do so by ignoring a huge amount of literature which rejects their own point of view. After undertaking a large-scale analysis of carefully selected articles published on the topic (see Appendix), this book can conclude that the connections between democracy and expected benefits are not as strong as they seem. Hence, we should not overstate the links between the phenomena.

The overall evidence is weak. Take the expected impact of democracy on peace for example. As Chapter 3 showed, the study of democracy and interstate war has been a flourishing theme in political science, particularly since the 1970s. However, there are four reasons why democracy does not cause peace between countries, and why the empirical support for the popular idea of democratic peace is quite weak. Most statistical studies have not found a strong correlation between democracy and interstate war at the dyadic level. They show that there are other—more powerful—explanations for war and peace, and even that the impact of democracy is a spurious one (caveat 1). Moreover, the theoretical foundation of the democratic peace hypothesis is weak, and the causal mechanisms are unclear (caveat 2). In addition, democracies are not necessarily more peaceful in general, and the evidence for the democratic peace hypothesis at the monadic level is inconclusive (caveat 3). Finally, the process of democratization is dangerous. Living in a democratizing country means living in a less peaceful country (caveat 4). With regard to peace between countries, we cannot defend the idea that democracy has instrumental value.

Can the (instrumental) value of democracy be found in the prevention of civil war? Or is the evidence for the opposite idea more convincing, and does democracy have a ‘dark side’ which makes civil war more likely? The findings are confusing, which is exacerbated by the fact that different aspects of civil war (prevalence, onset, duration and severity) are mixed up in some civil war studies. Moreover, defining civil war is a delicate, politically sensitive issue. Determining whether there is a civil war in a particular country is incredibly difficult, while measurements suffer from many weaknesses (caveat 1). Moreover, there is no linear link: civil wars are just as unlikely in democracies as in dictatorships (caveat 2). Civil war is most likely in times of political change. Democratization is a very unpredictable, dangerous process, increasing the chance of civil war significantly. Hybrid systems are at risk as well: the chance of civil war is much higher compared to other political systems (caveat 3). More specifically, both the strength and type of political institutions matter when explaining civil war. However, the type of political system (e.g. democracy or dictatorship) is not the decisive factor at all (caveat 4). Finally, democracy has only limited explanatory power (caveat 5). Economic factors are far more significant than political factors (such as having a democratic system) when explaining the onset, duration and severity of civil war. To prevent civil war, it would make more sense to make poorer countries richer, instead of promoting democracy. Helping countries to democratize would even be a very dangerous idea, as countries with changing levels of democracy are most vulnerable, making civil wars most likely. It is true that there is evidence that the chance of civil war decreases when the extent of democracy increases considerably. The problem however is that most countries do not go through big political changes but through small changes instead; those small steps—away or towards more democracy—are dangerous. Not only is the onset of civil war likely under such circumstances, but civil wars also tend to be longer, and the conflict is more cruel leading to more victims, destruction and killings (see Chapter 4).

A more encouraging story can be told around the value for democracy to control corruption in a country (see Chapter 5). Fighting corruption has been high on the agenda of international organizations such as the World Bank and the IMF. Moreover, the theme of corruption has been studied thoroughly in many different academic disciplines—mainly in economics, but also in sociology, political science and law. Democracy has often been suggested as one of the remedies when fighting against high levels of continuous corruption. So far, the statistical evidence has strongly supported this idea. As Chapter 5 showed, dozens of studies with broad quantitative, cross-national and comparative research have found statistically significant associations between (less) democracy and (more) corruption. However, there are vast problems around conceptualization (caveat 1) and measurement (caveat 2) of ‘corruption’. Another caveat is that democratizing countries are the poorest performers with regard to controlling corruption (caveat 3). Moreover, it is not democracy in general, but particular political institutions which have an impact on the control of corruption; and a free press also helps a lot in order to limit corruptive practices in a country (caveat 4). In addition, democracies seem to be less affected by corruption than dictatorships, but at the same time, there is clear evidence that economic factors have more explanatory power (caveat 5). In conclusion, more democracy means less corruption, but we need to be modest (as other factors matter more) and cautious (as there are many caveats).

The perceived impact of democracy on development has been highly contested as well (see Chapter 6). Some scholars argue that democratic systems have a positive impact, while others argue that high levels of democracy actually reduce the levels of economic growth and development. Particularly since the 1990s, statistical studies have focused on this debate, and the empirical evidence is clear: there is no direct impact of democracy on development. Hence, both approaches cannot be supported (see caveat 1). The indirect impact via other factors is also questionable (caveat 2). Moreover, there is too much variation in levels of economic growth and development among the dictatorial systems, and there are huge regional differences (caveat 3). Adopting a one-size-fits all approach would not be wise at all. In addition, in order to increase development, it would be better to focus on alternative factors such as improving institutional quality and good governance (caveat 4). There is not sufficient evidence to state that democracy has instrumental value, at least not with regard to economic growth. However, future research needs to include broader concepts and measurements of development in their models, as so far studies have mainly focused on explaining cross-national differences in growth of GDP (caveat 5).

Overall, the instrumental value of democracy is—at best—tentative, or—if being less mild—simply non-existent. Democracy is not necessarily better than any alternative form of government. With regard to many of the expected benefits—such as less war, less corruption and more economic development—democracy does deliver, but so do nondemocratic systems. High or low levels of democracy do not make a distinctive difference. Mid-range democracy levels do matter though. Hybrid systems can be associated with many negative outcomes, while this is also the case for democratizing countries. Moreover, other explanations—typically certain favorable economic factors in a country—are much more powerful to explain the expected benefits, at least compared to the single fact that a country is a democracy or not. The impact of democracy fades away in the powerful shadows of the economic factors.8

## ADV---Inequality

### 2NC---T/L

### 2NC---AT: I/L

#### Tons of alt causes

-Trade Liberalization -Automation -Technology -manufacturing collapse -education -healthcare -minimum wage -less powerful unions - climate change

**Bhatt et al 2020 (**Anjali, Melina Kolb, and Oliver Ward. Assistant Professor in the Organizational Behavior Unit at HBS and a Fellow at the Santa Fe Institute for the study of complex adaptive systems. Melina Kolb is Assistant Vice President for Digital Communications at Peter G. Peterson Institute for International Economics. “How to Fix Economic Inequality?” <https://www.piie.com/microsites/how-fix-economic-inequality> first published on November 17, 2020 and last updated December 17, 2020, MSU-MJS)

Technology and trade are factors, but policies determine outcome. Automation and trade liberalization have profoundly transformed labor markets across advanced economies, giving disproportionate advantages to highly skilled and educated workers, and research shows these forces have played a role in widening inequality. But it is important to emphasize the role of governments in mitigating these effects. The United States and Europe have very different levels of inequality despite similar levels of technological change and trade liberalization. Divergent policies among countries must logically have influenced their disparities in the growth in inequality. Figure 14: Imports from emerging-market countries as percent of GDP, 1988–2014 Trade data show how the United States and many European countries have increased their imports from emerging-market countries at similar levels since 1980, suggesting factors other than trade are influencing differences in inequality levels. How have technology and globalization widened inequality within the United States? Economists generally think globalization has contributed marginally to rising US wage inequality but that technology has played a much bigger role. For the last half century, the United States has generated tremendous economic growth and wealth as a result of technological innovations and international trade and investment. Tech giants emerged with the advent of the internet. Businesses tapped global supply chains, technology breakthroughs, and international markets to expand their reach, turning some into multinational powerhouses, generating high-end jobs, and making a whole new range of products affordable for consumers. But some workers have lost out. US industrial production is still at historically high levels, but automation makes that achievement possible with far fewer workers. The US economy, like many advanced economies, has been driven more by services (information, business and professional services, health care, restaurants, travel, financial services) and less by manufacturing, with consumers spending a smaller percent of their incomes on manufactured goods than they used to. Figure 15: Percent of US employment in manufacturing vs. nonmanufacturing industries, 1939–2019 Manufacturing as a share of total employment has been in decline since the 1940s. Technology has reduced demand for certain low- and middle-wage workers, such as in factory assembly lines, and increased demand for high-skilled, higher-paid workers. To cut costs and stay competitive, many businesses outsourced manufacturing production from domestic factories to countries like China, Vietnam, and Mexico, displacing some domestic manufacturing jobs. (A Peterson Institute study finds about 156,000 US manufacturing jobs were lost on net each year between 2001 and 2016 from expanded trade, or less than 1 percent of the workers laid off in a typical year).1 Men and workers without a college degree have been hardest hit, especially in factory towns outside major US cities. Many of these workers have dropped out of the labor force. By contrast, highly educated and skilled workers, particularly in urban areas, earned a premium. Learn more about the effects of trade and investment in this guide, “What Is Globalization?” Governments have cut top tax rates. Tax policy is one of the most important factors in determining inequality levels in advanced economies. Taxes in the United States and many other rich countries have become less progressive in the past 50 years, meaning that tax obligations have declined for those with the highest incomes. The top earners used to pay much higher tax rates on their income than they do now. Less progressive taxation has accelerated the growth of top incomes. Figure 16: Average tax rate by pretax income group in the United States The average tax rate paid by the top 1 percent of US earners has steadily declined over many decades; since 2010, the highest-earning individuals have been paying an average tax rate roughly equal to or even less than other Americans. (Income levels of taxpayers do not account for government transfers). Figure 17: Top marginal income tax rate, 1900–2020 In the 1950s, the top US marginal income tax rate was above 90 percent, a legacy of the war-footing economy of World War II. It is now just below 40 percent. (In the United States, the top marginal tax rate is charged only on earnings above $510,000 for an individual). Other countries, like Japan and France, had similar declines. Figure 18: Change in top marginal tax rate vs. change in share of income held by top 1 percent since the 1970s As top marginal tax rates have declined in many richer countries, the share of income going to the top 1 percent of earners has grown. Countries like Germany, Spain, Denmark, and Switzerland cut top tax rates by little or not at all, and also experienced little to no increase in top income shares. Poor Americans are much less likely to attain higher education than rich Americans. In the United States, 90 percent of children with parents in the top 10 percent of the income distribution will likely attend college. For children with parents in the poorest 10 percent, less than a third will. American families are more burdened by college tuition costs than families in Europe, where higher education is more likely to be free or subsidized. US college tuition for four-year institutions has risen five-fold since 1985, adjusted for inflation, reaching $27,000 a year on average in 2017. US children today are less likely to exceed their parents’ standard of living because education levels are failing to grow at the rate required to meet the demand for a more educated workforce. Healthcare in the United States is not universal. The United States is the only wealthy nation without universal health coverage. Healthcare expenditures grew from 5 percent of GDP in 1960 to almost 18 percent in 2018. Americans spend more than double on healthcare per person than other wealthy countries on average, many of which have some form of publicly funded healthcare system, yet the country lags on many health outcomes such as life expectancy and infant mortality. In 2018, 8.5 percent of people, or 27.5 million, did not have health insurance at all (though the Affordable Care Act made some headway in reducing the number after 2010). Employers that provide health benefits to workers shoulder the costs of rapidly rising insurance premiums. The US federal minimum wage has fallen. The US federal minimum wage, currently $7.25 an hour, has dropped by almost 30 percent since the 1960s when adjusted for inflation. More than half of US states have set higher minimum wages but the rest have not. France’s minimum wage grew more than 80 percent between 1980 and 2016 when adjusted for inflation, to almost €10 or nearly $12 an hour. Unions are less powerful than they used to be. Union membership has long been declining across rich countries, especially in the United States. In the 1950s, approximately one-third of all US workers belonged to a union. In 2019, that figure was just 10 percent. Most European countries still have much higher shares of workers in unions than the United States. Some European countries (Germany, for example) also have employees on corporate advisory boards or board seats that can be reserved for trade unions, increasing their influence over wages and workplace regulations. Americans are moving less often while cities attract high-paying jobs. In the past three decades, the share of the US population making an interstate move fell by half, limiting the ability of families to pursue new job opportunities in response to declines in manufacturing jobs. It’s not clear why mobility fell, but rising housing prices in areas of opportunity may be a factor. In cities, wages for highly educated workers grew faster than for the less educated, widening the income gap between urban and nonurban areas. The economic fallout from the COVID-19 pandemic has disproportionately harmed already vulnerable groups. Low-income workers, minorities, and women are among those who have suffered the biggest economic losses. (See Section 5) Climate change hits the poorest the hardest. Extreme weather patterns attributed to climate change are widening inequality. Low-income groups tend to be more exposed to environmental threats, like flooding, hurricanes, and heat waves, and live in communities without effective disaster relief strategies. Additionally, certain policy responses to limit the climate crisis could disproportionally affect low-income workers. An example is the French government’s attempt to implement a fuel tax, which provoked street protests throughout the country.

