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T Prohibit

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

Kerry Lynn Macintosh 97, Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis

These new and revised articles reflect a strong trend toward choosing default rules 4 that codify existing business practices. 5 [FOOTNOTE 5 BEGINS] 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). [FOOTNOTE 5 ENDS] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### Only per se illegality prohibits a practice---rules of reason prohibit anticompetitive effects for individual acts, or instances of ‘practice.’

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

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

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

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

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

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

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

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

#### Voting issue---key to link uniqueness and preventing bidirectionality on an otherwise virtually unlimited topic

### 1NC---OFF

T Subsets

#### ‘Antitrust law’ must be economy-wide---that excludes subsets

Gerber ’20 [David; October; Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology; Oxford Scholarship Online, Competition Law and Antitrust, “What is It? Competition Law’s Veiled Identity,” Ch. 1, p. 14-15]

C. A Core Definition

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

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

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

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

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

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

#### Violation---the aff only applies under limited circumstances

#### Voting Issue---explodes the topic to infinite sectoral and case-specific affs the neg can never meaningfully prepare for

### 1NC---OFF

T Scope

#### The scope of antitrust law is exclusively bounded by exemptions and immunities

Kruse et al. 19, Layne E. Kruse, Co-Chair; Melissa H. Maxman, Co-Chair; Vittorio Cottafavi, Vice Chair; Stephen M. Medlock, Vice Chair; David Shaw, Vice Chair; Travis Wheeler, Vice Chair; Lisa Peterson, Young Lawyer Representative; all on the Exemptions and Immunities Committee of the ABA Antitrust Section, “Long Range Plan, 2018-19,” American Bar Association, 3/18/19, https://www.americanbar.org/content/dam/aba/administrative/antitrust\_law/lrps/2019/exemptions-immunities.pdf

D. Top 3 Accomplishments Since Last Long Range Plan in 2015

(1) Publications. In addition to our Annual ALD Updates, we are set to publish an update to the Noerr-Pennington Handbook, which should be out in 2019. We also published a new version of the State Action Handbook in 2016. The Handbook on the Scope of the Antitrust Laws was published in 2015.

(2) Commentary on Legislative and Regulatory Proposals. The Committee has been very active in supporting Section commentary on proposed legislation, regulations, and other policy issues.

For instance, in March 2018, the E&I Committee assisted former E&I Chair John Roberti in composing his article, “The Role and Relevance of Exemptions and Immunities in U.S. Antitrust Law”, presented to the DOJ Antitrust Division Roundtable on behalf of the ABA Antitrust Section.

In January 2018, in response to a request from the Section Chair, we submitted Section comments along with the Legislative and State AG Committees, addressing the proposed Restoring Board Immunity Act legislation that would impact the post-NC Dental exemptions and immunity climate. Previously, we commented on the Professional Responsibility Act.

(3) Spring Meeting Programs. We have sponsored or co-sponsored a program at every Spring Meeting since our last long range plan. In 2019 we will chair Sham Litigation after FTC v. AbbVie The FTC v. AbbVie decision – calling for the disgorgement of $448 million on the basis of sham patent litigation. In addition, we will co-sponsor in 2019 with the Trade, Sports & Professional Associations Committee, a program on “Antitrust Law's Anomalous Treatment of Sports,” addressing how US courts have shown broad deference to the "rules of the game," including near-immunity status for concepts such as "amateurism."

II. Major Competition/Consumer Protection Policy or Substantive Issues Within Committee’s Jurisdiction Anticipated to Arise Over Next Three Years

A. Issue #1: Will Certain Exemptions Be Eliminated or Expanded?

A goal of the current DOJ Antitrust Division is to streamline antitrust laws, and in particular, take a hard look at exemptions and immunities. This is in the wheelhouse of our Committee’s fundamental policy issue: How much of the economy has opted out of our antitrust system? Is that a problem or are ad hoc exemptions acceptable ways to fine tune the application of the antitrust laws?

We anticipate, therefore, that efforts to enact or to repeal existing statutory exemptions and immunities will continue. In recent years, there have been efforts to repeal the exemptions for railroads and (at least in part) the McCarran-Ferguson insurance exemption. The Section and the Committee has generally supported efforts to repeal statutory exemptions. Given that repeal issues are very political it is unlikely that we will see many exemptions actually repealed.

On the other hand, proposals for new exemptions and immunities will continue to be introduced in Congress. The Committee will improve on a template for use in assisting the Section in drafting comments to Congress on newly proposed exemptions and immunities.

One development that may continue in the health care area are issues over a "COPA" or "Certificate of Public Advantage" at the state level. A COPA is a state statutory mechanism that provides certain collaborations in the health care community with immunity from private or government actions under the antitrust laws by invoking the state action doctrine. The FTC has generally opposed such efforts at the state level, but several states have used them to immunize health care mergers. This is a major development that should be monitored.

Through programs, newsletters, and Connect entries, the Committee intends to educate its members about Congressional and other efforts to repeal, or introduce new, exemptions and immunities, as well as the application of existing statutory exemptions and immunities in the courts. The Committee’s Handbook on the Scope of Antitrust Law, published in 2015, addresses developments in the statutory immunities area. It built on the prior publication, Federal Statutory Exemptions from Antitrust Law Handbook in 2007. Our Scope book will need to be updated within the next three years.

B. Issue #2: Will There Be Legislative Solutions to State Action Issues at State and Federal Levels?

The FTC’s case against the North Carolina Board of Dental Examiners put the "active supervision" prong of the state action test front and center. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. 1101 (2015). The Court agreed with the FTC’s position that state occupational licensing boards comprised of market participants must satisfy the active supervision requirement. This spurred additional suits against other types of state boards involving regulated professionals. Moreover, every State had to reassess its boards to determine if there is "active supervision." Courts and state legislatures are addressing those issues. We also expect the proper framing of the clear articulation prong of the state action doctrine will be addressed. The Supreme Court spoke to the clear articulation test in FTC v. Phoebe Putney Health System, Inc., 133 S.Ct. 1003 (2013), narrowing the foreseeability test to cover only situations in which the anticompetitive conduct is the “inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature.” How this test has played out in the lower courts will be of particular interest to the Committee and its membership. The COPA issues, at the state level, as previously mentioned, will impact this area.

The Committee expects to address these issues through updates to Connect, newsletters, Spring Meeting programs, committee programs, its contributions to the Annual Review of Antitrust Law Developments. The State Action Practice Manual addresses these issues, as well as the Committee’s Handbook on the Scope of Antitrust Law.

C. Issue #3: Will Noerr Be Restricted or Expanded?

The Noerr-Pennington doctrine is an exemption issue that is frequently litigated. In particular, the most likely area of further development is in the pharma industry. Alleged misrepresentations to government agencies has caught the attention of some courts. In addition, there may be more development on the pattern exception, which raises the issue of whether each act of petitioning in a pattern must satisfy the objectively and subjectively baseless requirements for sham petitioning. The Committee’s new Handbook on Noerr (forthcoming) and its earlier Handbook on the Scope of Antitrust Law addresses developments in the Noerr law.

III. Specific Long Term Plans to Strengthen Committee

The Committee provides important services to the membership of the Section through publications, drafting ABA Antitrust Section comments to proposed regulation and international competition proposed immunities, and programming. The goals of the Committee include: (1) to provide policy comments on key questions about the scope of the antitrust laws for legislation and policy-making; (2) produce a mix of publications and programming that provides relevant and useful information to our members; (3) to ensure that the Committee remains valuable to our members’ practices; and (4) to make the most productive use of electronic communications to deliver the Committee’s work product.

A. Potential Modifications to Charter: What is the Role of this Committee?

The Committee’s current charter accurately characterizes its purview—that is, addressing the scope of the antitrust laws. That scope, of course, is defined primarily in terms of exemptions and immunities (both statutory and non-statutory). The Committee, however, has dealt with other doctrines, such as preemption and primary jurisdiction. These areas may not necessarily be viewed as traditional exemptions or immunities, but they nonetheless directly affect the application and extent of the antitrust laws. In addition, the Committee expends significant efforts to address international issues, including statutory exclusions from the U.S. antitrust laws, including the FTAIA; the related doctrines of act of state, sovereign immunity, and foreign sovereign compulsion; and industry-specific exemptions and exclusions from non-U.S. antitrust laws, including blocking exemptions.

#### ‘Expand’ must make more expansive---NOT merely clarify existing principles

Terry J. Hatter, Jr. 90, Judge, US District Court, California Central, “In re Eastport Assoc.,” 114 B.R. 686, Lexis

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would expand the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### Vote NEG---eliminating exemptions and immunities provides a limited AND predictable basis for prep---the aff allows infinite expansions

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Christianity

#### Interp---judges should require debaters to evangelize in the 1AC

Paul Cresswell 14 {Devoted Christian. April 2014. “Preaching – The Moral Imperative.” [https://thelampstand.com.au/preaching-the-moral-imperative/}//JM](https://thelampstand.com.au/preaching-the-moral-imperative/%7d//JM)

Reasons to preach It is axiomatic that those who love the Truth will want to tell others about it. There are two reasons for this. Firstly, what is foremost in our minds will come out. As it is written, “out of the abundance of the heart the mouth speaketh” (Matt 12:34). Secondly, every believer is under an obligation to preach the Gospel. All Bible readers soon become aware that there are quite a number of Scripture passages which refer to the necessity of preaching. In fact, as the last verse in hymn 344 puts it: “Ye who have the truth received, By God’s grace to you revealed; Should you dare to keep it back, You the rich reward may lack”. The foolishness of preaching On the other hand, we might wonder why we bother to preach when no one is interested today – and it is to be admitted that lack of interest is disheartening – and in any case, it is sometimes argued, it is God who calls. But then, Paul wrote to Timothy, “I charge thee therefore before God, and the Lord Jesus Christ, who shall judge the quick and the dead at his appearing and his kingdom; Preach the word; be instant in season, out of season; reprove, rebuke, exhort with all long suffering and doctrine … But watch thou in all things, endure afflictions, do the work of an evangelist, make full proof of thy ministry” (2 Tim 4:1–5). Paul also wrote to the ecclesia at Corinth, “For the preaching of the cross is to them that perish foolishness; but unto us which are [being] saved it is the power of God … For after that in the wisdom of God the world by wisdom knew not God, it pleased God by the foolishness of preaching to save them that believe” (1 Cor 1:18, 21). To the modern mind preaching might seem foolishness, but it is God’s way! The command to preach Our Lord Jesus Christ who “came into Galilee, preaching the gospel of the Kingdom of God,” left a commandment to his disciples to do likewise saying, “Go ye into all the world, and preach the gospel to every creature. He that believeth and is baptized shall be saved; but he that believeth not, shall be condemned” (Mark 1:14; 16:15–16). The effect of first century preaching was that the Gospel did go into all the world (Col 1:6, 23; Matt 24:14). Surely the Lord’s words to preach the Gospel, and the confirmation that the apostles (meaning ‘ones sent’) did just that, serves as an example and motivation for us to do the same in our generation. Our Lord warned his disciples: “If the world hate you, ye know that it hated me before it hated you. If ye were of the world, the world would love his own: but because ye are not of the world, but I have chosen you out of the world, therefore the world hateth you. Remember the word that I said unto you, The servant is not greater than his lord. If they have persecuted me, they will also persecute you; if they have kept my saying, they will keep yours also. But all these things will they do unto you for my name’s sake, because they know not him that sent me” (John 15:18–21). That the disciples did meet violent opposition to their preaching did not deter them (Acts 5:41; 8:4; 11:20). So why are we often so faint hearted when we do not meet violent opposition, but only indifference? To a man who made excuse when Christ asked him to follow him, Christ said, “go thou and preach the kingdom of God” (Luke 9:60). And so we should! Without excuse! The preacher said, “Cast thy bread upon the waters: for thou shalt find it after many days” (Eccl 11:1). We are searching for those who are disinterested and will give the word a hearing. Yes, it’s true God calls; we do not, but He calls people through His word that we must put before them. He “manifests his word through preaching” (Tit 1:3) “and this is the word which by the gospel is preached unto you” (1 Pet 1:25). Love is also a motive Do we preach just because it is a command or is there something more? If God so loved the world that He gave His only begotten Son, should we not be motivated to preach because we love? Paul and Peter both speak of preaching motivated by love. Paul says, “Some indeed preach Christ even of envy and strife; and some also of goodwill: The one preach Christ of contention, not sincerely, supposing to add affliction to my bonds: but the other of love, knowing that I am set for the defence of the gospel” (Phil 1:15–17). Peter writes, “The Lord is not slack concerning his promise, as some men count slackness; but is longsuffering to us-ward, not willing that any should perish, but that all should come to repentance” (2 Pet 3:9). Judgment We live in similar days to those of Noah. Judgment is soon to come upon this evil world as it did upon his. Despite Noah’s lack of ‘success’ in his preaching, he was nevertheless commended for being “a preacher of righteousness” (2 Pet 2:5). There is a lesson in that for us! Paul is constrained to ask the question, “How then shall they call on him in whom they have not believed? And how shall they believe in him of whom they have not heard? And how shall they hear without a preacher?” In those early days of the apostles’ preaching, “their sound went into all the earth, and their words unto the ends of the world” (Rom 10:14, 18). But those preachers have long ago passed off the scene. We inherit their hope, and with it their preaching responsibilities. Where do converts come from? Today the majority of those who embrace the Truth come from our own families. Few in Western societies come to the Truth by preaching because it is the last days, not the first; but some people do, including myself. In fact there is unprecedented response to the Truth around the world at the present time, though not so much in Western countries except for immigrants, often of Asian origin. Just observe the keen interest by Chinese and other nationalities in Australia. God is still calling from the nations a people for His name (Acts 15:14–17). If we do not continue our preaching activities and take our children to them, then we cannot expect them to be baptized when older. Nor will they be baptized if we do not treat our children as we would treat any other interested friend, but drive them away from the Truth by ill-considered remarks or treatment. The power of example The fact is that, like Israel who were to be “a kingdom of priests, and an holy nation” (Exod 19:6), we are to be living witnesses to the God who has called us to be His servants. And a great honour it is to be His servants. As Peter put it, “But ye are a chosen generation, a royal priesthood, an holy nation, a peculiar people; that ye should show forth the praises of him who hath called you out of darkness into his marvellous light” (1 Pet 2:9). As with Israel, the witness of a God-honouring life is a necessary part of preaching. We are all aware that the best teachers do so by both word and example. If we do not support our preaching efforts by attending in person, we are not setting a good example to anyone, and especially not to our children. Importantly, by our preaching, even if few are converted, we are preparing the world for the coming of the Lord and submission to him in that day when:“They that be wise (mg. teachers) shall shine as the brightness of the firmament; and they that turn many to righteousness as the stars for ever and ever” (Dan 12:3).

#### Vote down speech acts that defy god’s will---otherwise you go to hell

GQ 21 (GotQuestions?, <https://www.gotquestions.org/who-will-go-to-hell.html>, EM)

Hell is mentioned 167 times in the Bible, sometimes called Gehenna, Hades, the pit, the Abyss, or everlasting punishment ([Proverbs 7:27](https://biblia.com/bible/esv/Prov%207.27); [Luke 8:31](https://biblia.com/bible/esv/Luke%208.31); [10:15](https://biblia.com/bible/esv/Luke%2010.15); [2 Thessalonians 1:9](https://biblia.com/bible/esv/2%20Thess%201.9)). Jesus spoke of heaven and hell as real places ([Matthew 13:41–42](https://biblia.com/bible/esv/Matt%2013.41%E2%80%9342); [23:33](https://biblia.com/bible/esv/Matthew%2023.33); [Mark 9:43–47](https://biblia.com/bible/esv/Mark%209.43%E2%80%9347); [Luke 12:5](https://biblia.com/bible/esv/Luke%2012.5)). The story Jesus told about the rich man and Lazarus was an actual event that demonstrated the reality of the two eternal destinations ([Luke 16:19–31](https://biblia.com/bible/esv/Luke%2016.19%E2%80%9331)). Heaven is the dwelling place of God ([2 Chronicles 30:27](https://biblia.com/bible/esv/2%20Chron%2030.27)) where Jesus has gone to “prepare a place” for those who love Him ([John 14:2](https://biblia.com/bible/esv/John%2014.2)). Hell was created for “the devil and his angels” ([Matthew 25:41](https://biblia.com/bible/esv/Matt%2025.41)). But because every human being is a sinner, every person past the age of accountability has already been condemned to hell ([Romans 3:10](https://biblia.com/bible/esv/Rom%203.10); [5:12](https://biblia.com/bible/esv/Romans%205.12); [John 3:18](https://biblia.com/bible/esv/John%203.18)). We all deserve hell as the just punishment for our rebellion against God ([Romans 6:23](https://biblia.com/bible/esv/Rom%206.23)). Jesus was clear that “no one can see the kingdom of God unless they are born again” ([John 3:3](https://biblia.com/bible/esv/John%203.3)). He was also clear that hell is an eternal punishment for those who do not obey Him ([Matthew 25:46](https://biblia.com/bible/esv/Matt%2025.46)). [Second Thessalonians 1:8–9](https://biblia.com/bible/esv/2%20Thess%201.8%E2%80%939) says that in the end God “will punish those who do not know God and do not obey the gospel of our Lord Jesus. They will be punished with everlasting destruction and shut out from the presence of the Lord and from the glory of his might.” John the Baptist said about Jesus, “His winnowing fork is in his hand, and he will clear his threshing floor, gathering his wheat into the barn and burning up the chaff with unquenchable fire” ([Matthew 3:12](https://biblia.com/bible/esv/Matt%203.12)). [John 3:18](https://biblia.com/bible/esv/John%203.18) explains in the simplest terms who will go to heaven and who will go to hell: “Whoever believes in him is not condemned, but whoever does not believe stands condemned already because they have not believed in the name of God’s one and only Son.” So, those who go to hell are specifically those who do not believe in Jesus’ name. To “believe” goes beyond a mental recognition of the truth. To believe in Christ for salvation requires a transfer of allegiance. We stop worshiping ourselves, we forsake our sin, and we begin to worship God with our heart, soul, mind, and strength ([Matthew 22:36–37](https://biblia.com/bible/esv/Matt%2022.36%E2%80%9337); [Mark 12:30](https://biblia.com/bible/esv/Mark%2012.30)). God desires that every person spend eternity with Him ([Matthew 18:14](https://biblia.com/bible/esv/Matt%2018.14); [2 Peter 3:9](https://biblia.com/bible/esv/2%20Pet%203.9)), but He honors our free will ([John 4:14](https://biblia.com/bible/esv/John%204.14)). Anyone who so desires can go to heaven ([John 1:12](https://biblia.com/bible/esv/John%201.12)). Jesus already paid the price for our salvation, but we must accept that gift and transfer ownership of our lives to Him ([Luke 9:23](https://biblia.com/bible/esv/Luke%209.23)). Heaven is perfect, and God cannot take anyone there who insists on holding on to his or her sin. We must allow Him to cleanse us of our sin and make us righteous in His sight ([2 Corinthians 5:21](https://biblia.com/bible/esv/2%20Cor%205.21)). [John 1:10–12](https://biblia.com/bible/esv/John%201.10%E2%80%9312) shows us the problem and the solution: “He was in the world, and though the world was made through him, the world did not recognize him. He came to that which was his own, but his own did not receive him. Yet to all who did receive him, to those who believed in his name, he gave the right to become children of God.” We can choose to trust in Jesus’ payment for our sin, or we can choose to pay for our sins ourselves—but we must remember that the payment for our sin is eternity in hell. C. S. Lewis said it this way: “There are only two kinds of people in the end: those who say to God, ‘Thy will be done,’ and those to whom God says in the end, ‘Thy will be done.’”