### 2NC---Solvency

**No empirical or statistical evidence that antitrust decreases inequality**

Jonathan **Klick** **et al. 19**—University of Pennsylvania Law School, Erasmus School of Law; Elyse Dorsey, Adjunct Professor at Antonin Scalia Law School; Joshua D. Wright, Law professor at George Mason University, executive director of the Global Antitrust Institute, former member of the Federal Trade Commission; Jan Rybnicek, Freshfields Bruckhaus Deringer LLP. ("Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust," January 9, 2019, from George Mason Law & Economics Research Paper No. 18-29, Arizona State Law Journal, 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3249524)

On the whole, the relationship between the enforcement metrics and consumption is **comparable** for the households in both the **first and fifth income quintiles**. There is not much **empirical evidence** to substantiate the proposed correlation between antitrust enforcement activity and inequality. And certainly not evidence **significant enough** to justify the aggressive policy proposals recently injected into discussion of competition policy.

Stepping away from this aggregate analysis for a moment, it is interesting to note that the new(-old) focus on “big is bad” when it comes to inequality ignores an impressive literature on the effects of one of the biggest players in the US in recent decades – Walmart. Work by Jerry Hausman and Ephraim Leibtag shows that when Walmart Supercenters enter a market, food prices paid by consumers in the market drop by about 3 percent, and because they have detailed longitudinal data on household expenditures, they are able to estimate household welfare effects due to this price decrease. They find that the welfare effects are **substantial** and they are most pronounced for those at the lower end of the socio-economic spectrum.158 In addition to this price effect, David Matsa shows that Wal-Mart’s entry into a market induces competitor supermarkets to improve the quality of their service so as to avoid losing even more business to Wal-Mart and its lower prices.159 Thus, in the posterchild case for big is bad, the behemoth Wal-Mart would appear to improve inequality by its very existence.

Although we believe **consumption** is the most relevant measure for assessing the welfare effects (in absolute or, as here, in relative terms) of antitrust policy, we provide similar analyses of **income** and wealth. Using Census data,160 in Table 6, we again provide estimates from an AR(1) distributed lag model examining the effects of DOJ investigations, both merger specific and total, on the income shares received by those individuals in the first quintile and the fifth quintile, while also controlling for a background linear trend.

As with consumption measures, there is generally **no statistically significant effect** (individually or jointly) of current or past investigations (regardless of whether we focus on merger-specific or total investigations) on the **income** shares of those at the **bottom or the top** of the income distribution. Putting aside statistical significance, while past investigations are associated with increases in the income share received by those at the bottom of the distribution, current investigations have the **opposite effect**. Further, many of the investigation coefficients are **positive for the fifth quintile** income share as well. If we examine **combined ratios of the shares** as we did with the consumption data, we still find **no support** for the assumption that an increase in antitrust enforcement has **any systematic effect on inequality**.16

#### Lack of antitrust enforcement is not tied to inequality

Hsu 18 Shi-Ling Hsu, Florida State University College of Law. “Antitrust and Inequality: The Problem of Super-Firms.” *The Antitrust Bulletin* 2018, Vol. 63(1) 104-112 DOI: 10.1177/0003603X18756145 <https://myweb.fsu.edu/shsu/publications/63AntitustBull104.pdf> {DK}

It is thus unsurprising that inequality and antitrust law should be joined from time to time. Unrest in these areas has brewed for decades, received heightened attention after the global financial crisis of 2008, and exploded into politics recently as populist anger. Both contribute to a growing unease among the nonwealthy—say, those in the bottom 95% of income or wealth— that they are alienated from a richer and more powerful class, and that distant barons somehow control their lives and their fate. Prominent scholars, including Nobel laureates Joseph Stiglitz and Paul Krugman, and the late Sir Anthony Atkinson, longtime advocates of poverty relief, seem to be tapping into a century-old fear of monopoly,5 albeit sometimes casually. Why not? Monopoly or oligopoly rents transfer wealth from consumers to producers, which would seem to naturally lead to an increase in inequality.6 But the linkage between inequality and the rise of this new trend towards industrial concentration is not always so clear. For one thing, as Daniel Crane argues, heterogeneity among consumers and producers render it extremely difficult to determine whether on net, industrial concentration redistributes wealth from poor to rich.7 On the consumer side, the rise of these super-firms that seek to dominate markets for internet search, retail, social media, telecommunications, electronics, and seemingly everything important have, despite their ominously large market shares, incontrovertibly produced enormous consumers surplus. Even as Amazon has driven independent booksellers out of business, it is hard to ignore that the fact that a very, very wide swath of consumers have benefitted from low prices. Without a clean counterfactual of a world without Amazon, Google, Apple, Microsoft, Facebook, and other super-firms, it is difficult to separate out the contributions and the deadweight losses created by their dominance. For another thing, many of these super-firms arise in industries that still have low barriers to entry, and remain vulnerable to inchoate competition. After all, fears in the 1990s of a Microsoft monopoly have proven to be misplaced. In the two decades since the settlement of the U.S. Department of Justice’s antitrust action against Microsoft,8 other tech giants have emerged to challenge Microsoft, and some have already come and gone. In a 2014 speech, former Google CEO Eric Schmidt said, “someone, somewhere in a garage, is gunning for us. I know because not long ago we were in that garage.”9 Competition in retailing has become ferocious, as Amazon and Walmart started from different places and now find themselves competing in the grocery market.10 The logical goal of all of these firms is to become the singular provider of a wide range of goods and life services to billions of consumers worldwide. Tech giants, retailing giants, and even pharmaceutical giants such as CVS and Walgreens seem to be capturing ever-larger shares of a wider variety of goods and services, competing vigorously with each other in overlapping markets,11 and even branching out into the provision of simple medical services such as vaccinations.12 The kind of market power sought by all of these actors would be unprecedented, but competition and unremitting threats of new entrants still seem to render the threat of monopolization remote.13 Or, as Herbert Hovenkamp put it, claims that “low prices today [will be recouped by] monopoly profits later ... need to be more than an abstract proposition.”14 But while it is premature to lay blame on antitrust law for inequality, it is also imprudent to dismiss it. Antitrust law may, as currently practiced, contribute to inequality in a subtle but important way: by contributing to a shift in the capital-labor ratio of some of the most dominant firms. Antitrust law’s singular focus on efficiency15 has, unsurprisingly, helped bring about enormous gains in efficiency. What is less obvious is that it has done so in a way that has created an economy that is more capitalintensive, and less labor-intensive. This raises a thorny normative question about the desirability of a far more efficient economy with far fewer jobs. But if we start with the premise that inequality is too high and needs to be reduced, antitrust law should be part of the conversation.

**No inequality crisis and antitrust makes it worse---prefer studies on consumption instead of capital.**

**Wright** et al **19** [Joshua D. Wright is University Professor and the Executive Director of the Global Antitrust Institute at Scalia Law School at George Mason University. Professor Wright also holds a courtesy appointment in the Department of Economics. In 2013, the Senate unanimously confirmed Professor Wright as a member of the Federal Trade Commission (FTC), following his nomination by President Obama. He rejoined Scalia Law School as a full-time faculty member in Fall 2015. "Consumer Welfare & the Rule of Law: The Case Against the New Populist Antitrust Movement." https://regproject.org/paper/consumer-welfare-the-rule-of-law-the-case-against-the-new-populist-antitrust-movement/]

Another assertion **populist antitrust** supporters regularly make is that prices have increased and output has decreased. Again, the evidence here is **mixed at best**.

The movement’s proponents claim increased monopoly power economy-wide has led to increased prices for consumers. One study by De Loecker and **Eeckhout**, for instance, purports to demonstrate an increase in markups since 1980, which they argue indicates market power has increased over this period.68 This study utilizes Compustat-compiled input and output data for firms across the U.S. economy to calculate firm-level markups, examining measures of sales, input expenditure, capital stock information, industry activity classifications, and accounting data measuring profitability and stock market performance.

While this study purports to demonstrate an increase in markups and, therefore, an increase in market power, there are **several problems** with this methodology and reasoning. Fundamentally, industrial organization economics literature has clearly established that profit margins, alone, are **not reliable evidence** of market power.69 Additionally, it is clear that increased markups, alone, are not reliable evidence of price increases. To understand whether higher markups translated to higher prices, we would need to understand additional factors, such as whether marginal costs have changed.70 If, for example, marginal costs decreased, markups could increase even if prices remained the same; indeed, depending upon how much marginal costs decreased, margins could increase even while prices decreased. Moreover, a trend toward higher markups does not necessarily indicate firm profits are likewise trending higher, as De Loecker and Eeckhout acknowledge. As they explain, a technological change that reduces variable, but increases, fixed costs might result in increased markups but not **increased profits**.

In addition, higher markups might simply reflect a shift in the **composition** of **firms** within the economy. Today, high-tech (and other) firms with low marginal costs but substantial R&D costs comprise a more significant percentage of the economy than they have historically. Consider, for instance, a software company that spends a tremendous amount developing an innovative new software that consumers download on their personal devices. While the marginal cost of selling each new unit of software would be miniscule, the company—to stay in business—would need to charge a price that helped it recoup the costs incurred to create its innovative product. The more firms within the economy employing this business model, the more we would expect to see higher markups, and so the less we could assume, based upon the existence of higher markups, alone, that those markups derive from increased market power.

Aside from the **methodological issues** with these studies, there is the added complication that other work finds **conflicting results**. Robert E. **Hall**, for instance, finds “no evidence that mega-firm-intensive sectors have higher price/marginal cost markups.”71 Notably, while he finds no real evidence of increasing markups in less regulated sectors like Manufacturing or Transportation and Warehousing, he does find a fairly strong trend of increasing markups in heavily regulated sectors like Finance and Insurance, and Health Care and Social Assistance—which is consistent with something other than **concentration** driving increased markups.72

Others examining the effect of concentration upon prices likewise find results that conflict with the populist antitrust movement’s claims. James **Traina**, for example, analyzes this same question, attempting to correct for another flaw in De Loecker and **Eeckhout’s method**ology: namely, De Loecker and Eeckhout focus only on the “cost of goods sold” (COGS) facet of firms’ operating expenses, omitting the “selling, general, and administrative expenses” (SGA) facet. Traina argues that SGA is an increasingly significant share of variable costs for firms in the U.S. economy, and demonstrates that once SGA is incorporated into De Loecker and Eeckhout’s measure of cost, **markups actually remain flat** (or decline).73

Similarly, **Ganapati** examines data from 1972-2012, and finds concentration issues **do not lead to higher prices**, but in fact correspond with **increased output**.74 He concludes that the concentrated industries he analyzes are concentrated not due to anticompetitive behavior, but “likely due to technical **innovation** or **scale** economies.”75 His findings are consistent with other work that finds that the trends in concentration populists condemn may, in fact, be related to changes in economies of scale and to their corresponding productivity improvements.76

Other studies upon which populist antitrust proponents rely purport to identify higher prices using different metrics. One such regularly-cited study is John Kwoka’s meta-analysis of retrospective studies of mergers, joint ventures, and other horizontal arrangements.77 Here, Kowka compiles data covering more than 3,000 mergers and concludes the average price effect for the studied mergers is a 7.22% increase.78 His findings have, however, been called into serious question. Experienced economists in the FTC’s Bureau of Economics, Michael Vita and David Osinski, identify several objections to Kwoka’s methodology and, accordingly, his findings. They explain why various methodological failings—including not using standard meta-analytic techniques to compute average price effects and standard errors, not weighting observations by their estimated variances (meaning all price estimates are treated the same regardless of their certainty), and omitting standard errors from his report—undermine Kwoka’s fundamental findings regarding price effects.79

The evidence upon which populist antitrust supporters rely in asserting that prices have increased is, accordingly, **mixed at best**. The studies they cite often attempt to examine very important—but also difficult to measure—questions. The limits of these studies must be acknowledged in any serious debate regarding the state of antitrust enforcement today. While many of these studies offer good initial insights, they mostly identify areas for further research. And in **no case** do they clearly identify **systemic shortcomings** in **current antitrust enforcement** efforts.

In addition to questionable empirical premises, the argument that we must **abandon** the **consumer welfare** standard because prices are higher and output is lower under this standard is in serious **tension** with **remedies** the populist antitrust movement proposes. Each of the proposed remedies would, as described above, **diminish consumer welfare**. If, for instance, we adopted a public interest standard, prices and output might be one concern—but employment, democracy, the environment, and inequality might be competing concerns. And lower prices, higher output, and product improvements would not have the trump card in the analysis they do today. Similarly, if we decided to ban vertical mergers or prohibit any transactions over a certain size, we would be preventing at least some transactions that would lower prices and increase output. This would appear to be particularly likely in the case of banning vertical mergers, a move which empirical evidence indicates has anticompetitive outcomes—i.e., higher prices or lower output—result only rarely.80 And it would lead to the perverse result of antitrust law deliberately **fostering higher prices** or lower output, meaning consumers would be less able to purchase products or services they desire.