#### Christianity is true---overwhelming historical evidence

Sinclair 20 - Rector of Church of the Messiah in the heart of urban Ottawa. He was the Chair of Essentials Canada and founding Chair of his denomination (ANiC). He currently serves as the Chair of the ANiC task force to make ANiC more deeply biblical at every level. (George, <https://ca.thegospelcoalition.org/article/10-concise-pieces-of-evidence-for-the-resurrection/>, EM)

For your consideration, the following is a concise statement of the pieces of evidence for the real, true, historical resurrection of Jesus Messiah.

1. There are four ancient biographies of Jesus. They were all written by eyewitnesses and/or based on eyewitness testimony. They were written and circulated while many other eyewitnesses were still alive. These biographies all say that Jesus rose from the dead. These biographies are supplemented by letters written by eyewitnesses while many other eyewitnesses were still alive. These ancient letters claim that Jesus died by crucifixion and that on the third Jesus rose from the dead.

2. Pagan and Jewish writers report that Christians believed Jesus rose from the dead.

3. Many of the principal eyewitnesses to the resurrection of Jesus died because of their claim that Jesus was resurrected. Their lives would probably have been spared if they recanted. This is very significant. We know that people will die for a cause. But these men and women died for a set of facts. They went to their grave rather than say that the facts were untrue. They died because they said the facts of the crucifixion and resurrection of Jesus were true.

4. The eyewitness story told by John is very important. Many people today will claim that John’s story (like the other eyewitness stories) is meant to be understood as a story of symbol and metaphor. However we know that John clearly understood the difference between telling an historical story and telling a story overflowing with symbol and metaphor. Why? Because he wrote two books, one that very clearly claims to be historical (we now know this book as The Gospel of John) and one book that is clearly all about symbol and metaphor (we now know this as The Book of Revelation). So, John is an important witness of what happened in the death and resurrection of Jesus.

5. The historical evidence shows that: the grave was empty; the grave clothes were neatly left behind; the stone enclosing the tomb was rolled away; the body of Jesus was never found; the grave had been guarded by Roman soldiers; and no one ever claimed to have stolen the body. The presence of the grave clothes are significant. It was the spices attached to the cloth that had value. Anyone removing the body for profit or mischief would have taken the wrapped body away and separated out the valuable mixture at their leisure. In fact the placement of the grave clothes, like the placement of the stone, perfectly fits with the resurrection as the cause, rather than with human agency as the cause.

6. There are (not counting Paul), eleven recorded times that Jesus appeared to people proving that He was resurrected. These appearances were to: men and women, individuals, couples, groups, and at least one crowd. The appearances were inside and outside, in different locations, and at different times of the day. He was physically touched, audibly heard, visually seen, and He ate food in the presence of witnesses. None of these witnesses believed that Jesus would rise from the dead before He rose from the dead. All of them knew him before His death, so they knew He was the same Jesus who died on the cross.

7. In the very place where Jesus died and was buried there was an explosion of growth in the Christian movement – which was centred on the claim that the grave was empty and that Jesus had truly risen. This explosion of growth happened mere weeks after the death and resurrection of Jesus in the place where He died. The growth happened in the face of hostility, opposition and persecution from civil and religious leaders.

8. The death and resurrection of Jesus was not a random event. Jesus predicted that He would die by crucifixion, be buried, and rise from the dead. His prediction that He would die from crucifixion is very significant. He could not control that. Crucifixion was a means of death reserved to the imperial Roman authorities. Jesus claimed, reasonably, that His death by crucifixion and His resurrection on the third day would be a “sign” that vindicated who He was, what He taught, and what He would accomplish by His death and resurrection.

9. The death and resurrection of Jesus also took place in the context of centuries of prophecy that such a Messiah would come from God, and die and rise. Jesus Himself claimed that His life, death and resurrection was a fulfillment of these prophecies.

10. There is more. The death and resurrection of Jesus takes place in the context of an overarching story that has deep and powerful insights into the human condition. His life, death and resurrection took place in the context of a body of writings that have proved for millennia to be wise and insightful about the human condition. These writings have been the basis for the development of science, human rights, and good government. The life, death and resurrection of Jesus took place in the context of a worldview that is unsurpassed in its breadth, depth, coherence, consistency and emotional and rational power.

Friends, consider Jesus, Crucified Risen Saviour, loving Lord. Come to Him with humble trust.

### 1NC---OFF

Taxes CP

#### The United States federal government should expand the scope of its core antitrust laws to investors holding shares of more than a single effective firm in an oligopoly to own more than a small market share where the shareholding entity does not commit to being purely passive, enforced by applying a substantial progressive tax on rents from those practices.

#### The CP solves the case by expanding antitrust but, rather than enforcing it with a prohibition, it levies a progressive tax on anticompetitive rents---that’s an instantly effective deterrent AND creates traditional enforcement as follow-on.

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If we can regulate our corporations simply through the medium of taxation, we can destroy every trust in a fortnight. It would be a great deal better for the Finance Committee to turn its attention to the imposition of such a tax upon corporations and the persons who actually need regulation, who are exercising powers that are injurious to the American people, destroying competition and invading our prosperity, than to attempt to levy a revenue tax upon all the little shareholders of all the little corporations throughout the length and breadth of the United States.1

I. Introduction: Why Tax Corporations?

Should the U.S. tax corporations? For many academic and political observers, the answer is no.2 The corporate tax is a strange tax because by definition it is not borne by the corporate taxpayer, because corporations are legal entities and cannot economically bear the burden of taxation. Moreover, unlike other indirect taxes (for example, consumption taxes that are passed on to consumers or the employer’s portion of the payroll tax that is passed on to employees), economists after over 50 years of debate are not sure who bears the burden of the corporate tax: shareholders, all capital providers, corporate employees, or consumers. The most likely answer is that all of the above do in varying ratios depending on the current elasticities of capital, labor, and demand in the global economy, and on the degree to which the U.S. economy is open.3

The general public, on the other hand, is convinced that the corporate tax is borne by large corporations, and politicians respond by maintaining the corporate tax as a tax paid by someone other than the voters. But this fiscal illusion, the opponents of the tax pronounce, is hardly a valid reason to maintain a very complicated tax that is the cause of significant deadweight loss (changes in behavior caused by the tax) and transaction costs (tax compliance and avoidance costs).4

This article will argue that we do need a corporate tax, but not for the traditional reason, which is that if we do not tax corporations, rich shareholders will be able to defer tax on their income. Instead, the article will argue that we should tax corporations for the same reason we originally adopted the corporate tax in 1909: to limit the power and regulate the behavior of our largest corporations, which are monopolies or quasi-monopolies that dominate their respective fields and drive their competitors out of business (the best example being Big Tech — that is, Amazon, Apple, Facebook, Google, and Microsoft). But if that is the reason to have a corporate tax, it should have a different structure from the current flat corporate tax of 21 percent. Instead, the tax should be set at zero for normal returns by allowing the expensing of physical capital, but at a sharply progressive rate for supernormal returns (rents), culminating at a rate of 80 percent for income above $10 billion a year.5 After this introduction, Section II of the article discusses and rejects the traditional reason given for taxing corporations. Section III argues that the only reason to maintain a corporate tax is as a tax on monopolistic rents. Section IV develops this proposal in some detail and Section V provides a conclusion.

II. A Tax on Shareholders?

The traditional reason for taxing corporations is that if we did not, rich shareholders would be able to earn their income through corporations and defer the tax until there is a dividend distribution or they sell the shares, or even avoid the tax altogether by holding their shares until death and having their heirs sell at a stepped-up basis.

That is not a valid reason for keeping alive a tax as complicated and costly as the corporate tax, which is why many academic observers have called for its abolition. Given that the corporate tax rate has been sharply cut to 21 percent and that the revenue from the corporate tax is at $230 billion (in 2019) and only a small fraction (below 7 percent) of total federal revenues of $3.4 trillion, it does not appear impossible that some future president could successfully argue for abolishing the corporate tax, despite its public popularity.

There are three reasons why the corporate tax is not a valid way of taxing shareholders. First, despite over 50 years of economic research, economists are still unsure of who bears the burden of the corporate tax.6 Plausible candidates are (a) the shareholders, if the corporate tax reduces corporate profits available to them as dividends or is reflected in the price of their shares (although even that assumes that the tax was not priced in when they bought the shares, in which case only the original shareholders in an initial public offering bear the burden); (b) all capital providers, if the tax causes capital to flow from the corporate to the noncorporate sector, which is influenced by the ever-changing relative tax rates on corporate versus passthrough businesses; (c) employees, if the corporations can effectively reduce wages in response to the tax by, for example, threatening to move production overseas; or (d) consumers, if corporations enjoy a monopolistic or quasimonopolistic position and therefore can raise prices to include the tax without fear of being undercut by competition. The true answer is probably that all of the above bear the burden in different ratios over time depending on the elasticities (response to the tax) of capital, labor, and demand.