Accordingly, even if prices and output have, in fact, trended in directions harmful to consumers, the better question to be asking is whether this is because enforcement under the consumer welfare standard is not at the optimal level. The consumer welfare standard focuses on just such factors—along with innovation, quality, and other consumer concerns. If the goal is to lower prices and increase output, it is difficult to see what **better standard** could be adopted than one that makes these **consumer concerns** its sole focus.

C. Increasing Antitrust Enforcement Would Reduce Inequality

Populist antitrust supporters further note that **income inequality** in the United States has increased dramatically in recent decades, and proffer that lax antitrust enforcement is (to varying degrees) to blame.81 The general intuition here is fairly easily stated: lenient antitrust enforcement allows firms to obtain market power, which allows them to reduce output, raise prices, and generate monopoly profits—all of which enriches shareholders. Shareholders are, by and large, in the top percentage of wealth and income distribution, so these increasing returns increase the wealth of the wealthiest and, thus, inequality.82

Imbedded in this theory are a couple key assumptions, both of which can be empirically tested. First, that inequality is increasing. The evidence here suggests inequality is likely increasing, though the **magnitude** of this increase is probably **overstated**. Second, that increasing antitrust enforcement would reverse this trend. On the proffered causal link between antitrust enforcement and inequality, there is, so far, a **notable dearth** of empirical **support or development**.

First, consider the evidence on inequality trends. Populist claims regarding increasing inequality largely rely upon analysis of the Gini coefficient for US incomes over the last 50 years, which appears to show a steep increase in inequality. Examining the ratio of the share of US income among the 5th quintile of income-earning households to the share among the 1st quintile of households likewise seems to show increasing inequality.83

While these data points offer interesting insights, it is again important to understand their limitations. As Robert Kaestner and Darren Lubotsky emphasize, for example, failing to account for government transfers and employee benefits—that presumably substitute, in part, for cash income—can meaningfully affect these kinds of inequality measures.84 One important example they explore is that of healthcare benefits. As healthcare costs have rapidly increased in recent years, omitting a measure of health insurance benefits (provided by employers or by the government) could significantly affect ultimate inequality findings. Kaestner and Lubotsky, in fact, analyze inequality measures accounting for this omission, and find that including health insurance benefits substantially lessens the difference between high-end and low-end incomes.85 They find the ratio of income between households at the 90th percentile and the 10th percentile to be approximately 5 in 1995, 5.2 in 2004, and 5.6 in 2012.86 So while their findings support the notion that inequality is increasing, they also suggest that the trend is significantly smaller than reported.

Examining household consumption trends tells a similar story. Scholars have argued that consumption might be a superior measure of welfare, given a “closer link between **consumption** and **well-being**.”87 Consumption trends would also seem to be relevant when considering **antitrust enforcement** efforts, as they offer more information regarding economic effects than isolated income or wealth measurements. Examining household consumption over the last couple decades indicates that inequality is increasing but at a **muted rate**.

Accordingly, the evidence does seem to indicate inequality is increasing by some amount. Potentially **more-accurate** measures of income and welfare, however, suggest this trend is not as significant as populists claim. So, the first assumption in this particular populist theory appears to be valid, if often overstated. That leads us to the second—and for this discussion, the critical—assumption that antitrust enforcement is driving the apparent inequality trend.

Second, consider the **empirical evidence** supporting a **causal link** between antitrust enforcement and **inequality**. This proffered link remains, thus far, largely theoretical and **undeveloped** empirically. Populist papers advocating for increased antitrust as a salve for increasing inequality do not offer empirical support for their preferred course of treatment. But other authors have begun to explore empirically the proposed tie between antitrust enforcement and inequality. Wright et al., for instance, present time series regressions relating measures of inequality to antitrust enforcement measures.88 While the authors acknowledge the standard reasons that these analyses cannot isolate, with confidence, causation, their work provides a useful foray into the empirical basis for the notion that antitrust enforcement and inequality are causally linked. The authors examine data from DOJ investigations between 1984 and 2016, focusing first on merger investigations, given the populist emphasis on merger activity, and then broadly examine all DOJ investigations for a more general enforcement measure. Their results do not offer “**much empirical evidence** to substantiate the proposed correlation between antitrust **enforcement** activity and **inequality**.”89

Populist claims that increased antitrust enforcement is necessary to combat a severe trend of increasing inequality thus appear to be **overstated**. While inequality appears to be increasing, the rate is likely more modest than the populist movement implies. And there is, as of yet, **no empirical support** for the underlying proposition that increasing antitrust enforcement levels would slow, stop, or **reverse this trend.**

### 2NC---AT: Multilat !

#### Multilateralism fails---competition overwhelms cooperation.

Wright 21 (Thomas Wright, Director of the Center on the United States and Europe @ the Brookings Institution; and a co-author with Colin Kahl of *Aftershocks: Pandemic Politics and the End of the Old International Order*; “The Center Cannot Hold;” September/October 2021, Foreign Affairs, <https://www.foreignaffairs.com/articles/united-states/2021-08-24/center-cannot-hold#author-info>, TM) [edited for language, font made small for readability]

Two Trump administration officials who favored continued engagement with China told me that before COVID-19, Trump was something of a check on the containment faction. Once he saw the virus as a threat to his reelection chances, however, he became willing to endorse the containment faction’s preferred policies to counter China’s assertiveness. According to another senior official associated with the containment faction, the pandemic and China’s response to it helped unify the administration behind a more comprehensive strategy to push back against Beijing. Between March 2020 and the end of the year, the senior official said, the United States put in place more containment measures than it had in the previous three years, including restrictions on Chinese technology firms, sanctions on Chinese officials, looser regulations on diplomatic contacts with Taiwan, and recognition of the repression in Xinjiang as a genocide. In this sense, the pandemic was a pivotal moment in the U.S.-Chinese rivalry.

Competition between the two countries overwhelmed everything else, including U.S. cooperation with allies on the pandemic, leaving a global leadership vacuum that no one could fill. The foreign ministers of the G-7 countries were unable to agree on even a communiqué in March 2020, and the G-7 leaders’ summit in June was canceled and never rescheduled during Trump’s presidency. The EU tried to step up by increasing funding for the WHO and for COVAX, the global initiative to share vaccines, but it never came close to organizing a global response. China’s assertive foreign policy, and its attempts to use pandemic assistance to advance its interests, aggravated European leaders and convinced them to harden their positions toward China throughout the course of 2020.

During this period, there was hardly any international cooperation on vaccine development or distribution, no coordination on travel restrictions or the distribution of medical supplies, and limited cooperation on achieving a cessation of hostilities in conflict zones. The economic disruption caused by COVID-19 devastated low-income countries, which received little in the way of international assistance. Especially hard hit were countries, such as Bangladesh, that had made significant development gains in the last two decades and were propelling themselves into the lower tier of middle-income economies. The Bill & Melinda Gates Foundation found that in just 25 weeks, the pandemic reversed 25 years of progress on vaccination coverage, a key public health indicator. And according to the UN, the pandemic could force a total of 490 million people into poverty—defined as the loss of access to clean water, adequate food, or shelter—pushing the global poverty rate to around seven percent by 2030, compared with the pre-pandemic target of three percent.

CLIMATE WEDGE

Pandemics are not the only transnational threat that promises to intensify great-power rivalry and diminish the prospects for much-needed cooperation. Climate change could do the same. The global economic downturn caused by the pandemic occasioned a brief and modest reduction of emissions of carbon dioxide and other heat-trapping gases, but those emissions have already begun to increase again. According to the Intergovernmental Panel on Climate Change, the international body of experts that represents the scientific consensus on the climate, the world is on track to warm by around three degrees Celsius by the end of the century—a rate and magnitude of change that scientists warn could be cataclysmic. Absent drastic, cooperative action, the world will see more frequent droughts and wildfires; more intense hurricanes, storms, and flooding; more transmission of diseases from animals to humans; the inundation of many coastal areas and low-lying nations due to sea-level rise, leading to the displacement of hundreds of millions of people; and the devastation of ocean and terrestrial ecosystems.

Rather than unite the world around a common purpose, climate change is likely to deepen competition between major powers, especially as the transition away from fossil fuels creates economic winners and losers. Countries that aggressively decarbonize could place sanctions and other trade restrictions on countries that do not, leading to counterresponses and new trade wars. In a recent report for the European Council on Foreign Relations, Janka Oertel, Jennifer Tollmann, and Byford Tsang argue that the [challenges] ~~impediments~~ to cooperation between Europe and China on climate change “are becoming higher” and warn that “decision-makers must not underestimate the highly competitive aspects of how China is changing its energy production and consumption.”

The United States and Europe will both compete with China for access to raw materials and in developing the technology needed to make their economies carbon neutral: magnets, batteries, high-performance ceramics, and light-emitting diodes, among other things. In some of these areas, the United States and Europe are at risk of dependence on China, so they will want to make themselves more self-reliant as they develop clean technology.

Climate change could even drive a wedge through the transatlantic alliance if the United States elects another president who seeks to undermine efforts to reduce carbon emissions, as Trump did. And even if the U.S. government remains broadly aligned with Europe on climate policy, the Europeans could still become disaffected if Congress blocks meaningful climate action, such as commitments to cut carbon emissions or invest in clean technology. This, in turn, could diminish Europe’s willingness to help uphold the U.S.-led international order.

THE LIMITS OF COOPERATION

Some analysts, mainly on the right, care about the foreign aspects of transnational threats only to the extent that they can blame China for them, effectively wielding China’s malign influence on the WHO or its centrality to the problem of climate change as a cudgel in the geopolitical rivalry. They do not even try to provide an affirmative agenda for international cooperation on these threats—all but guaranteeing that they will exact a heavy human toll and heighten geopolitical tensions. The disease that causes the next pandemic could be just as contagious as COVID-19 but much more lethal and impervious to vaccines. Climate change is only getting worse.

Other analysts, mainly on the left, argue that the United States should set aside its contest with China or at least attempt to ease tensions in order to cooperate on shared challenges. It is unclear what exactly they intend. If, on the one hand, they mean softening U.S. rhetoric without conceding much of substance to China, they would do well to look to Europe, where governments were much more inclined than the Trump administration to cooperate with China, but China did not take them up on the offer. To the contrary, China became much more assertive and confrontational in its approach to Europe. If, on the other hand, they mean unilaterally making major geopolitical concessions to China—on its territorial acquisitions in the South China Sea, for instance, or the status of Taiwan—the United States would not only pay an extremely high price but also likely embolden Beijing further without actually securing cooperation on pandemics or climate change beyond what Beijing has already offered. Deliberately undercutting U.S. interests on matters unrelated to transnational threats is not a sound strategy.

There is no getting around strategic competition with Beijing: it is deeply embedded in the international order, mainly because China seeks to expand its sphere of influence in Asia at the expense of the United States and its allies, which are in turn committed to thwarting Beijing’s plans. The United States and China are also engaged in what Jake Sullivan, Biden’s national security adviser, recently called “a competition of models.” China is seeking to make the world safe for the CCP and to demonstrate the effectiveness of its system. This entails pushing back against what it sees as pressure from liberal democratic countries that could thwart its objectives. For its part, the United States worries about the negative externalities of Chinese authoritarianism, such as censorship of international criticism of Beijing or the export of its tools of repression to other countries. The United States also worries about what would happen to the military balance of power if China secured an enduring advantage in key technologies. Even in diplomacy, friction will be endemic to the U.S.-Chinese relationship and will affect the broader international order for the foreseeable future. Outright confrontation can be avoided—but competition cannot.

This competition places real limits on cooperation. Take the arena of global public health: many studies on how to improve pandemic preparedness call on world leaders to dramatically strengthen the WHO, including by giving it the same power to enforce international health regulations as the International Atomic Energy Agency enjoys with nuclear nonproliferation rules. This recommendation is not new. Several reviews of the WHO’s performance during previous health emergencies, including the West African Ebola epidemic of 2014–16, have recommended sanctions in the event of noncompliance with international health regulations by member states, but the member states have not granted that power to the WHO.

The problem is getting every government to agree to a universally applicable mechanism for sanctions or some other enforcement mechanism. China will not agree to any reform that would involve intrusive inspections of its scientific research facilities. And even if Beijing were to agree to vague language that could be interpreted as allowing these actions, the lesson of the COVID-19 pandemic is that it will not live up to its word when a crisis occurs.

**Insurrection thumps global coop**

**Bhadrakumar 21** [M.K. Bhadrakumar, former diplomat, currently a freelance journalist 1-9-2021 https://www.newsclick.in/whither-american-democracy]

It will take **decades** before American officials can talk to foreign countries about the importance of elections and peaceful transfer of power without the horror of Wednesday’s event being thrown back at their face. Without doubt, **America has been fundamentally weakened**

MARKED

**on the international stage.**

It has become a **hopeless** task to try to restore US **deterrence** and **prestige**. Rival powers will **see new vulnerability** in the United States. Even the US’ firmest **allies** in Europe are wondering why they should place trust in the transatlantic alliance with NATO at its centre when American politics has become so febrile.

The general perception is that President Trump incited the “insurrection”, to borrow the expression used by president-elect Joe Biden. Chancellor Angela Merkel of Germany and Prime Minister Boris Johnson of Britain on Thursday also placed the blame squarely on Trump. In a fit of anger and despair, Democrats are demanding “dismissal” of Trump from the presidency.

Meanwhile, a glaring anomaly that caught the attention is the apparent **ineptness of security agencies** to prevent the mayhem in the Capitol building. The very fact that the security forces could not prevent such an event taking place in the citadel of US democracy bears testimony to **a dysfunctional system.**

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### OV

#### AND, expectations of that dynamic alone makes nuclear war inevitable in the short term

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

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

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

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

#### Glasgow success is independently key to check global spread of nuclear waste and radiation, and antibiotic-resistant pathogens

Castronuovo 21 (Celine Castronuovo, breaking news reporter at The Hill, former Editor-in-Chief of MediaFile, BA Journalism and Mass Communication, International Affairs, George Washington University, “Warming Arctic could spread nuclear waste, unknown viruses: report,” The Hill, 10-1-2021, <https://thehill.com/policy/equilibrium-sustainability/574904-warming-arctic-could-spread-nuclear-waste-unknown-viruses?amp>)

As temperatures continue to rise in the Arctic, thawing frozen land that scientists have already said contributes to greenhouse gas emissions could also spread nuclear waste and radiation, as well as unknown viruses and antibiotic-resistant bacteria, according to new research released Thursday.

A report published in the scientific journal Nature Climate Change noted that the permanently frozen land, called permafrost, thawing in the Arctic at increasing rates due to global warming could potentially release radioactive waste from Cold War-era weapons production and damage from mining.

The study's researchers noted that between 1955 to 1990, the Soviet Union conducted a total of 130 nuclear weapons tests in the atmosphere and near the ocean's surface off the coast of northwest Russia.

While the Russian government said it has since launched a cleanup of the area, the authors of Thursday's study found that high levels of radioactive substances have recently been detected in the area.

Additionally, the authors said that deep permafrost in the Arctic, which is roughly a million years old, contains bacteria that, because frozen, has not been exposed to modern antibiotics on Earth.

The report noted that the potential thawing of the permafrost could melt into oceans and eventually create antibiotic-resistant strains of existing bacteria.

One of the report's authors, Arwyn Edwards from Wales' Aberystwyth University, told the BBC that while much of the Arctic still remains unknown, changes in the region's "climate and ecology will influence every part of the planet as it feeds carbon back to the atmosphere and raises sea levels."

"This review identifies how other risks can arise from the warming Arctic," he said. "It has long been a deep-freezer for a range of harmful things, not just greenhouse gases."

"We need to understand more about the fate of these harmful microbes and pollutants and nuclear materials to properly understand the threats they may pose," he argued.

Edwards called on world leaders to take "demonstrable action" at next month's 2021 United Nations Climate Change Conference in Glasgow, noting that a starting point could be investing in more research on the potential impacts of thawing permafrost.

The report comes after a German study released in August found that a heatwave in 2020 revealed a source of methane emissions "potentially in much higher amounts" from rock formations thawing in the Arctic permafrost that could be "much more dangerous" than previously thought.

#### Radiation accumulation makes extinction inevitable

Nadesan 14 (Majia H. Nadesan, Associate Dean and Professor of Communication in the School of Social and Behavioral Sciences, New College of Interdisciplinary Arts and Sciences, Arizona State University, former assistant professor, Syracuse University, Ph.D. communication studies, Purdue University, B.S., M.S. San Diego State University, “3 years since Fukushima: nuclear power 'road to our extinction' – expert,” Voice of Russia News, 3-10-2014, http://voiceofrussia.com/2014\_03\_10/3-years-since-Fukushima-nuclear-power-road-to-our-extinction-expert-3829/)

Three years after the Fukushima catastrophe, Japan’s stricken power plant is still struggling to contain radioactive water leaks that are making the area uninhabitable, while TEPCO’s effort to clean up what remains of the crippled nuclear site has turned into a disaster of its own. The Voice of Russia spoke with Majia H. Nadesan, Associate Dean of the New College at Arizona State University and the author of a blog on Fukushima, who believes humanity might have already “forged its extinction” with nuclear technology and is now just waiting for it to unfold. Three years ago, a disastrous tsunami and earthquake killed nearly 20,000 people and settled the nuclear crisis in Japan. Did the region manage to recover from the catastrophe and what are the current results of its recovery? The situation at the Daiichi site remains unstable. Contaminated water production is continuing as ground water and the water injected for cooling encounter uncontained nuclear fuel. And TEPCO has admitted that ground water is indeed encountering uncontained nuclear fuel, and some of that water is ending up in the ocean, some of that water is saturating the site and some of that water is being captured and stored in tanks, and those tanks are emitting radiation, including X-rays and Beta-radiation. There are about a thousand tanks that hold approximately 350,000 tons of highly contaminated water and the IAEA is recommending that some of that water, the less contaminated among it, be put into the ocean. So what we are having is a situation of catastrophic contamination that is ongoing for the Pacific ocean and increased water saturation at the site, simultaneously atmosphere contamination is continuing through emissions and also through the reactions of the contaminated water in the tanks. So we have a situation of great instability and ongoing significant levels of contamination. What are the other consequences of Fukushima disaster? What have been done to struggle against them? Is it possible that the region will be safe to live in again? The thing is that people in Japan are living in contaminated land. For example, The Asahi Shimbun described one resident who is living near 500 tons of stored radioactive waste measuring at least 8,000 becquerels per kilogram of cesium and that is the only radionulcide that they provided the measurements for, there could be uranium and plutonium, other nuclear waste stored there as well. So people are living amidst contaminated waste; reservoirs in Japan are contaminated. There was an article also in The Asahi Shimbun, that indicated that the highest level of contamination measured in one of the contaminated reservoirs was 390,000 becquerels per kilogram of soil at the bottom of the reservoir, so people are potentially going to be drinking contaminated water. People are living in areas that measure up to twenty millisieverts a year and there is even temporary living that is available in more contaminated areas. And people who are living in areas of twenty millisieverts a year or less are responsible for clean-up, and the clean-up plan doesn't address hot spots or recontamination and it doesn't help people dispose of the radioactive waste. People are living in highly contaminated areas with children. There have been some surveys that looked at what the consequences are for children: diabetes rates have increased, thyroid nodules have increased, thyroid cancer has increased. And there was one recent survey that was published in The Mainichi that one in four children in the disaster hit areas need mental care for problematic behavior and that was interesting because the problematic behavior included things such as dizziness and nausea and symptoms that might be caused by psychological problems but also could be symptomatic of radiation exposure. So the consequences of this disaster is that people who are living in highly contaminated areas and the region are not going to be safe again for generations because the amount of radiation contamination is increasing daily. So it is going to be land of dispossessed people. What prospects does the region have in its future development? Is there any risk that Fukushima disaster can repeat? The thing that so tragic is that radiation damage accumulates across time for a variety of reasons. First, because animals and plants and people all bioaccumulate radionuclides. And so across time people and animals and vegetation will become more contaminated rather than less contaminated. And the effects of radiation don't just affect one generation, they affect multiple generations. There is quite a bit of research, done in the Chernobyl region, for example, by Anders Møller and Timothy Mousseau, who found that the increased background radiation from Chernobyl has significant effects on immunology, mutation and disease frequency across animal species and in fact they found decline in population and long-term mutation accumulations. Over time, each generation inherits the mutations of their parents and acquires their own. And then children have even more germline cell mutation and micro delusions in DNA than their parents. Micro-deletions in DNA are increasingly linked to diseases such as autism and congenital heart disease. So we can assume that over the long-term the health of the people in the zones and the animals in the zones – their health also is going to decrease as bioaccumulation, bio-magnification and trans-generational mutations increase. And it is a human tragedy what is occurring there. It can happen anywhere in the world because of a solar flare that knocks out a transformer, an earthquake, for example, that might affect Diablo Canyon in California which is sitting on a fault, terrorism - all of these forces could create another Fukushima any place in the world. Nuclear power is going to be the road to our extinction. We don't know what the trans-generational effects are going to be, but we know they are going to be detrimental. And as humans acquire more of them, their ability to successfully reproduce is going to decline. So we might already have forged our extinction and we are just waiting for it to unfold. We need to make changes very quickly to find ways of dealing successfully with storing nuclear waste. And we've just discovered in New Mexico of the US, there is a site near Carlsbad, they've just had a salt cave-in collapse and there is nuclear waste which is now venting into the atmosphere, even though it is being filtered, it is still coming out. That is not a successful solution. So we have to find solutions that work for nuclear waste and we need to find alternative energy that will allow us to sustain civilization in the future.

#### So does ABR

Srivatsa 17 (Kadiyali M. Srivatsa, doctor, inventor, and publisher, worked in acute and intensive pediatric care in British hospitals, “Superbug Pandemics and How to Prevent Them,” American Interest, 1-12-2017, https://www.the-american-interest.com/2017/01/12/superbug-pandemics-and-how-to-prevent-them/)

It is by now no secret that the human species is locked in a race of its own making with “superbugs.” Indeed, if popular science fiction is a measure of awareness, the theme has pervaded English-language literature from Michael Crichton’s 1969 Andromeda Strain all the way to Emily St. John Mandel’s 2014 Station Eleven and beyond. By a combination of massive inadvertence and what can only be called stupidity, we must now invent new and effective antibiotics faster than deadly bacteria evolve—and regrettably, they are rapidly doing so with our help. I do not exclude the possibility that bad actors might deliberately engineer deadly superbugs.1 But even if that does not happen, humanity faces an existential threat largely of its own making in the absence of malign intentions.

As threats go, this one is entirely predictable. The concept of a “black swan,” Nassim Nicholas Taleb’s term for low-probability but high-impact events, has become widely known in recent years. Taleb did not invent the concept; he only gave it a catchy name to help mainly business executives who know little of statistics or probability. Many have embraced the “black swan” label the way children embrace holiday gifts, which are often bobbles of little value, except to them. But the threat of inadvertent pandemics is not a “black swan” because its probability is not low. If one likes catchy labels, it better fits the term “gray rhino,” which, explains Michele Wucker, is a high-probability, high-impact event that people manage to ignore anyway for a raft of social-psychological reasons.2 A pandemic is a quintessential gray rhino, for it is no longer a matter of if but of when it will challenge us—and of how prepared we are to deal with it when it happens.

We have certainly been warned. The curse we have created was understood as a possibility from the very outset, when seventy years ago Sir Alexander Fleming, the discoverer of penicillin, predicted antibiotic resistance. When interviewed for a 2015 article, “The Most Predictable Disaster in the History of the Human Race, ” Bill Gates pointed out that one of the costliest disasters of the 20th century, worse even than World War I, was the Spanish Flu pandemic of 1918-19. As the author of the article, Ezra Klein, put it: “No one can say we weren’t warned. And warned. And warned. A pandemic disease is the most predictable catastrophe in the history of the human race, if only because it has happened to the human race so many, many times before.”3

Even with effective new medicines, if we can devise them, we must contain outbreaks of bacterial disease fast, lest they get out of control. In other words, we have a social-organizational challenge before us as well as a strictly medical one. That means getting sufficient amounts of medicine into the right hands and in the right places, but it also means educating people and enabling them to communicate with each other to prevent any outbreak from spreading widely.

### T/C

#### 1. Turns and solves China tech race / leadership

Anderson 2-22-2021, Chairman & CEO of CG/LA Infrastructure, a firm focused on global infrastructure project development, driving productivity across countries, and maximizing the benefits of infrastructure for people in the U.S. and around the world (Norman, “The Biden Infrastructure Plan - 5 Actions To Jolt Us Awake, Now,” *Forbes*, <https://www.forbes.com/sites/normananderson/2021/02/22/the-biden-infrastructure-plan5-actions-to-jolt-us-awake-now/?sh=1d72f17b2ebd>)//BB

The Focus Needs to be on Creating Project Results. Producing immediate results is necessary for our political system - how does this work, when the average highway project takes 9.5 years to move through the approval process, and 4.5 years after that for results - say cars, or autonomous trucks, zipping down the freeway? Lucky for us we are not starting from scratch - we have an enormous pent-up backlog of projects that can start showing results… this year.

By results I don’t just mean creating new and well-paying jobs, or saving the thousands of struggling professional service firms that are in danger of turning off their computers, rather what I mean is addressing the Administration’s priorities in the way that infrastructure professionals think about investment (yes, these people exist - and they are as smart as economists!):

* Brownfield projects - you can revitalize Army Corps reservoirs, or put 5G on interstate highways, or authorize the Gateway tunnel, or make rural broadband really fast, right now, tomorrow,
* Greenfield projects - infrastructure is a ‘thinking short, thinking long’ business, so while you are speeding up investment in ultra high voltage transmission lines, you can also get moving on the Brent Spence Bridge, and by the end of 2024 you can get butts in seats on the Dallas/Houston high speed rail project, and the Great Lakes Basin highway project, and
* New Infrastructure - this is the low-hanging fruit, and the battlefield between China and the U.S. for global influence, period. Largely private, and almost wholly environmentally friendly, this is where our economy has tremendous strengths that we are not seeing. It’s also the battlefield - AI, Machine Learning, 5G, Autonomy, High Voltage Transmission, along with high speed rail - that is critical to the achievement of every single goal that our country can set for the future.