Second, as economists have recently emphasized, many shareholders are tax exempt. In fact, a recent study has shown that 70 percent of U.S. equities are held by tax-exempt institutions or individuals (for example, through retirement accounts).7 The authors of the study argue that this is a reason to tax corporations because otherwise capital would not be taxed at all, but it seems to me that if we believe in the reason that we exempt these individuals and institutions from tax, there is no reason to tax them indirectly through a corporate tax (assuming that they do in fact bear the tax burden).

Third, even for taxable shareholders, there are better ways of taxing the shareholders directly, thereby eliminating the incidence issue. For closely held corporations, the answer is to tax the shareholders on their income earned through the corporation — that is, to make passthrough treatment mandatory — because there are no administrability issues for those corporations and most of them are passthroughs in any case. For publicly traded corporations and partnerships, passthrough taxation is not administratively feasible. Instead, the shareholders should be taxed on the changing value of their shares, because liquidity and valuation are not issues for publicly traded shares, and the same tax can be collected on a withholding basis on foreign shareholders and if necessary on tax-exempt domestic shareholders (the government can impose a lien on some of the shares and sell them if the tax is not paid by foreign shareholders).8 Pre-enactment unrealized appreciation can be reached by applying the tax in the year of enactment to the difference between the end-ofyear share value and original basis.

For these reasons, if the only rationale for having a corporate tax is to indirectly tax shareholders, it is not clear that it is worth fighting for against the many voices calling for its abolition. But that is in fact not the only rationale, as the next section explains.

III. A Tax on Monopolistic Rents

When the corporate tax was enacted in 1909, taxing shareholders was not the reason. In fact, taxing shareholders would in 1909 have been unconstitutional under the Supreme Court’s 1895 Pollock decision9 which both President Taft and then-Senate Majority Leader Nelson Aldrich believed precluded a tax on shareholders, although to placate the Progressives they also introduced a constitutional amendment to allow Congress to tax individual income, which neither expected to pass. Instead, the corporate tax was designated as an excise tax on the privilege of conducting business through the corporate form, since the Supreme Court had held such excise taxes on corporations to be constitutional in 1898; but neither Taft nor Aldrich thought that was a good reason to impose a federal tax on corporations, because the privileges of the corporate form derived from state, not federal, law.

Instead, as I have shown elsewhere by examining the legislative history, the corporate tax of 1909 was primarily seen as a vehicle for limiting the power of and regulating the great trusts such as John D. Rockefeller’s Standard Oil Co. or J.P. Morgan’s U.S. Steel Corp.10 The Taft administration was at the same time litigating against Standard Oil and American Tobacco (among many other trusts) to break them up under the Sherman Act of 1890, but the prospects of the litigation were uncertain (the government had lost the E.C. Knight case in the Supreme Court in 1895 and only narrowly won the Northern Securities case in 1904). Thus, as Taft said in his message to Congress, we should have a corporate tax to curb the trusts:

Another merit of this tax is the federal supervision which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidentally able to possess the Government and the stockholders and the public of the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.11

The corporate tax of 1909 had several features that were considered potentially effective as antitrust measures. First, even though the tax rate was only 1 percent, both supporters and opponents knew the rate could be increased (as it ultimately was, reaching 52.8 percent in 1968) and the threat of those changes might deter the trusts. Second, the tax returns were to be made public, thus alerting the press and the voters to which corporations were the most profitable and therefore the likeliest targets for antitrust enforcement actions. Third, while intercorporate dividends were exempt (a controversial feature, because the trusts were holding corporations), there were no tax-free reorganizations and no consolidated returns.

Unfortunately, all these antitrust features of the corporate tax were eliminated by 1928. The publicity feature was eliminated in 1910, taxexempt reorganizations were adopted in 1919, and consolidated returns were made elective in 1928. Also, various pro-corporate provisions like accelerated depreciation, percentage depletion, and the foreign tax credit were adopted in the same period. While the Franklin D. Roosevelt administration limited the dividends received deduction and tax-exempt reorganizations in the 1930s, it never eliminated them, and subsequent enactments like investment tax credits reduced the corporate tax even further. As for the rate, it never exceeded 52.8 percent (as opposed to the individual rate, which reached 94 percent during World War II and was still as high as 70 percent when Ronald Reagan was elected president). The effective corporate tax rate was much lower because of interest and depreciation deductions and investment tax credits. In 1986 the corporate rate was reduced from 46 percent to 34 percent (later raised to 35 percent), and despite various base-broadening measures, the effective corporate rate remained low. Corporate tax revenues consequently declined from 25 percent of total federal revenues in the 1960s to less than 10 percent in the 2000s. Finally, in 2017 the corporate tax rate was reduced to 21 percent, and it was a flat rate — all the previous progressivity, which applied only to small corporations with revenues below $15 million, was eliminated.

Other than the rates, we are unlikely to reverse these pro-trust features of the corporate tax, because they are old, well established, and benefit small as well as large corporations, which are not the proper subject of a corporate tax designated to limit the power of monopolies and quasi-monopolies.

Recent research by Edward Fox has shown, however, that most of the existing corporate tax falls on supernormal returns.12 Fox shows this by demonstrating from corporate tax returns for 1995-2013 that if expensing of capital expenditures were allowed before 2017, corporate tax revenues would have been almost identical to actual revenues. Because (as discussed later) expensing is equivalent to exempting the normal return, that means that the corporate tax has historically fallen primarily on supernormal returns, or rents. This finding is consistent with Laura Power and Austin Frerick’s evidence from 2016 that excess returns to corporations have been increasing over time.13 In the current environment, because expensing is in fact allowed until 2022, that finding is even more likely to be true.

In that case, and if the main reason to have a corporate tax is to tax rents and limit monopolies, then the tax should have a different rate structure than we have now. I would suggest that the effective tax rate on normal corporate profits be zero. On supernormal returns, because the main concern is monopolies and quasi-monopolies, the tax should be progressive, with a very high tax rate (for example, 80 percent) for profits above a very high threshold (for example, $10 billion). In between, there should be a series of graduated tax rates, similar to the individual rate schedule before 1980.

#### Using taxes as a new, independent regulatory tool mainstreams them as an instrument to broadly cushion societal responses to inevitable ecological, demographic, and political crises---extinction.

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1. Introduction

Environmental problems are of all times. Yet, over the past two decades, climate change, air pollution, natural resource depletion and biodiversity loss have reached the status of worldwide persistent threats (Foxon, Reed, and Stringer 2009). There is increasing consensus in the literature that common policy responses, which are in the main incremental, will not provide structural solutions to those problems (Elzen and Wieczorek 2005). Transition theory links those challenges to socio-technical systems, which fulfil a societal function using technical components, infrastructure, regulations and networks of organisations (Geels and Kemp 2000). A transition is a radical and structural change with economic, cultural, ecological and institutional developments taking place at different levels of the socio-technical system (Rotmans and Loorbach 2009).

An important discussion in transition literature concerns the question of whether transitions, niches and regimes can be governed, or even steered, in a (sustainable) direction. Most transition scholars see an active role for government, but not in the classical way as the top-down commander who can steer at will using its toolbox of instruments (Paredis 2013). Rather, government is seen as just one group of actors (Geels, Elzen, and Green 2004), who are part of the regime but simultaneously shape its adaptive capacity (Smith, Stirling, and Berkhout 2005). Government actors exert a substantial influence on the functioning of the socio-technical system as they often maintain and reproduce regime functions in an intensive manner (Smith, Stirling, and Berkhout 2005).

To address the complexity and long-term focus (one to two generations) of transitions, “existing policy instruments need to be combined with new approaches” (Elzen and Wieczorek 2005, 657). In addition to command-and-control (CAC) instruments and communicative instruments, economic instruments are used in environmental policy (Howlett and Ramesh 2003; Perman et al. 2003). Geels (2012) indicates, in the context of transport systems, that economic instruments can be used to enhance pressure on an unsustainable regime. Chappin (2011) applies simulation models to study the influence of carbon taxes on energy transitions. Although these studies point at the potential of taxation, the theoretical dynamics behind the impact of a tax on the transition process are not yet well understood, and available studies on the topic are scarce. This paper aims to contribute to the growing literature of transition governance by means of an exploratory analysis of the potential of taxation as an instrument to support sustainability transitions. We will do so by combining the literature on environmental taxation with the literature on sustainability transitions, and by identifying the conditions for a tax to have that potential. In our theoretical exploration, we will combine two heuristic frameworks from transition thinking, the multi-level perspective (MLP) and the multi-phase perspective (MPP), with the neoclassical theory of Pigouvian taxation, which is the basis of environmental taxation theory.

This paper is organised as follows. The MLP and MPP are explained in Section 2, along with other transition concepts. In Section 3, an overview is provided of the theoretical foundations of regulatory taxation. Section 4 shows the results of the combination of the theoretical strands of transitions and environmental taxation. Section 5 is dedicated to the limitations and barriers to the potential of environmental taxation, and in Section 6, we draw conclusions and provide suggestions for future research.

2. Transition theory: the MLP and the MPP

The MLP on sustainability transitions distinguishes between three levels (Geels 2004; Verbong and Geels 2007). At the macro level, the landscape represents the external environment of the system. Changes at the landscape level influence the socio-technical system (Markard and Truffer 2008). Examples of such developments are global warming, global economic growth, political crises or demographic evolutions (Geels 2002). At the meso level, the regime is the dominant form of functioning in the socio-technical system (Avelino and Rotmans 2009). The regime can be a dominant technology, institution, policy, practice or culture. At the micro level, niches present alternative (sustainable) technologies, institutions, policies, practices or cultures that cause disruptions in the functioning of the socio-technical system. By experimenting and growing stronger, niches can eventually overtake the role of the regime and install a new dynamic balance in the socio-technical system (Kemp and Loorbach 2006; Loorbach and Wijsman 2013). For example, learning effects from experiments with niche technologies such as photovoltaic energy and wind power in the energy system may make those technologies increasingly successful. After the growing phase, they may also become cheaper than regime technologies such as nuclear and fossil fuel power generation. Those niches exert pressure on the regime, which could, in combination with other pressures from the landscape, policies, market developments and cultures, lead to a replacement of nuclear and fossil fuel-based power by renewables, ending up in a new equilibrium that will be more sustainable than the previous one.

A transition presents a radical and fundamental change in the dominant structure, culture and practices of a socio-technical system (Loorbach and Rotmans 2006). The structure of the system consists of institutional, infrastructure, legal and economic provisions that are inherent to the functioning of the socio-technical system (de Haan 2010). Culture is regarded as the shared values, norms and perspectives, which may be cognitive, normative or ideological in nature, and which underlie the socio-technical system (de Haan and Rotmans 2011). Practices are the routines, habits and procedures operated by the actors in the system, which interact with the structure and the culture of the system.

The change that is required for a transition will not come about in a linear way. Rather, periods of rapid and slow (or no) change can alternate (de Haan and Rotmans 2011). This implies that there are multiple phases in a transition process. Loorbach (2007) describes four phases that together depict an ideal–typical transition process, the MPP. In the first phase, the pre-development phase, actors are engaged in experiments (Kemp and Loorbach 2006). During the take-off phase, the second phase, the regime will show signs of destabilisation and niches will get an opportunity to position themselves as a viable alternative (van der Brugge and Rotmans 2007). Rapid structural and cultural changes in the socio-technical system become visible in the acceleration phase (van der Brugge 2009). In the last phase, the stabilisation phase, a new sustainable regime is established (Avelino and Rotmans 2009).

Transitions are driven by various endogenous and exogenous developments. Exogenous developments are changes at the landscape level. Endogenous developments, on the other hand, are events occurring at the meso level (regimes) and micro level (niches). According to de Haan and Rotmans (2011), there are three groups of conditions for change: tensions, stress and pressure. Tensions are changes occurring at the landscape level threatening the position of the unsustainable regime. A regime that functions inadequately or inconsistently will experience stress, which can nurture the downfall of the regime. Regime pressure or selection pressure, finally, will appear when niches impose themselves on the regime's position by becoming viable alternatives or by making the regime's functioning obsolete. Regime pressure, along with the reactions of regime and niche actors, will create patterns of change (Frantzeskaki and de Haan 2009). When tensions dominate, a reconstellation pattern will appear. Stress and pressure will result in the patterns of, respectively, adaptation and empowerment. When certain patterns chain together, they create transition paths (de Haan 2010). Choices made in the past will affect the path along which transitions will move. Actors are confronted with path dependencies, which may turn into lock-ins. For example, the choice of the authorities of some countries to invest in nuclear power plants has created path dependencies in the energy systems of these countries, which function as lock-ins that prevent a breakthrough to an energy system based on renewable energy.

Two governance approaches within transition science indicate that belief in classical policy solutions is limited. The two most well-known governance models in transition literature are transition management (Loorbach 2007; Kemp and Loorbach 2006; Loorbach and Rotmans 2010) and strategic niche management (Hoogma 2000). Both these governance approaches emphasise the difficulties in steering socio-technical change. Strategic niche management sees the main role of government in process management, creating room for niche experimentation, making sure that the process is not dominated by certain actors, and in learning and facilitating other actors’ learning possibilities (Kemp, Schot, and Hoogma 1998). The other governance approach, transition management, departs from the same view, but presents a process management method for policy-makers wishing to influence burgeoning transition processes (Loorbach and Rotmans 2006). Transition management has been criticised, mainly because the term ‘management’ seems to suggest that it is possible to steer transitions by “deliberate intervention in pursuit of specific goals” in a top-down way (Shove and Walker 2007, 764). Although transition management scholars such as Loorbach and Rotmans develop a more nuanced perspective on the ‘steerability’ of a transition than the name ‘management’ suggests, they do assert that ‘goal-oriented transitions’, in which the policy goals guide the process, exist. This view is not shared by all transition scholars. For example, Dewulf et al. (2009) think that a multiplicity of theories is needed for addressing such complex issues as sustainability. Shove and Walker (2007) question the very starting point of transition management that it is possible to deliberately steer socio-technical system change in any direction.

Both strategic niche management and transition management focus on policies that are aimed at the level of the niches. However, they largely ignore that the destabilisation of incumbent regimes can equally be a valuable strategy, because this could speed up the upscaling of niche technologies (Kivimaa and Kern 2016). Policies discouraging certain niche technologies or practices can play a role here (Turnheim and Geels 2012). Taxation will be further examined as a regime destabilisation instrument, as the main subject of this paper. In addition, ‘policy mixes for creative destruction’ will be explored in Section 4.2.

3. Regulatory and environmental taxation

A basic idea in economics is that markets allocate resources in an efficient way. However, this thesis is only valid under the condition of the presence of well-defined and enforceable private property rights (Perman et al. 2003). If that condition is not met, the market is not capable of creating or maintaining a socially optimal or desirable situation, and market failures appear (Bator 1958). One example of a market failure is the existence of external costs or environmental externalities (Perman et al. 2003). Externalities are “benefits or costs generated as an unintended by-product of an economic1 activity that do not accrue to the parties involved in the activity and where no compensation takes place” (Owen 2004, 129). Pollution resulting from production activities is a typical example of a negative externality imposed on citizens, because the victims of the pollution have no legal rights to claim any compensation for the damage suffered. To resolve this market failure, governments can create property rights for ‘an unpolluted environment’ and give them to the victims, or even to the polluter. In the latter case, the polluter receives a ‘license to pollute’ a certain amount. Following the Coase theorem (Coase 1960), depending on the specific circumstances, this situation will lead to an equally efficient outcome as compared to victim property rights. However, from an equity point of view, the two solutions generate entirely different outcomes, as in the one case it is the polluter who pays, and in the other it is the victim (Perman et al. 2003). In theory, the polluter and the victims could bargain and agree on compensation for the damage based on the victim's or polluter's property rights, in which case government intervention becomes redundant (Coase 1960). In practice, however, the large number of victims and polluters and the costs of bargaining often prevent an optimal outcome of private bargaining. In that case, government regulation, through the use of CAC instruments, economic instruments or suasion, is needed (Perman et al. 2003). In this paper, we focus on the use of taxation as a regulatory2 policy instrument in response to existing market failures. Regulatory taxes aimed at environmental improvement are called environmental taxes.3 An alternative name is Pigouvian taxation, after the twentieth-century economist Arthur C. Pigou, who developed the idea to use taxation to tackle externalities (Pigou 1920). According to Pigou, an environmental tax equal to the marginal damage at the efficient pollution level maximises allocative efficiency and welfare. The theory of Pigouvian taxation belongs to the neoclassical economic perspective, which assumes that economic agents act in a rational way according to their individual preferences in such a way that their utility (or profit for companies) is maximised (rational choice theory). Moreover, neoclassical economics assumes that preferences are fixed, as an exogenous factor, which was the dominant assumption until the 1990s (Arnsperger and Varoufakis 2006). Later, some economists regarded preferences as fixed in the short run, but subject to change in the long run (Doyle 2004). Others completely dismissed the notion of fixed preferences stating that individual preferences change as a result of past outcomes, and sometimes even rapidly and systematically (Van Boven, Loewenstein, and Dunning 2003).

In a first-best world with no uncertainty, regulatory taxes are statically efficient because the emission reductions are achieved while using a minimum amount of resources (Sandmo 2000). They are dynamically efficient because taxpayers will be inclined to seek further reduction methods due to the fact that the undesirable behaviour remains taxed (Faure and Weishaar 2012). In this theoretically ideal situation, a tax always leads to a more efficient solution than a licence or other CAC type of instrument. However, if complexity or uncertainty is introduced, many authors criticise Pigou's theory on the optimal level of an externality tax. Although a complete review of this literature exceeds the scope of this paper, we present three of the most important critiques. First, Coase (1960) dismissed the idea that a tax equal to the marginal damage cost increases total welfare in all situations. When there is uncertainty about the marginal abatement cost curves of polluting firms, the comparison changes. Taxes keep the edge over CAC instruments when the (absolute value of the) slope of the marginal abatement cost curve is greater than the slope of the marginal damage curve. Conversely, when the marginal abatement cost curve is less steep than the marginal damage curve, CAC instruments are to be preferred to taxes (Perman et al. 2003; Baumol and Oates 1988). Second, Baumol and Oates (1988) add that it is often hard to calculate the monetary value of the marginal damage of the polluting activity, in which case a standard may also be the recommended instrument choice. And third, in case of monopoly or oligopoly, the optimal tax rate may vary from lower to higher than the marginal damage (Ebert and von dem Hagen 1998).

An important element in the discussion on the optimal tax rate is the price elasticity of demand, which is not static. The absolute value of demand elasticities tends to increase over time (Lipsey and Chrystal 2007; Pindyck and Rubinfeld 2009). The reason is that demand elasticity is, in fact, mainly determined by the availability of substitutes. Investment decisions are made with a long-term perspective, and in the long run, more options are available for developing new (clean) technologies than in the short run (OECD 2000). For example, Sterner (2007) estimated that the demand elasticity of petrol and diesel in the long run is about three times higher than in the short run.