Every infrastructure person - and every citizen - across the country can tell you the five projects that they’d like to see happen. The map above is a 500 project stimulus map that my firm, CG/LA infrastructure, created by polling people around the country. Why not engage citizens now, and show results this year, picking up steam in 2022 and in 2023? Infrastructure is 5G/AI and Electrification, and it Needs a Budget. The infrastructure of the future is going to be as different as cellular is from fixed line telephony, and that future is coming at us extremely fast… The 2020’s will be a decade of disruption - the greatest period of disruption in 100 years or more. We can either continue our course, and try and weather the storm, or we can make the kind of strategic investments that will allow us to lead - with enormous environmental and equity benefits, coupled with the kind of productivity increases that come from rapid innovation. There couldn’t be a bigger difference between the way that China is going about new infrastructure creation, with their top down, devil may care about the individual approach, and our celebration of the individual. The problem - in democracies around the world - is that we are absent, and so China is winning. Leaders Set Goals, Achieve Goals - and Create Trust. Who is in charge of infrastructure? Without an infrastructure office it is hard to tell, and this is a fatal flaw problem. The presidency needs to to bring everyone together to discuss what world we want to create, what our infrastructure vision going forward will look like. This needs to happen fast - and then we need to set goals that we all agree to: projects completed, time to project approvals, life expectancy, reduction of traffic congestion, reduction in carbon by sector, even increases in infrastructure equity. I am a business guy - everything is opportunity. Then we (all of us) need to row hard in the same direction, and achieve those goals. Action This Day. If we can get this right, the results for all of us will be extraordinary - domestic growth, environmental leadership and an injection of strength into the global democratic model. Unimaginable things can quickly be envisioned, and developed, including the return of manufacturing (advanced and distributed manufacturing) to our newly digitized and electrified heartland. Infrastructure can bring us together, but it is a very heavy lift - as in war, the first thing a president things about in the morning, and the last thing he thinks about before going to bed at night.

#### 2. Inequality – the disad solves inequality not the other way around – climate is a massive alt cause

#### Case doesn’t turn the disad – weaker internal link to climate cooperation and only the disad sets the framework for aff solvency

### Group 2AC 1 and 2 – UQ debate

#### Progressives are locked in, despite the failed House vote – only question is whether Manchin and Sinema publicly commit

Sargent 10-29 (Greg Sargent, columnist covering national politics at The Washington Post, former political analyst at Talking Points Memo, New York Magazine and the New York Observer, BA English, Hunter College, “Opinion: Inside Biden’s surprising confidence that he’s on the cusp of a big victory,” The Washington Post, 10-29-2021, <https://www.washingtonpost.com/opinions/2021/10/29/biden-framework-reconciliation-pathway/>) [modified for language]

Looked at in one way, the failure of the House to pass the bipartisan infrastructure bill on Thursday was a major setback for President Biden. It means he heads into the international climate conference without being able to say the United States took a big leap toward delivering on its climate agenda, which could complicate his ability to lead.

That is obviously something we’d hoped to avoid. And let’s be clear: It’s still very uncertain whether Biden’s agenda will ultimately succeed or implode.

But the White House seems strangely, eerily confident about what’s happening right now. If you read between the lines of the doomscrolling coverage, what emerges is this: Improbably, Biden and his advisers seem to think the latest events have placed them on the brink of securing his agenda.

This is despite the fact that this week, in some ways, things went badly awry. When Biden introduced his framework for the Build Back Better reconciliation bill Thursday, Sens. Joe Manchin III (D-W.Va.) and Kyrsten Sinema (D-Ariz.) conspicuously failed to endorse it. That raised questions about whether the White House seriously miscalculated.

Then, when House Speaker Nancy Pelosi (D-Calif.) tried to hold a vote on the bipartisan infrastructure bill that already passed the Senate — to deliver Biden a victory before going abroad — progressives refused to support it, fearing Manchin and Sinema would ultimately renege on the reconciliation bill. Then everyone left to regroup, raising more questions about who’s running the show.

That looks like a big legislative mess and a spectacular failure at managing the Democratic coalition, right? Well, the White House sees it differently. Punchbowl News explains why:

Administration officials argue that no one will care in the end that the infrastructure bill got pushed back again. They say they are closer than ever to passing two transformative pieces of legislation. That’s mostly true.

That’s mostly true, and it’s pretty important!

Let’s also note that something big happened because of the release of this framework. It made it official that major progressive priorities — such as paid leave, the billionaires’ tax, the Medicare expansion to dental and vision — will be jettisoned. Yet the Congressional Progressive Caucus overwhelmingly and strongly endorsed it, anyway.

That locks in the left’s willingness to accept those concessions while enthusiastically backing the package. As Politico Playbook correctly noted, Rep. Pramila Jayapal (D-Wash.) provided the key quote revealing this: “We wanted a $3.5 trillion package, but we understand the reality of the situation.”

And don’t overlook this: Putting out the framework was the hook for numerous progressive and environmental groups to put out statements hailing its transformative potential, which further shores up the left flank behind it.

The trouble here is that highly visible speed bumps and glitches — like Manchin and Sinema not yet endorsing the framework — get magnified in day-to-day coverage into the latest sign of doom. That’s because everyone is training microscopes on every detail to divine where things are going.

Indeed, when various factions and players make such feints to increase leverage or realize some other goal — such as not wanting to appear jammed to preserve the aura of independence — it might magnify the impression of messiness and chaos. But as Jonathan Bernstein points out, this is how the legislative process works: Legislating inherently involves reconciling a lot of complicated moving parts. That’s messy and chaotic.

Which is why, from the White House perspective, the fact that the progressive caucus and a range of liberal groups are rallying behind the package shows that we’re seeing big general movement in the right direction. The left is one of those big moving parts — and it moved pretty dramatically.

“Every corner of the Democratic Party is coalescing around a vision that would be transformative and overwhelmingly popular right now,” one White House official tells me. “And it’s within reach.”

In fact, all that movement should focus our attention on the fact that there’s really one big missing piece left: getting Manchin and Sinema publicly on board behind the framework.

To be clear, that is a very big missing piece. We still don’t know whether Sinema supports some of its various revenue raisers, such as the surtax on income over $10 million. We don’t know whether Manchin will support things like the expanded child tax credit in its current form. The Senate is currently debating text and may allow changes to such things.

But regardless, here’s how all this would now have to unfold. Sinema and Manchin would have to indicate their support for the framework in a persuasive enough public way to get progressives in the House to pass the two bills. After that, the Senate could pass the reconciliation one.

Another way this might work out is via private talks among Manchin and Sinema on one hand, and House progressives on the other. If a solid enough understanding is reached, that could allow the House to pass both bills, and Senate action might follow.

All this might still collapse. Manchin and Sinema might pull the plug on the reconciliation framework. Or progressives might insist that the Senate go first on the reconciliation bill, and Manchin and Sinema might balk at that. Or lingering disagreements among House Democrats over things like prescription drug pricing and state and local tax deductions could upend matters.

But the key point here is that the final missing piece is within view: Getting Manchin and Sinema to yes on a concrete framework that the rest of the party has endorsed. We were not at this point 24 hours ago.

So if you squint, you can see a path to success. And it’s not [unthinkable] ~~crazy~~ for the White House to think that in the end, this just might all work out.

#### They’ve privately committed – prefer insiders – BUT PC’s key to public – which is key to passage in the House

Mascaro 10-29 (Lisa Mascaro, and Farnoush Amiri, Associated Press, “Big, messy, complicated: Biden's plan churns in Congress,” Star Tribune, 10-29-2021, https://www.startribune.com/big-messy-complicated-bidens-plan-churns-in-congress/600111020/?refresh=true)

It's big. It's messy. And it's very politically complicated. That's President Joe Biden's sweeping domestic policy package as Democratic leaders in Congress try to muscle it into law.

Fallout was brutal Friday after Biden's announcement of a $1.75 trillion framework, chiseled back from an initial $3.5 trillion plan, still failed to produce ironclad support from two key holdout senators — West Virginia's Joe Manchin and Arizonan Kyrsten Sinema. On Capitol Hill, Congress adjourned the night before with fingers pointed, tempers hot and so much at stake for the president and his party.

Yet a formal nod of endorsement of Biden's plan from the party's Congressional Progressive Caucus late Thursday moved the president one step closer to the support needed for passage in the House. Determined to wrap it up, the House will try next week to pass Biden's big bill, along with a companion $1 trillion bipartisan infrastructure package.

"It's only 90% done," said Rep. Joyce Beatty, D-Ohio, the chair of the Congressional Black Caucus. "So you got to get through the complicated — the last 10%, as you know, is always the most difficult."

The fast-moving — then slow-crawling — state-of-play in Congress puts the president and his party at significant political risk.

Biden's slipping approval rating and the party's own hold on Congress are at stake with the 2022 midterm election campaigns soon underway. Democrats are struggling in governor's races next week in Virginia and New Jersey, where safe victories might have been expected.

"It's sort of stunning to me that we're in this place," exasperated Stephanie Murphy, D-Fla., told reporters late Thursday as the House adjourned.

Biden arrived that morning on Capitol Hill triumphant in announcing a historic framework on the bill that he claimed would get 50 votes in the Senate. But the two Democratic Senate holdouts Manchin and Sinema responded — maybe, maybe not.

Manchin and Sinema's reluctance to fully embrace Biden's plan set off a domino series of events that sent Biden to overseas summits empty handed and left the party portrayed as in disarray.

House Speaker Nancy Pelosi was forced to abandon plans to pass the related measure, the $1 trillion bipartisan infrastructure plan, that has become tangled in the deliberations. Progressives have been refusing to vote for that public works package of roads, bridges and broadband, withholding their support as leverage for assurances that Manchin and Sinema are on board with Biden's big bill.

"Everyone is very clear that the biggest problem we have here is Manchin and Sinema," Rep. Ruben Gallego of Arizona told reporters. "We don't trust them. We need to hear from them that they're actually in agreement with the president's framework."

Still, step by step, Pelosi and Senate Majority Leader Chuck Schumer are edging their caucuses closer to resolving their differences over what would be the most ambitious federal investments in social services in generations and some $555 billion in climate change strategies.

"We will vote both bills through," said Rep. Pramila Jayapal, D-Wash., the chairwoman of the progressive caucus, after endorsing Biden's plan.

Lawmakers are expected to spend the weekend negotiating final details on text that's swelling beyond 1,600 pages. Some are trying to restore a paid family leave program or lower prescription drug costs that fell out of Biden's framework.

Manchin and Sinema, the two holdouts, now hold enormous power, essentially deciding whether Biden will be able to deliver on the Democrats' major campaign promises.

Both have privately indicated that they are on board, according to Democratic Sen. Chris Coons of Delaware, a Biden ally.

"I have new optimism," tweeted Sen. Brian Schatz, D-Hawaii, who was part of a small entourage that met privately with Sinema at the Capitol.

"Same," responded Rep. Joe Neguse, D-Colo., who served as a bridge between progressives and the Arizona senator.

But it won't be easy, if past congressional battles are any measure. Legislating is work that takes time and rarely happens on schedule.

#### Just have to avoid getting mired down in extraneous fights that trigger cold feet by hurting Biden’s negotiating cred

Romm 10-28 (Tony Romm, Sean Sullivan and Tyler Pager, The Washington Post, “Biden unveils revised spending plan, expecting Democrats to back it,” Denton Record-Chronicle, 10-28-2021, https://dentonrc.com/ap/national/biden-unveils-revised-spending-plan-expecting-democrats-to-back-it/article\_fb98f916-b6f9-5200-894c-487587a128ce.html)

President Joe Biden on Thursday unveiled a new $1.75 trillion package to overhaul the country’s health care, education, climate and tax laws, muscling through a slew of policy disagreements and internecine political feuds that had stalled his economic agenda for months.

The announcement marked a critical moment in Biden’s tenure, prompting the president to pay a visit to Capitol Hill and call on Democrats to adopt the spending along with a second, roughly $1.2 trillion package to improve the country’s roads, bridges, pipes, ports and Internet connections.

“We spent hours and hours and hours over months and months working on this,” Biden said in televised remarks. “No one got everything they wanted, including me, but that’s what compromise is. That’s consensus, and that’s what I ran on.”

Biden’s moves reflected a pivotal decision to assume ownership of the sweeping safety-net proposal in a new way. He is investing enormous political capital in the new plan, following days of intensive, secretive meetings with key lawmakers, and ratcheting up his warnings that gun-shy Democrats risk damaging him and the party if they do not get on board.