In addition to determining the correct tax rate, other tax design elements need to be decided. First, the tax base, which is the object that is taxed (Sandmo 2000), needs to be chosen. This can be input products, output products, production factors (energy), production (processes, activities or techniques), consumption or emissions (Vollebergh 2008; Weber 2011). The most effective way of eliminating externalities is by choosing the externality itself (e.g. CO2 emissions) as the tax base (OECD 2010). In practice, emission-measuring problems often hinder direct taxation of emissions. Proxies, such as petrol sold as a transport fuel, then form alternative tax bases (Dias Soares 2011). Second, tax rates can be differentiated (Määttä 2006), in which case certain products, processes or groups of taxpayers are granted a lower tax rate or are exempt from the tax. Third, a tax can be implemented at one specific moment in time or in multiple phases whereby the tax rate is raised or reduced in each phase.

4.1. (In)compatibility arguments

The transition school sees public authorities as just one group of actors in a socio-technical system. They are an important actor, but they cannot steer a transition in a top-down way (Kemp, Rotmans, and Loorbach 2007). Traditional decision-making models, including neoclassical economics, are mostly rejected based on the following four arguments. First, traditional policy-making is deemed unfit for dealing with high-complexity, long-term, wicked societal problems, because the knowledge on ecological cause–effect relations is often limited and political compromises inevitably lead to incrementalism as opposed to structural system change (Rotmans, Loorbach, and Van derBrugge 2005; Kemp, Rotmans, and Loorbach 2007; Mathijs 2008). Second, the existing policies are the result of outdated legislation, routines and institutional relations and are characterised by path dependency and technological lock-in (Rotmans, Loorbach, and Van der Brugge 2005). Third, the view of neoclassical economics on the preferences of individuals is too static, while instead a transition would require changing preferences (Kemp, Rotmans, and Loorbach 2007). Finally, steering a transition towards sustainability involves a subjective interpretation of sustainability, which “should arise from a multi-actor process, involving a balanced diversity of stakeholders” (van der Brugge, Rotmans, and Loorbach 2005, 167). Geels (2012) describes transitions as co-evolutionary processes, which require the involvement of many social groups. Network management in decision-making would be a step forward, but even those policy networks are not necessarily concerned with the long term (Kemp, Rotmans, and Loorbach 2007).

Transition management is a governance approach based on transition theory, which proposes a bottom-up approach to steer a transition, based on multi-actor involvement. However, it does not offer a full-fledged alternative to traditional policy-making, as it is “not directly solution-oriented, but explorative and design-oriented” (Rotmans, Loorbach, and Van der Brugge 2005, 6). Therefore, some transition scholars revert to other academic fields, such as evolutionary economics to analyse sustainability transitions and related policy strategies. Inspired by the field of biology, this field focuses on three central concepts: diversity, selection and innovation. Models from evolutionary economics can cope with complexity; they deviate from neoclassical economic theories by acknowledging that economic agent behaviour is explained by bounded rationality (van den Bergh, Hofkes, and Oosterhuis 2006). People's rationality is bounded because of a lack of appropriate and reliable information, limited cognitive capacities and limited decision-making time (Kahneman 2003; Simon 1955). Evolutionary economics leaves more room for environmental taxation than most transition studies, although it emphasises the need for a combination of policy instruments or policy mixes (van den Bergh et al. 2006). The role of policy mixes for sustainability transitions is further treated in Section 4.2.

So, if the neoclassical policy instrument of environmental taxation is so hard to reconcile with the bottom-up governance principles of transition theory, is it still worthwhile to study the combination? Four arguments support an affirmative answer. First, as we demonstrated in Section 3, the impact of environmental taxation is much higher in the long run than in the short run, which gives this instrument an interesting appeal considering the fundamental long-term change transition theory describes. Second, when the economy is (threatening to get) stuck in a technology that is not serving the long-run transition goal, a regulatory tax on that technology may unlock (further) lock-in, thus avoiding an important obstacle for a sustainability transition (den Butter and Hofkes 2006). Third, policy attention tends to go to supporting niches but much less to destabilising the dominant regime, which is politically more difficult. However, according to Kivimaa and Kern (2016), niche support policies will need to go hand-in-hand with regime destabilisation policies aimed at internalising externalities. A tax on the dominant regime technology is particularly suitable for that purpose (Geels and Schot 2007). Fourth, the bounded rationality concept embraced by transition theory still incorporates a level of rationality, implying that a price signal may still have an effect.

We conclude that there is no consensus on the use of regulatory taxes to enhance sustainability transitions. Some scholars see a role for taxation, but rather as one part of a more comprehensive policy mix (Geels 2006; Kemp, Schot, and Hoogma 1998; Markard and Truffer 2008).

### 1NC---OFF

States CP

#### The fifty states and relevant subnational entities should substantially increase prohibitions on investors holding shares of more than a single effective firm in an oligopoly to own more than a small market share where the shareholding entity does not commit to being purely passive

#### States solve

Arteaga 21 [Juan and Jordan Ludwig; January 28; former Deputy Assistant Attorney General for the U.S. Department of Justice’s Antitrust Division, J.D. from Columbia Law School; partner in the Antitrust and Competition Group at Crowell and Moring firm, J.D. from Loyola Law School; Global Competition Review, “The Role of US State Antitrust Enforcement,” <https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement>]

In the United States, competition laws have been implemented and enforced through a dual system where the state and federal governments play distinct, yet complementary, roles in regulating the competitive process. While the Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) are widely viewed as the stewards of US antitrust laws, state attorneys general have long played an important, albeit varying, role within the United States’ antitrust enforcement regime. This has been especially true during the past 30 years because state attorneys general have become much more effective at coordinating their antitrust enforcement efforts to ensure that they have a meaningful seat at the table in any actions brought jointly with their federal counterparts or are able to bring their own actions when the DOJ and FTC decide not to do so.

Prior to the enactment of the first federal antitrust law – the Sherman Act – in 1890, state antitrust enforcement was quite robust in the United States because at least 26 states had already enacted some form of antitrust prohibition.[[2]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-126) In addition, state enforcers had often used general corporation law and common law restraint of trade principles to regulate anticompetitive business practices and transactions.[[3]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-125) This well-established state antitrust enforcement infrastructure – coupled with the fact that the Antitrust Division and FTC had only recently been created – permitted state attorneys general to continue playing a leading enforcement role for the first 30 years after the Sherman Act’s passage.[[4]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-124) Indeed, state attorneys general successfully prosecuted a number of the most consequential antitrust enforcement actions during this period.[[5]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-123)

In the early 1920s, however, state antitrust enforcers began playing a less prominent role because ‘the national dimension of the most important trusts, . . . as well as their ability to restructure in order to evade problematic state laws’, made clear that the federal government needed to step forward in order to adequately protect consumers and the competitive process.[[6]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-122) As a result, the DOJ and FTC – whose national jurisdiction and greater resources enabled them to tackle the most pressing competition issues of the time – displaced state attorneys general as the primary source of government antitrust enforcement within the United States.[[7]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-121) This largely remained true until the mid-1970s when Congress, in response to the DOJ and FTC’s perceived inactivity, passed two laws that expanded the authority of state attorneys general to enforce the federal antitrust laws and provided them with financial resources to do so.[[8]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-120)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[[9]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-119) Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[[10]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-118) These laws had their intended effect of reinvigorating state antitrust enforcement.

During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[[11]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-117) The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[[12]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-116) No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[[13]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-115) To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[[14]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-114)

### 1NC---OFF

PTX DA

#### A smaller BBB package including the climate provisions will pass---solves warming and “saves the planet”

AFP 1-25 Climate change: Biden's next big political gamble? https://www.france24.com/en/live-news/20220125-climate-change-biden-s-next-big-political-gamble

After a string of setbacks on getting his priorities through the deeply divided US Congress, President Joe Biden may set his sights on climate change in a bid to save the planet -- and his imperiled legacy.

Last week, the president announced that efforts were underway to revive the environmental component of his $1.8 trillion social spending plan, after it was all but killed in the Senate.

The Build Back Better package was to include $555 billion for renewable energy and clean transport incentives in the country's largest ever climate investment, to meet Biden's goal of cutting 2005 greenhouse gas emissions in half by 2030.

"I've been talking to a number of my colleagues on the Hill. I think it's clear that we would be able to get support for the $500-plus billion for energy and the environmental issues," Biden told reporters last week.

Democratic lawmakers immediately busied themselves behind the scenes in seeing if they could make it happen.

American wallet

Prioritizing bold action on climate change might be seen in progressive quarters as a no-brainer -- but proponents of realpolitik see it as something of a gamble.

In a country hit yearly by deadly floods and raging wildfires, climate action is an incongruously low priority, with the public voicing far more concern in opinion polls over inflation and the Covid-19 pandemic.

The trick for White House aides putting Biden's vision into words has been to appeal to America's wallet rather than its existential dread.

Instead of imposing sanctions against polluters, the $555 billion package would offer substantial tax credits for producers and consumers of wind, solar and nuclear power.

Under this carrot-not-stick approach, motorists would get up to $12,500 in tax relief for buying electric cars made domestically, while householders could claim back around a third of the cost of installing solar panels.

Debbie Weyl, the deputy director of the World Resources Institute lobby group in the United States, argues there is "no question" that the country would struggle to achieve its environmental targets without the reforms.

For the moment, Democrats can only count on votes from their own side, as the Republicans appear unified in their opposition to the proposals.

A spokeswoman for Lisa Murkowski, a moderate Republican who has a record of working across the aisle, told AFP the Alaska senator was unable to support the energy and climate provisions in the Build Back Better text.

The spokeswoman criticized the "highly partisan" process for writing the legislation and said the energy elements were designed to "deliberately harm Alaska."

The Manchin equation

Biden's majority is as slim as it could be in the evenly split Senate, where his vice president can cast tie-breaking ballots in favor of Democrats when votes are split 50-50.