“I don’t think it’s hyperbole to say that the [Democratic] House and Senate majorities — and my presidency — will be determined by what happens in the next week,” he told House Democrats in a closed-door meeting, according to one person in the room, who spoke on the condition of anonymity because of the sensitivity of the discussions.

The president added that he expected the framework to gain the Democrats’ support, emphasizing the framework had 50 votes in the Senate and telling reporters, “Everyone’s on board,” as he arrived on Capitol Hill.

The call to action appeared to galvanize some Democrats, and the $1.75 trillion framework soon generated praise — crucially from the party’s moderate and liberal ranks. Even former president Barack Obama, who has largely stayed out of the day-to-day political battles, put out a statement in support of the framework, calling it a “giant leap forward.” One of the longtime holdouts, Sen. Kyrsten Sinema, D-Ariz., quickly offered positive comments about the deal, but without committing to vote for it.

“After months of productive, good-faith negotiations with President Biden and the White House, we have made significant progress on the proposed budget reconciliation package,” Sinema said in a statement. “I look forward to getting this done, expanding economic opportunities and helping everyday families get ahead.”

Sen. Joe Manchin III, D-W.Va., the other centrist holdout, similarly offered little comment, saying only, “In the hands of the House” when asked about the new framework in the Capitol on Thursday.

The proposal did contain some longtime Democratic priorities, including universal prekindergarten, new sums to combat climate change and additional taxes on the ultrawealthy. But it jettisoned other items, including a plan to provide paid leave to millions of Americans. The president made the cuts to satisfy Sinema and Manchin, who were concerned about overspending, though some liberal Democrats later said they had not given up fighting for those items.

With a potential end to the logjam in sight, the framework prompted House Speaker Nancy Pelosi, D-Calif., to move toward holding a vote on the companion infrastructure bill as soon as Thursday. That plan had been held up by House liberals who insisted on seeing an acceptable version of the safety-net plan first.

Pelosi cited the president’s planned travel to two global summits this week as a reason for swift action, suggesting that Biden’s credibility on the world stage would be undermined if his legislative agenda was mired down.

But forcing a vote on the infrastructure bill appeared politically risky. Liberal-leaning lawmakers reaffirmed an earlier threat that they would not vote for it unless they were satisfied with the safety-net bill, and in a closely divided Congress, their votes are pivotal.

### 2AC 3 – watered down

#### NOT responsive to our scenario – despite jettisoning the CEPP, it’ll contain sufficient climate spending for success at Glasgow

Linskey et al 10-20 (Annie Linskey, White House reporter at The Washington Post, formerly reported for the Boston Globe's Washington bureau, Bloomberg News and BusinessWeek, and the Baltimore Sun, graduate of Wellesley College; Sean Sullivan, covers the White House at The Washington Post, on-air contributor to CBSN, graduate of Hamilton College; and Matt Viser, national political reporter at The Washington Post, former deputy chief of the Washington Bureau for the Boston Globe, winner of the White House Correspondents' Association's Merriman Smith Award, graduate of the University of North Carolina at Chapel Hill; “Biden abruptly accelerates his involvement in agenda talks,” The Washington Post, 10-20-2021, <https://www.washingtonpost.com/politics/biden-agenda-democrats-spending/2021/10/20/cf88f12c-31b5-11ec-9241-aad8e48f01ff_story.html>)

For weeks, President Biden has met repeatedly with Democratic lawmakers as part of the tortuous negotiations over his agenda — but to the frustration of many, he has revealed few opinions of his own on what should remain in the plan and what should be jettisoned.

This week, however, Biden is doing something new: getting specific and plunging into details, telling lawmakers exactly what he thinks needs to go into the package that could define his presidency.

In private meetings with members of Congress this week, Biden outlined particular trade-offs, explaining for example that he wants universal prekindergarten care rather than free community college tuition, citing research that shows money spent on younger children has more impact.

He has floated the idea of giving seniors a debit card loaded with $800 to spend on dental benefits as part of an expansion of Medicare. He has revealed that he’s feeling pressure from his wife, Jill, who teaches at a local community college, to push for higher-education spending, joking that otherwise he would have to find somewhere else to sleep.

And Biden has stressed — several times — that lawmakers must help him show that democracies can tackle major problems, imploring them not to send him empty-handed to a pair of upcoming summit meetings.

“He was laying out what he wants,” said Rep. Debbie Dingell (D-Mich.), who met with Biden this week. “It was clear what he wanted — and it hasn’t been until now.”

Biden’s stepped-up involvement comes as a rapid succession of deadlines loom, including the expiration of federal highway funds Oct. 31, the president’s appearance at a climate summit in Scotland on Nov. 1, and a Virginia governor’s election that’s become a referendum on the Democratic agenda Nov. 2.

One White House official said that Biden has long been invested in the plan’s particulars but that different meetings with lawmakers have had different dynamics. The official, like several aides and lawmakers interviewed for this story, spoke on the condition of anonymity to be more candid.

However those working closely with Biden or familiar with his meetings say that the president is now more clearly setting guidelines for what should stay in his social-safety-net bill and what will have to go as it gets whittled down from $3.5 trillion to $1.9 trillion or less. These guidelines do not carry an ideological cast, the people said, but rather seem aimed at shaping a deal that can pass.

Biden, who often boasts of his knowledge of congressional workings from his 36 years in the Senate, appears to be gambling that his months of listening have given him the credibility to start imposing his will more.

In some recent meetings, Biden has acknowledged that the Clean Electricity Performance Plan, an ambitious but controversial part of his climate change agenda, probably will not be in the final bill. He noted that the child tax credit, which has nearly halved child poverty this year, will probably be extended only for one year.

During a meeting with lawmakers Tuesday, the president spoke at length, but he also went around the room to let lawmakers talk about the most important issues to them, two people with knowledge of the discussion said. “He knows the particulars inside and out, and he clearly is trying to be in closing mode for the deal,” said Rep. Mark Pocan (D-Wis.), who was at the meeting.

Pocan said that over the course of three meetings with Biden, including one via Zoom, he has seen what he termed a “progression.”

“It seems like a lot of this is starting to jell — like he’s got in his mind, at least, where this could be going,” Pocan said. “And very clearly yesterday, from all the conversations he had with all the different entities, he has a pretty good idea, I think, where he thinks it can go.”

After months when little progress was evident, top Democrats are now suggesting a breakthrough could be imminent. “I think we’ll get a deal,” Biden said as he prepared to board Air Force One for a trip to Scranton, Pa.

On Capitol Hill, Senate Majority Leader Charles E. Schumer (D-N.Y.) and House Speaker Nancy Pelosi (D-Calif.) are pushing to hammer out a framework this week.

Pelosi told her top lieutenants at a meeting Tuesday that she was aiming to finalize the outline of the package by Thursday night, people with knowledge of the conversation said. The speaker has also said she wants to hold House votes on the package by Oct. 31, or a week from Sunday.

Biden has been most vocal about the upcoming climate summit, where he will face more than 100 heads of state and wants to signal that the United States is leading the globe again on climate. He has frequently framed the international order as a competition between democracies and autocracies, and wants to show that a country such as the United States can tackle a complex problem like climate change.

“The president was very authentic and passionate in appealing to our patriotism,” said Rep. Ro Khanna (D-Calif.), who met with Biden this week. “He needs an agreement before going to Glasgow to lead on climate and to show that American democracy is capable of delivering.”

Khanna recounted a dramatic scene from the gathering. “He looked people in the eye and said the prestige of the United States is on the line,” Khanna told CNN.

The Glasgow summit represents a key moment in the world’s effort to combat climate change, a top Biden priority, as countries are expected to make ambitious commitments to reduce greenhouse gases.

Biden has committed to cutting U.S. emissions to 50 to 52 percent below 2005 levels by 2030. The aim far surpasses goals set by previous presidents, and climate experts say it is achievable — if most of Biden’s climate agenda passes.

On the other hand, if Biden cannot persuade Congress to pass much of his program, his credibility on the world stage would suffer, they say. “The world has grown skeptical of U.S. climate commitments, given our rather schizophrenic history,” said Paul Bledsoe, who served on the White House Climate Change Task Force under President Bill Clinton. “Other governments and industries overseas are very sophisticated — they understand the U.S. system, and they understand that legislation is more lasting than regulation.”

#### CEPP’s NOT key – they’ll get to the same number with the same funding another way – BUT even if they don’t, everything else still meets Biden’s NDC for Glasgow

Liptak et al 10-21 (Kevin Liptak, reporter covering the White House at CNN, graduate of the College of William and Mary; and Jeremy Diamond, White House correspondent at CNN, graduate of The George Washington University; “Biden sees American credibility on the line as he races to lock down climate action ahead of Glasgow,” CNN, 10-21-2021, https://www.cnn.com/2021/10/21/politics/climate-change-agenda-biden-administration-glasgow/index.html)

White House officials have been scrambling behind the scenes in recent days to devise an alternative to the Clean Energy Performance Program, which Manchin opposes and had comprised a central component of Biden's plan to cut emissions. The rush to arrive at new ideas has been driven in large part by the Scotland summit, officials said, as Biden and other members of his team seek to avoid arriving empty handed.

Progressive lawmakers pursuing several alternatives to fill the gap, looking for new ways to spend the $150 billion intended for the CEPP and ensuring that new climate-fighting tools in the bill still meet Biden's target of slashing emissions to 50-52% below 2005 levels by the end of the decade.

"The key is we need to hit the same number with different tools, and that's what's guiding the negotiations from my point of view right now," Democratic Sen. Martin Heinrich of New Mexico, who sits on the Manchin-chaired Senate Energy and Natural Resources Committee, told CNN.

Among the options being discussed are carbon trading programs and a carbon tax, which Biden himself did not propose but is now under consideration among senators.

An independent analysis from the Rhodium group released Tuesday found that even if the clean electricity program is stripped out of the final budget bill Biden could still meet his climate goals. Rhodium analyzed emissions reductions from several measures in the bills, including clean energy and electric vehicle tax credits, energy efficiency grant programs and funding for agricultural programs that sequester carbon, but left out the clean electricity program and a carbon or methane fee, given its uncertain legislative survival.

#### Prefer climate experts

Davenport 10-21 (Coral Davenport, covers energy and environmental policy, for The New York Times's Washington bureau, formerly reported for Congressional Quarterly, Politico and National Journal, BA English, Smith College, “Biden’s Climate Plan Stymied by 1 Senator,” New York Times, published 10-20-2021, updated 10-21-2021, https://www.nytimes.com/2021/10/20/climate/climate-plan-newsletter.html)

Joe Manchin is a crucial vote and is firmly against a clean electricity program that is the muscle behind the president’s plan to battle climate change.

The most powerful part of President Biden’s climate agenda — a program to rapidly replace the nation’s coal- and gas-fired power plants with wind, solar and nuclear energy — has been dropped from the budget bill pending in Congress, after Senator Joe Manchin III, the Democrat from coal-rich West Virginia, told the White House that he strongly opposes the program.

Mr. Manchin’s vote is crucial to passage of the broader budget bill, which Democrats are trying to push through with razor-thin majorities in both chambers of Congress.

As a result of his demands, White House and Congressional staffers are now rewriting the legislation without that climate provision, and are trying to cobble together a mix of other policies that could also cut emissions.

But the move comes less than two weeks before President Biden leaves for a major climate change conference in Glasgow, where he is supposed to demonstrate to other world leaders exactly what the world’s largest economy is doing to cut its greenhouse pollution — and to meet his own ambitious target of cutting emissions 50 percent from 2005 levels by 2025.

Without the clean electricity program, it will be extremely difficult to meet that goal — although, say experts, not entirely impossible. In Glasgow, Mr. Biden is expected to point to the climate provisions that still remain in the package, including roughly $300 billion in tax credits for clean energy programs. And he is expected to promise that he will use his executive authority to enact tough new federal regulations on emissions from cars, coal plants and leaks from oil and gas wells of methane, a powerful planet-warming pollutant. But those policies come with risks, too: they could be struck down by a conservative Supreme Court, or rolled back by a future Republican president.

Mr. Manchin has expressed concern that the clean electricity program could harm the economy of West Virginia, but has said little about the economic toll being felt from inaction on climate change. Greenhouse gas emissions from the burning of fossil fuels are warming the air, allowing it to hold more moisture, which causes more frequent and intense rainfall.

### 2AC 4 – Delay

#### Votes in the next few days

Duehren 10-29 (Andrew Duehren, covers Congress and U.S. politics from The Wall Street Journal's Washington bureau, “Democrats Tackle Final Details of Biden’s $1.85 Trillion Framework,” Wall Street Journal, 10-29-2021, https://www.wsj.com/articles/democrats-tackle-final-details-of-bidens-1-85-trillion-framework-11635536447)

Democrats turned to finalizing the details of President Biden’s $1.85 trillion social-spending and climate framework, with some lawmakers pushing to add measures lowering prescription drug prices and repealing a cap on the state and local tax deduction.

The White House released the framework on Thursday in a bid to quickly resolve the push-and-pull between the party’s progressive and centrist members, hoping to show progress on Mr. Biden’s agenda as he headed overseas for a major climate conference.

House Speaker Nancy Pelosi (D., Calif.) used the framework to push for an immediate vote on a parallel, roughly $1 trillion infrastructure bill that progressives have held up for months to ensure movement on the social-spending and climate legislation. Progressives endorsed the framework Thursday, but continued to block the infrastructure vote, saying they needed more time to review the proposal and translate it into legislative text.

Rep. Pramila Jayapal (D., Wash.), the chairwoman of the Congressional Progressive Caucus, said she thought House Democrats could move forward with a vote on both pieces of legislation next week.

“We got to the best possible place we could get to, and now we’re ready to pass both bills through the House,” she told CNN Friday, saying votes could come within days.

Ms. Jayapal said that progressives support the legislation as it is laid out in the framework, which calls for funding for universal prekindergarten, child-care subsidies and a series of tax credits incentivizing reduced carbon emissions, among other measures. Democrats dropped several progressive priorities, including a national paid-leave program, during the talks.

“I think we’ve made a lot of progress in a short amount of time,” said Rep. Colin Allred (D., Texas) on MSNBC Friday. “The main things have been ironed out. And now we just have to have the confidence in each other basically to take the votes.”

#### It’ll be quick

Wehrman 10-28 (Jessica Wehrman, Washington correspondent, covers transportation and infrastructure for Roll Call, BS journalism, Ohio University, “House punts on infrastructure, passes highway bill extension,” 10-28-2021, https://www.rollcall.com/2021/10/28/house-punts-on-infrastructure-passes-highway-bill-extension/)

Both the House and Senate Thursday moved to extend the 2015 surface transportation law through Dec. 3 after House Democrats fell short in securing enough progressive votes to pass a bipartisan infrastructure bill that represents a cornerstone of President Joe Biden’s domestic agenda.

Progressives have tied their support for that bipartisan bill, which would reauthorize federal highway programs for five years, to a larger package of Biden’s domestic priorities, including child care and climate change. The extension would allow the government to sustain highway and transit programs through Dec. 3.

Even before the House voted 358-59 to extend the authorizing law, the Senate agreed by unanimous consent to deem the measure passed, once it gets to the Senate, if it’s identical to a Senate version.

Though Biden met with the caucus Thursday to announce a smaller framework and urge them to pass it, progressives remained unconvinced that Senate Democratic holdouts Joe Manchin III of West Virginia and Kyrsten Sinema of Arizona would endorse the bill. Though Sinema sent out a statement supportive of the framework, she did not explicitly say she would vote for it. Manchin, too, was noncommittal, though late Thursday he tweeted praise for the framework.

Facing an Oct. 31 deadline to reauthorize the current highway law, leadership Thursday evening abruptly opted for a short-term extension when they realized they did not have the votes for the bipartisan bill.

“If we vote for the BIF [bipartisan infrastructure framework], I think that’s it,” said Rep. Juan C. Vargas, D-Calif., a member of the Congressional Progressive Caucus. “I think we lose the other bill. I don’t trust what the senators are going to do.”

“Hell no to the BIF,” said Rep. Rashida Tlaib, D-Mich., a fellow progressive.

That resistance didn’t abate even after the House Rules Committee met to debate the text of the larger measure, with some progressives saying they were skeptical that Manchin and Sinema would actually back the plan.

“Basically, it’s trust of Manchin and Sinema,” said Rep. Steve Cohen, D-Tenn., summing up progressive concerns after the CPC met Thursday morning.

A source familiar with negotiations said the House will return next week to continue negotiations on both packages.

The delay frustrated moderate Democrats, who said they were anxious to demonstrate results after months of negotiations. "The fact is, is that we still got to come back next week, and we got to face the infrastructure package and work on the framework," said Rep. Jim Costa, D-Calif. "But it wasn't a good day."

House Democratic leadership had felt urgency to pass the bipartisan infrastructure bill, which the Senate passed Aug. 10, in order to give Biden a win before his appearance this weekend at a meeting of the Group of 20 industrial and emerging nations; they’re also concerned about a tight Nov. 2 gubernatorial race in Virginia, where Democrat Terry McAuliffe faces an aggressive challenge from Republican Glenn Youngkin.

“We cannot send our president across the water to lead the world without showing leadership ourselves,” said Rep. Hank Johnson, D-Ga., a progressive who said early Thursday that he would vote for the bipartisan infrastructure bill if it were put to a vote.

Urgent deadline

But it was the Oct. 31 deadline that caused the most urgency.

“Let’s do it in a timely fashion,” urged Speaker Nancy Pelosi at her weekly press conference, hours before abandoning plans to put the bipartisan bill up for a vote. “Let’s just not keep having postponements and leaving any doubt as to when this will happen.”

This will be the third time the surface transportation law has been extended; it was first extended for a year in September 2020 and extended again Oct. 2.

Before the House voted to extend the law Thursday, the CPC sent out a statement saying it “overwhelmingly” supported the framework of the larger bill, but still wanted to see legislative text before backing the infrastructure bill.

“I think it’s going to be quick,” said CPC Chair Pramila Jayapal, D-Wash., on CNN, adding they wanted to send Biden to the G-20 with an endorsement of the framework. “Let us get through it…I really think it’s going to be quick here for us to pass both these bills through the House.”

### 2AC 5 - AT: Thumper – T/L

#### NO thumpers – they’re all explicitly priced in to our uniqueness ev, he’s got enough now, AND won’t spend PC on anything else – only plan’s fiat disrupts his careful prioritization

Lemire et al 10-18 (Jonathan Lemire and Zeke Miller, Associated Press, “President Biden faces critical next 2 weeks for agenda,” NBC Wesh 2, 10-18-2021, wesh.com/article/biden-faces-critical-weeks-for-agenda/37984609)

President Joe Biden is entering a crucial two weeks for his ambitious agenda, racing to conclude contentious congressional negotiations ahead of both domestic deadlines and a chance to showcase his administration’s accomplishments on a global stage.

Biden and his fellow Democrats are struggling to bridge intraparty divides by month’s end to pass a bipartisan infrastructure bill and a larger social services package. The president hopes to nail down both before Air Force One lifts off for Europe on Oct. 28 for a pair of world leader summits, including the most ambitious climate change meeting in years.

But that goal has been jeopardized by fractures among Democrats, imperiling the fate of promised sweeping new efforts to grapple with climate change. There's also rising anxiety within the party about a bellwether gubernatorial contest in Virginia and looming Senate fights over the federal debt limit and government funding that could distract from getting the president’s agenda across the finish line.

Biden is trying to stabilize his presidency after a difficult stretch marked by the tumultuous end of the Afghanistan war, a diplomatic spat with a longtime ally and a surge in COVID-19 cases that rattled the nation’s economic recovery and sent his poll numbers tumbling.

His team has continued its strategy — one that served it well during the campaign and earlier this year — of blocking out the outside noise to stay focused on a singular mission, this time to pass the two-part package that will give Democrats a platform on which to run in next year’s midterm elections.

“These bills, in my view, are literally about competitiveness versus complacency, about opportunity versus decay, and about leading the world or continuing to let the world move by us,” Biden said Friday while pushing the legislation in Connecticut.

Yet beneath the White House’s pleas for patience — reminding people that hard things take time — is a bubbling sense of urgency that a deal needs to be struck rapidly.

For the White House, there are the explicit target dates, including an end-of-month deadline on transportation funding and Biden’s upcoming foreign trip. But there are also more abstract imperatives: proving Democrats can deliver on their promises to voters and protecting Biden’s waning political capital.

With new urgency, the administration has sent signals to Capitol Hill in recent days that it is time to wrap up negotiations, that a deal needs to be reached, according to two White House officials who spoke on condition of anonymity because they were not authorized to publicly discuss private conversations. Biden himself has expressed impatience and will be increasing his own personal outreach this week to push lawmakers to find a compromise and bring the bills to a vote, the officials said.

West Wing officials are still optimistic that an agreement will ultimately be struck, but there are also fears that the messy, drawn-out negotiation has clouded the tangible benefits of what Biden aims to deliver to voters.

Biden sought to address some of that when he traveled to Hartford, Connecticut, last week to showcase initiatives to sharply reduce the cost of early childhood care — perhaps one of the only pieces of the legislation that is a lock to make the final package.

### AT: PC Not Key

#### Every drop of PC is key

Everett et al 21 (John Burgess Everett, co-congressional bureau chief for POLITICO, specializing in the Senate, BA journalism, University of Maryland College Park; and Laura Barrón-López, White House Correspondent for POLITICO, formerly covered Democrats for the Washington Examiner, Congress for HuffPost, and energy and environment policy for The Hill, BA political science, California State University, Fullerton; “Dems call in big gun as they face huge Hill tests,” POLITICO, 9-16-2021, https://www.politico.com/news/2021/09/16/biden-influence-capitol-democrats-511952)

The next few months will push President Joe Biden to wield every drop of his influence over Congress.

Democrats are plunging into messy internal debates over social programs from child care to drug pricing as they try to beat back GOP resistance on voting rights while steering the United States away from economic catastrophe. And in order to avert a government shutdown, avoid a debt default and fight ballot access restrictions passed in some GOP states, Democratic lawmakers are urging Biden to get more directly involved.

Senate Majority Whip Dick Durbin said that Biden, “more than anyone,” maintains sway over his caucus’s 50 members: “There is no comparable political force to a president, and specifically Joe Biden at this moment.”

Biden appears to be answering the call. The president is getting increasingly involved in Congress’ chaotic fall session as he battles sagging approval ratings, heightened concerns around the pandemic and some internal criticism over his withdrawal from Afghanistan.

Rebounding as the midterms draw nearer will depend on whether his big social spending ambitions are realized and if his party can dodge a government shutdown and credit default. But even if he has success on those fronts, he still needs to maintain momentum on Democrats’ elections legislation, which Republicans look certain to torpedo.

“I have full faith and confidence in Joe Biden in all of this,” said House Majority Whip Jim Clyburn, who's pressed Biden to endorse a filibuster carve out for voting rights legislation. “He is working this … and that’s how it should be.”

Biden met with two key Democratic holdouts on his domestic spending agenda on Wednesday, part of a sustained push to keep Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) on board with his legislative program. Biden’s met with Sinema four times this year, in addition to telephone calls made between the two, and has spoken to Manchin a similar number of times.

“Now is the time” for Biden to jump full-force into the reconciliation conversation, said Sen. Tim Kaine (D-Va.). And the White House made clear that Biden is diving into the series of tricky issues.

Andrew Bates, a spokesperson for Biden, said that Biden and his administration "are in frequent touch with Congress about each key priority: protecting the sacred right to vote, ensuring our economy delivers for the middle class and not just those at the top, and preventing needless damage to the recovery from the second-worst economic downturn in American history.”

To help corral all 50 Senate Democrats for the social spending bill, the president and his party need to create an “echo chamber” around its substance, said Celinda Lake, a pollster on Biden’s campaign. But that won't be easy. Manchin has told colleagues he’s worried about whether the bill’s safety net, climate action and tax reforms will be popular in his state, according to one Senate Democrat. He's also said he won't support a measure at the current spending level: $3.5 trillion.

If Biden can hammer home the popular aspects of the spending plan, it may help assuage Manchin and improve his whip count in Congress. Underscoring the degree to which he's become the face of the multi-trillion dollar reconciliation bill, a Democratic aide said the party is increasingly seeking to frame it as Biden’s agenda, not that of Sen. Bernie Sanders (I-Vt.) or any single Democrat.

“People think they like the reconciliation package, but they really don't know what's in it,” said Lake, who added that her polling shows popularity for the measure, particularly among women and seniors.

The coming months will also challenge Biden’s relationship with Republicans, who are threatening to block a debt limit hike after many of them supported a suspension or increase three times under former President Donald Trump. Biden campaigned as a Democrat who could work with Republicans, and he succeeded this summer by rounding up 19 Senate GOP votes for a $550 billion infrastructure bill.

Yet he’s running into a brick wall in convincing Senate Minority Leader Mitch McConnell to provide at least 10 GOP votes to lift the nation's borrowing limit. Republicans say Biden’s dip in the polls isn’t driving their strategy on the debt ceiling. But it’s not helping either.

“I don’t think anything in the last month has increased the likelihood that he can now create an atmosphere of: Let’s work together,” said Sen. Roy Blunt (R-Mo.), who voted for the infrastructure bill and debt ceiling increases under Trump.

The White House is, so far, sticking by its plan to try and call McConnell’s bluff. Aides in the West Wing consider attaching a debt ceiling suspension or increase to a government funding measure the best way to pressure Republicans on the routine step required by law. Should that approach fail, they may be forced to separate the two fiscal measures to avert a shutdown.