As a result, any Democratic senator effectively has a veto on any White House initiative that comes before the chamber.

The most high profile hold-out on Build Back Better was Joe Manchin, a headline-grabbing centrist from the coal mining state of West Virginia.

Some local miners' groups came out in favor of the president's climate reforms, which include help for people suffering from "black lung disease," a serious condition caused by inhaling coal dust.

But Manchin effectively killed the package when he said he would be withholding his support because he feared that spiraling spending would exacerbate the already alarming US inflation rate.

Staffers and politicians across Washington are now hoping the party can coalesce around a narrower, less expensive bill with much of the climate-focused legislation remaining intact but the main items Manchin objects to expunged.

"I'm convinced that Democrats will pass a (scaled) down but monumental climate bill this year," Paul Bledsoe, a climate advisor in Bill Clinton's administration, told AFP.

"If they don't, the voters will punish them."

Democrats have just a few months left to act before the midterm elections, in which they could lose their slim majorities in Congress, making any legislative progress even more problematic.

Biden, who is struggling with a plummeting approval rating, cannot afford to fail.

#### Antitrust trades-off

Carstensen 21 (Peter C. Carstensen, Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School, THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST, <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>, y2k)

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.

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!

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.

#### Prevents existential climate disaster

Moncrief ’11-11 [Aliki; 2021; executive director of Florida Conservation Voters; Orlando Sentinel, “Build Back Better Act would help in climate crisis,” https://www.orlandosentinel.com/opinion/guest-commentary/os-op-climate-change-congress-act-now-20211111-44u6bgyn5fdvnp3eqievkebqpe-story.html]

Last week, Congress passed the Infrastructure Investment and Jobs Act. This bipartisan bill will address upgrades to things like our transportation system, rural broadband, public transit, and clean-water infrastructure. These are badly needed, overdue investments that will make our communities more resilient to the climate impacts we are already seeing. But we know much more is needed.

It’s not enough to just respond to extreme weather — we need to cut the pollution driving it in the first place. That’s why Congress must also pass the Build Back Better Act, the most transformational climate and jobs legislation in our nation’s history. By investing in clean energy and things like electric vehicles and more energy-efficient homes and businesses, we can stop making the problem worse and avoid a growing disaster. We don’t have time for half measures, and Floridians know it — more than 75% of registered voters in the state support bold congressional action on climate change.

The Build Back Better Act takes bold steps to dramatically reduce climate pollution for everyone. But it also centers those who have been disproportionately impacted by this crisis by taking steps to address the decades of unchecked environmental injustice, ensuring at least 40% of the benefits of this bill go to those communities hardest hit by pollution and climate change.

Building a clean energy economy is an investment that will pay dividends for families today and for generations to come. Preventing the most catastrophic hurricanes, floods and heat waves will help ensure that we still bring people from all over the world to our beaches, the Everglades, and every amazing destination across our state that supports our multi-billion dollar tourism industry.

And the robust clean-energy investments in the Build Back Better Act will create millions of good-paying jobs for Floridians in every corner of our state. Florida already ranks fourth in the nation for clean-energy employment, and this legislation would help this industry grow exponentially by tapping into the Sunshine State’s solar power potential.

Orlando has some great members of Congress who understand that climate change is an existential threat to our state and they ran on being a part of the solution to this crisis. Now, we are counting on them to take bold action and pass the Build Back Better Act. This is a win-win-win that creates jobs, lowers energy bills for Floridians, and begins to address the climate crisis at the same time.

### 1NC---OFF

Presumption

#### Vote neg on presumption:

#### 1--- their predictions rely on the validity of inductive inference - but *anti-induction* is equally well founded - plan is just as likely to be bad

SEP 19 (Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/induction-problem/, EM)

Hume asks on what grounds we come to our beliefs about the unobserved on the basis of inductive inferences. He presents an argument in the form of a dilemma which appears to rule out the possibility of any reasoning from the premises to the conclusion of an inductive inference. There are, he says, two possible types of arguments, “demonstrative” and “probable”, but neither will serve. A demonstrative argument produces the wrong kind of conclusion, and a probable argument would be circular. Therefore, for Hume, the problem remains of how to explain why we form any conclusions that go beyond the past instances of which we have had experience (T. 1.3.6.10). Hume stresses that he is not disputing that we do draw such inferences. The challenge, as he sees it, is to understand the “foundation” of the inference—the “logic” or “process of argument” that it is based upon (E. 4.2.21). The problem of meeting this challenge, while evading Hume’s argument against the possibility of doing so, has become known as “the problem of induction”. Hume’s argument is one of the most famous in philosophy. A number of philosophers have attempted solutions to the problem, but a significant number have embraced his conclusion that it is insoluble. There is also a wide spectrum of opinion on the significance of the problem. Some have argued that Hume’s argument does not establish any far-reaching skeptical conclusion, either because it was never intended to, or because the argument is in some way misformulated. Yet many have regarded it as one of the most profound philosophical challenges imaginable since it seems to call into question the justification of one of the most fundamental ways in which we form knowledge. Bertrand Russell, for example, expressed the view that if Hume’s problem cannot be solved, “there is no intellectual difference between sanity and insanity”

#### 2---many worlds theory is true---means the aff is non-inherents

Powell 19 (Corey, <https://www.nbcnews.com/mach/science/weirdest-idea-quantum-physics-catching-there-may-be-endless-worlds-ncna1068706>, EM)

Ever wonder what would have happened if you'd taken up the "Hey, let's get coffee" offer from that cool classmate you once had? If you believe some of today’s top physicists, such questions are more than idle what-ifs. Maybe a version of you in another world did go on that date, and is now celebrating your 10th wedding anniversary. The idea that there are multiple versions of you, existing across worlds too numerous to count, is a long way from our intuitive experience. It sure looks and feels like each of us is just one person living just one life, waking up every day in the same, one-and-only world. But according to an increasingly popular analysis of quantum mechanics known as the “[many worlds interpretation](https://urldefense.com/v3/__https:/plato.stanford.edu/entries/qm-manyworlds/__;!c3kmrbLBmhXtig!7R0VCJPvzByJzznSQY7gFCLBlF85Vk5M6Uf3Tzv-_wJEZSNqbcef1oQ63GS63sFafj4$),” every fundamental event that has multiple possible outcomes — whether it’s a particle of light hitting Mars or a molecule in the flame bouncing off your teapot — splits the world into alternate realities. Even to seasoned scientists, it’s odd to think that the universe splits apart depending on whether a molecule bounces this way or that way. It’s odder still to realize that a similar splitting could occur for every interaction taking place in the [quantum world](https://www.nbcnews.com/mach/science/google-claims-quantum-computing-breakthrough-ibm-pushes-back-ncna1070461). Things get downright bizarre when you realize that all those subatomic splits would also apply to bigger things, including ourselves. Maybe there’s a world in which a version of you split off and bought a winning lottery ticket. Or maybe in another, you tripped at the top of a cliff and fell to your death — oops. “It's absolutely possible that there are multiple worlds where you made different decisions. We're just obeying the laws of physics,” says Sean Carroll, a theoretical physicist at the California Institute of Technology and the author of a new book on many worlds titled "Something Deeply Hidden." Just how many versions of you might there be? “We don't know whether the number of worlds is finite or infinite, but it's certainly a very large number," Carroll says. "There’s no way it’s, like, five.” Carroll is aware that the many worlds interpretation sounds like something plucked from a science fiction movie. (It doesn’t help that he was an adviser on "Avengers: Endgame.") And like a Hollywood blockbuster, the many worlds interpretation attracts both passionate fans and scathing critics. Renowned theorist Roger Penrose of Oxford University dismisses the idea as “reductio ad absurdum”: physics reduced to absurdity. On the other hand, Penrose’s former collaborator, the late Stephen Hawking, [described](https://books.google.com/books?id=qjYbQ7EBAKwC&pg=PA345&lpg=PA345&dq=%22self-evidently+correct%22+hawking+many+worlds&source=bl&ots=F9WTAkliQA&sig=ACfU3U26vRO7r38BkcZbgTvWnMf0yN05hQ&hl=en&sa=X&ved=2ahUKEwjquoTgkK3lAhVhkeAKHZFJDZsQ6AEwCnoECAcQAQ#v=) the many worlds interpretation as “self-evidently true.” Carroll himself is comfortable with the idea that he’s but one of many Sean Carrolls running around in alternate versions of reality. “The concept of a single person extending from birth to death was always just a useful approximation,” he writes in his new book, and to him the many worlds interpretation merely extends that idea: “The world duplicates, and everything within the world goes along with it.” The mind-bending saga of the many worlds interpretation began in 1926, when Austrian physicist Erwin Schrödinger [mathematically demonstrated](https://plus.maths.org/content/schrodinger-1) that the subatomic world is fundamentally blurry. In the familiar, human-scale reality, an object exists in one well-defined place: Place your phone on your bedside table, and that’s the only spot it can be, whether or not you're looking for it. But in the quantum realm, objects exist in a smudge of probability, snapping into focus only when observed. “Before you look at an object, whether it's an electron, or an atom or whatever, it's not in any definite location,” Carroll says. “It might be more likely that you observe it in one place or another, but it's not actually located at any particular place.” Nearly a century of experimentation has confirmed that, strange as it seems, this phenomenon is a core aspect of the physical world. Even Einstein struggled with the notion: What happened to all of the other possible locations where the object could have been, and all the other different outcomes that could have ensued? Why should an object’s behavior depend on whether or not somebody was looking at it? In 1957, a Princeton student named [Hugh Everett III](https://space.mit.edu/home/tegmark/everett/everett.html) came up with a radical explanation. He proposed that all possible outcomes really do occur — but that only a single version plays out in the world we inhabit. All the other possibilities split off from us, each giving rise to its own separate world. Nothing ever goes to waste, in this view, since everything that can happen does happen in some world.