On the debt limit, congressional Democrats are in lockstep with the administration's strategy. But they're looking for Biden to exhibit more of his arm-twisting and back-slapping skills on their social spending plan and their bid to shore up voting rights protections.

Biden “knows better than anyone the power of the United States [presidency] in persuading and sometimes cajoling the key members of Congress, when push comes to shove,” said Sen. Richard Blumenthal (D-Conn.).

### And he uses it

#### Biden’s in the home stretch and pushing specifics now – focused on what he needs for Glasgow, AND will likely get it – despite NOT getting the CEPP

Linskey et al 10-20 (Annie Linskey, White House reporter at The Washington Post, formerly reported for the Boston Globe's Washington bureau, Bloomberg News and BusinessWeek, and the Baltimore Sun, graduate of Wellesley College; Sean Sullivan, covers the White House at The Washington Post, on-air contributor to CBSN, graduate of Hamilton College; and Matt Viser, national political reporter at The Washington Post, former deputy chief of the Washington Bureau for the Boston Globe, winner of the White House Correspondents' Association's Merriman Smith Award, graduate of the University of North Carolina at Chapel Hill; “Biden abruptly accelerates his involvement in agenda talks,” The Washington Post, 10-20-2021, <https://www.washingtonpost.com/politics/biden-agenda-democrats-spending/2021/10/20/cf88f12c-31b5-11ec-9241-aad8e48f01ff_story.html>)

For weeks, President Biden has met repeatedly with Democratic lawmakers as part of the tortuous negotiations over his agenda — but to the frustration of many, he has revealed few opinions of his own on what should remain in the plan and what should be jettisoned.

This week, however, Biden is doing something new: getting specific and plunging into details, telling lawmakers exactly what he thinks needs to go into the package that could define his presidency.

In private meetings with members of Congress this week, Biden outlined particular trade-offs, explaining for example that he wants universal prekindergarten care rather than free community college tuition, citing research that shows money spent on younger children has more impact.

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And Biden has stressed — several times — that lawmakers must help him show that democracies can tackle major problems, imploring them not to send him empty-handed to a pair of upcoming summit meetings.

“He was laying out what he wants,” said Rep. Debbie Dingell (D-Mich.), who met with Biden this week. “It was clear what he wanted — and it hasn’t been until now.”

Biden’s stepped-up involvement comes as a rapid succession of deadlines loom, including the expiration of federal highway funds Oct. 31, the president’s appearance at a climate summit in Scotland on Nov. 1, and a Virginia governor’s election that’s become a referendum on the Democratic agenda Nov. 2.

One White House official said that Biden has long been invested in the plan’s particulars but that different meetings with lawmakers have had different dynamics. The official, like several aides and lawmakers interviewed for this story, spoke on the condition of anonymity to be more candid.

However those working closely with Biden or familiar with his meetings say that the president is now more clearly setting guidelines for what should stay in his social-safety-net bill and what will have to go as it gets whittled down from $3.5 trillion to $1.9 trillion or less. These guidelines do not carry an ideological cast, the people said, but rather seem aimed at shaping a deal that can pass.

Biden, who often boasts of his knowledge of congressional workings from his 36 years in the Senate, appears to be gambling that his months of listening have given him the credibility to start imposing his will more.

In some recent meetings, Biden has acknowledged that the Clean Electricity Performance Plan, an ambitious but controversial part of his climate change agenda, probably will not be in the final bill. He noted that the child tax credit, which has nearly halved child poverty this year, will probably be extended only for one year.

During a meeting with lawmakers Tuesday, the president spoke at length, but he also went around the room to let lawmakers talk about the most important issues to them, two people with knowledge of the discussion said. “He knows the particulars inside and out, and he clearly is trying to be in closing mode for the deal,” said Rep. Mark Pocan (D-Wis.), who was at the meeting.

Pocan said that over the course of three meetings with Biden, including one via Zoom, he has seen what he termed a “progression.”

“It seems like a lot of this is starting to jell — like he’s got in his mind, at least, where this could be going,” Pocan said. “And very clearly yesterday, from all the conversations he had with all the different entities, he has a pretty good idea, I think, where he thinks it can go.”

After months when little progress was evident, top Democrats are now suggesting a breakthrough could be imminent. “I think we’ll get a deal,” Biden said as he prepared to board Air Force One for a trip to Scranton, Pa.

On Capitol Hill, Senate Majority Leader Charles E. Schumer (D-N.Y.) and House Speaker Nancy Pelosi (D-Calif.) are pushing to hammer out a framework this week.

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Biden has been most vocal about the upcoming climate summit, where he will face more than 100 heads of state and wants to signal that the United States is leading the globe again on climate. He has frequently framed the international order as a competition between democracies and autocracies, and wants to show that a country such as the United States can tackle a complex problem like climate change.

“The president was very authentic and passionate in appealing to our patriotism,” said Rep. Ro Khanna (D-Calif.), who met with Biden this week. “He needs an agreement before going to Glasgow to lead on climate and to show that American democracy is capable of delivering.”

Khanna recounted a dramatic scene from the gathering. “He looked people in the eye and said the prestige of the United States is on the line,” Khanna told CNN.

The Glasgow summit represents a key moment in the world’s effort to combat climate change, a top Biden priority, as countries are expected to make ambitious commitments to reduce greenhouse gases.

Biden has committed to cutting U.S. emissions to 50 to 52 percent below 2005 levels by 2030. The aim far surpasses goals set by previous presidents, and climate experts say it is achievable — if most of Biden’s climate agenda passes.

On the other hand, if Biden cannot persuade Congress to pass much of his program, his credibility on the world stage would suffer, they say. “The world has grown skeptical of U.S. climate commitments, given our rather schizophrenic history,” said Paul Bledsoe, who served on the White House Climate Change Task Force under President Bill Clinton. “Other governments and industries overseas are very sophisticated — they understand the U.S. system, and they understand that legislation is more lasting than regulation.”

#### Legislation’s key – XOs and other regulations do NOT solve because other countries assume the next president will reverse them

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#### AND, only spending can meet climate-vulnerable nations’ demands for financing that are the lynchpin to getting to 1.5-degrees – that’s Aberg

#### Legislative failure is fatal – perceived abroad as equivalent to pulling out of Paris again

Liptak et al 10-21 (Kevin Liptak, reporter covering the White House at CNN, graduate of the College of William and Mary; and Jeremy Diamond, White House correspondent at CNN, graduate of The George Washington University; “Biden sees American credibility on the line as he races to lock down climate action ahead of Glasgow,” CNN, 10-21-2021, https://www.cnn.com/2021/10/21/politics/climate-change-agenda-biden-administration-glasgow/index.html)

Still, one of the appeals of using the spending packages to tackle climate change is the difficulty in overturning laws, unlike executive actions or agency rules. People familiar with Biden administration thinking said the durability of new laws, opposed to rules, had been a priority as the President looks to restore American credibility on the issue.

Yet getting those laws passed has proven difficult, even with Democrats in control of the White House, Senate and House -- an alignment Biden, Democrats and climate activists all know could end after next year's midterm elections.

Administration officials are increasingly optimistic about the prospects of reaching an agreement on the reconciliation package before Biden leaves for the G20 and Glasgow summits next week, but it's clear officials are prepared to ramp up executive actions to fill the gap if necessary.

"We take executive action on a very regular basis," a senior official said when asked if more executive and regulatory action is on the table should legislation not come together ahead of the President's trip. "From day one, the way we've articulated our climate strategy is to leave no emissions reductions on the table. When we see opportunity, we chase after it."

Worries about a Scottish disappointment

Biden administration officials have been looking ahead toward the Glasgow climate talks for months, framing the summit as a critical moment to galvanize the world's attention toward the crisis. Biden has discussed plans for the gathering with its host, British Prime Minister Boris Johnson, and held his own virtual climate summit early in his presidency meant to propel other nations toward new carbon reduction goals.

Yet in recent weeks, concerns the summit could fall short of expectations have seeped into public view. Johnson himself said in an interview with Bloomberg the talks would be "extremely tough." Even Queen Elizabeth II, who is expected to attend part of the summit alongside other senior members of the royal family, was overheard voicing irritation at leaders who "talk" but "don't do" anything to combat climate change -- remarks interpreted as frustration at the potential for the Scotland summit falling short of expectations.

John Kerry, who -- as Biden's global climate envoy -- spent the past months traveling the planet in search of climate commitments, acknowledged last week the Glasgow conference could end without meeting its target levels for emissions cuts.

"By the time Glasgow's over, we're going to know who is doing their fair share and who isn't," he told the Associated Press in an interview. He was similarly bearish on the prospect of Biden arriving to the talks having not secured agreement on his climate proposals, comparing a failure to secure legislation to "President Trump pulling out of the Paris agreement, again."

"I'm not going to pretend it's the best way to send the best message," Kerry said.

Kerry's efforts run up against a mixed US record on climate change, one that fluctuates based on the which party is in power -- as it did when Trump took office and rolled back a slew of environmental regulations enacted by his predecessor.

### Link

#### Plan get shutdown by Big Tech---they can lobby, manipulate political messaging, and threaten to leave the U.S.

Bone 20 (Jeff Bone, Assistant Professor of Legal Studies, Haub School of Business, Saint Joseph's University; “Antitrust Reform: Implications of Prospective Threats by Digital Platforms to Relocate Abroad;” 11-19-20, Belmont Law Review, Vol. 8, <https://ssrn.com/abstract=3574303>, TM)

To curb the excessive power of the major digital platforms such as Facebook, Amazon, Apple, and Google, some commentators have called for a series of legislative reforms in the U.S. These reforms include changes to antitrust policy as well as the establishment of a specialized antitrust court.7

Perhaps the most ambitious proposal is a call for a sectoral regulator to govern the conduct of digital platforms. The scope of this regulator would be comprehensive and include issues outside of an antitrust purview, such as privacy, media, data-use restrictions, and consumer protection.8 Such proposed reforms are likely to be met with resistance by the major digital platforms. What is less clear is the reactions and responses of politicians; in particular, the responses of those in Congress who have the power to enact these reforms into law. In order to become law, these regulations must go through Congress, which is a politically charged environment that is subject to pressure from the very companies who stand to lose their market power if subject to increased antitrust oversight.9 It has been suggested that some corporations such as Facebook, Apple, Amazon, and Google, are uniquely set apart from other multinational enterprises in that they are multifaceted, political agents capable of preventing further government oversight.10 These advantages are varied in nature. First, these companies are well financed and positioned in order to lobby politicians and regulators.11 Second, in some cases these corporations’ role as media outlets allows them to claim First Amendment protections which can potentially hinder certain regulatory changes.12 For instance, these digital platforms increasingly control the means through which politicians reach their constituents.13 Third, their connectivity allows them to directly engage users in challenging political initiatives that disadvantage them.14 Fourth, their growing importance as leading exporters allows them to raise “national champion” arguments asserting that the corporations interests should be protected and unhindered by U.S. regulation.15

Part I of this paper outlines the various regulatory concerns that are posed by the market dominance of the major digital platforms. These concerns include antitrust issues, as well as other salient challenges presented by digital platforms. These challenges include the protection of customer privacy, pervasive control over the distribution of media, and as a corollary, the ability to effectively coordinate political messaging and outlets. It is argued that if Congress proceeds to introduce fresh legislation to deal with these concerns, then it is possible that companies such as Facebook, Amazon, Apple, and Google will threaten an expatriation of some or all of their U.S. business operations. In the face of these threats, it is likely that Congress will cede to the demands of these companies.

#### They are literally too powerful---Congress will never get anything through.

Bone 20 (Jeff Bone, Assistant Professor of Legal Studies, Haub School of Business, Saint Joseph's University; “Antitrust Reform: Implications of Prospective Threats by Digital Platforms to Relocate Abroad;” 11-19-20, Belmont Law Review, Vol. 8, <https://ssrn.com/abstract=3574303>, TM) [modified for readability]

In contrast to the Consumer Welfare model of antitrust policy, the findings of this paper support the Brandeisian approach as the optimal system for assessing antitrust abuses. Despite this conclusion, the paper also finds that the idea of shifting antitrust legislation towards the Brandeisian conception is potentially futile. It has been argued that a critical threshold of corporate power has been reached among the major digital platforms, where they can now effectively challenge any further exercise of Congressional oversight and control. Thus, it appears that a tipping point has been reached where [GAFA] Facebook, Amazon, Apple, and Google command the political influence necessary to prevent a shift in U.S. federal antitrust policy away from the Consumer Welfare model and towards a Brandeisian framework. This essentially leaves the courts, individual states, and politically independent regulators to marshal their own antitrust resources to address the dominance of these companies in the U.S. A topic for future research and study is whether these institutions will be able to harness antitrust policy in a way that effectively regulates the economic and political power of Facebook, Amazon, Apple, and Google. However, the findings of this paper suggest that the time has passed to realistically expect meaningful regulatory changes enacted through Congressional action, given the prodigious political capital of the major digital platforms.