#### 3---there is no epistemically virtuous chain of justification---foundationalism, coherentism, circular reasoning, and infinitism are all deficient

SEP 19 (Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/skepticism/#PyrrSkep>, EM)

Agrippa’s trilemma, then, can be presented thus:

If a belief is justified, then it is either a basic justified belief or an inferentially justified belief.

There are no basic justified beliefs.

Therefore, If a belief is justified, then it is justified in virtue of belonging to an inferential chain.

All inferential chains are such that either (a) they contain an infinite number of beliefs; or (b) they contain circles; or (c) they contain beliefs that are not justified.

No belief is justified in virtue of belonging to an infinite inferential chain.

No belief is justified in virtue of belonging to a circular inferential chain.

No belief is justified in virtue of belonging to an inferential chain that contains unjustified beliefs.

Therefore, There are no justified beliefs.

## Adv---Prices

### Bizcon Turn---1NC

#### Unpredictable shifts in antitrust spill over, decimating confidence and overall recovery.

Mitchell ’21 [Trace; March 3; Research Associate at the Mercatus Center at George Mason University, J.D. from George Mason University; Morning Consult, “Weaponizing Antitrust to Attack Big Tech Is a Bad Idea,” <https://morningconsult.com/opinions/weaponizing-antitrust-to-attack-big-tech-is-a-bad-idea/>]

From the House Judiciary report calling for dramatic antitrust reform to federal antitrust regulators and state attorneys general initiating lawsuits against Facebook and Google, government officials are once again calling for more aggressive antitrust enforcement to go after America’s tech businesses.

And while critics from all sides are reaching for any and all tools to go after “Big Tech,” weaponizing antitrust will only end up harming American consumers and the American economy at a time when we’re still trying to keep our heads above water.

Using antitrust to go after American tech won’t stop at Silicon Valley. Every sector of our economy will be at risk of politically motivated antitrust enforcement. And that won’t just hurt consumers searching for information on Google or shopping for products on Amazon — America’s economy could lose its global competitiveness amid a global pandemic.

In fact, the recent cases against [Google](https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-laws) from the Department of Justice and state attorneys general are a great example of just how this misuse of antitrust could harm Americans across the country and halt innovation in its tracks.

These suits conveniently forget how consumers benefit from Google’s suite of products in attempts to claim that Google unfairly monopolized the search and search advertising markets. Even worse, by claiming consumer harm, the government fails to truly grasp what consumers actually want.

You see, under the consumer welfare standard, antitrust enforcement is built to focus on what consumers want and whether consumers benefit. When the government argues Google is harming Americans because its products are preinstalled and even the default search engine on Apple, the government forgets that American consumers don’t think this is a problem.

The [vast majority](https://www.businessinsider.com/how-google-retains-more-than-90-of-market-share-2018-4) of search users prefer Google to its competitors. And through preinstallation, we get free-to-use products, quick searches and near-limitless information in an integrated system with the click of a mouse. It isn’t a problem; it’s a time saver. Further, because Google can reinvest in developing more user-friendly tech in a preinstalled ecosystem, we get interoperable apps that make our experience that much more convenient and intuitive. And even if consumers do want a different app, they can fix this problem with no heavy leg work or travel — just the swipe of a finger.

But if the government gets its way, the message could be disastrous for innovation: Even if your business benefits Americans and improves the user experience, the government can still put a target on your back. Not to mention, the government would be more likely to put a target on your back if you’re large and politically disfavored. Consumers across the internet and the American economy would be hurt and left without more accessible and more affordable technology as options.

We should be working to reward, not punish, innovation. Otherwise, the next Google may just decide it isn’t worth the time and effort.

Similarly, the Federal Trade Commission’s recent case against Facebook also puts the wants of policymakers above the actual interests of consumers.

Here, the government claims that Facebook harms consumers by acquiring and then integrating services like Instagram and WhatsApp. So harmful, the Federal Trade Commission says, that Facebook must divest from these services, even if that would harm American consumers, innovation and entrepreneurship for decades to come.

But this is not a case of consumer harm or bad behavior — Facebook’s acquisition of Instagram and WhatsApp helped ensure that consumers’ desires were prioritized. Through millions of investment dollars into research and development, Facebook turned good services into great services that consumers actively keep coming back to.

Through relentless product improvement, WhatsApp became a free-to-use platform and Instagram became one of the most successful photo-sharing social media apps in the world. In both cases, consumers benefited from convenient and state-of-the-art advancements. No longer do we have to pay to use messaging or search through multiple results to shop our influencer feed.

As it stands, the Federal Trade Commission case could splinter one successful tech company into multiple, less efficient organizations, setting a precedent that could affect every American industry. Consumers would not only lose Facebook’s free-to-use services but also potentially the next big clothing brand or the next hit microbrewed beer.

By impeding mergers, the sheer fear of potential antitrust enforcement would shutter the doors on small businesses from all sectors of the economy. So much investment in innovation is built on the possibility of being acquired by a larger player. Entrepreneurs and innovators from manufacturing, automotive and tech alike would be left with an unfortunate takeaway — succeed and benefit consumers, but not too much.

And with an economy still struggling to recover, the absolute last thing we need is to leave consumers without innovative and affordable choices, small businesses without key investment opportunities and our economy without a competitive edge globally.

But by weaponizing antitrust, we’ll get neither thoughtful intervention nor consumer benefits. Instead, the United States will lose ground to foreign competitors and American consumers will ultimately pay the price.

### Incorrect---1NC

#### Managers act in the interest of noncommon shareholders.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

Moreover, as we discussed in Part III, when it comes to the output decision, the managers already desire what is in the interests of the noncommon shareholders: the level of output that maximizes solely the firm’s own residuals, that is, maximizing the difference between what it can sell its output for and the cost of producing that output. This is because it is from these residuals that managers can make room for the things that matter to them, such as compensation, perquisites, power, prestige, the pleasure of benefiting their associates in the firm, and a sense of doing social good. We could add to this list, if managers truly do prefer not to work hard, that choosing the level of production that maximizes own-firm net revenues creates the most space to indulge this taste as well without facing the loss of their jobs. Thus, the managers likely need no pressure from the firm’s shareholders to want to choose the level of output that maximizes own-firm residuals. Therefore, any reduction in pressure resulting from an increase in the proportion of common to non-common owners should not matter.

#### Empirical studies agree. Common ownership does not decrease competition.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

IV. THE IMPLICATIONS OF THE ANALYSIS FOR THE COMMON OWNERSHIP DEBATE

Our conclusion that common ownership is currently having no meaningful effect on managerial incentives to compete, and therefore on actual levels of competition, contributes in three significant ways to the larger debate over whether common ownership reduces competition. First, the analysis provides theoretical support to the empirical studies that, in contrast to the common ownership literature, find no evidence of a relationship between current levels of common ownership and competitive harm. Second, the analysis demonstrates the absence of any mechanism connecting common ownership to competitive harm not that does not involve coordination of the kinds already prohibited by antitrust law. Third, the analysis counsels against use of a concentration measure—the MHHI Delta—that is heavily relied on in the common ownership literature and in policy proposals based on that literature. We discuss these three points in turn.

A. The Analysis Supports the Empirical Studies Finding No Substantial Competitive Harm from Current Levels of Common Ownership

The common ownership literature’s central tenet that common ownership decreases competition is largely built on the empirical results that the authors say support this conclusion. Contending scholars, however, have conducted studies that find no statistically significant evidence that common ownership has meaningfully reduced competition. The analysis in the preceding parts of this Article helps resolve this empirical debate. This analysis suggests that the contending scholars found no evidence because there was no evidence to find, and that the common ownership adherents’ results were due to some other cause.

1. The common ownership literature’s empirical results. Two significant empirical papers sparked the recent academic and policy interest in common ownership. In the first paper, which we refer to as the “Airline Paper,” José Azar, Martin Schmalz, and Isabel Tecu evaluated whether common ownership was impairing competition in the airline industry.114 Using fixed-effects panel regressions, Azar, Schmalz, and Tecu found a statistically significant relationship between airline prices and a measure of common ownership discussed below, the MHHI Delta, and concluded that common ownership resulted in ticket prices being 3 to 7 percent higher on the average U.S. route than they would be without common ownership.115 The authors also conducted a series of econometric tests in order to exclude the possibility that their results were being driven by other possible factors that might tend to move both airline prices and their measure of common ownership in the same direction and hence be an alternative explanation for their results.116

In the second, which we refer to as the “Banking Paper,” José Azar, Sahil Raina, and Martin Schmalz evaluated the effects of common ownership in the banking sector.117 In their baseline results, Azar, Raina, and Schmalz find that their measure of common ownership was positively related to the amount of bank deposit fees and deposit thresholds.118 As in the Airline Paper, the authors of the Banking Paper conducted additional analysis for purposes of establishing a causal, rather than a mere correlative, connection between common ownership and competitive harm.119

The potential positive relationship between common ownership and competitive harm that the authors of these two papers suggest their results show has attracted considerable attention from legal scholars and policymakers, some of whom have called for dramatic changes in antitrust law and enforcement policy in order to intervene and correct common ownership’s perceived competitive harm.120 The two papers have also opened up an entire line of rich academic research, with scholars from disparate fields seeking to determine whether common ownership is linked to other macroeconomic or firm-level phenomenon.121

2. Critiques of the common ownership literature’s empirical claims, and studies finding no evidence that common ownership meaningfully reduces competition. The Airline and Banking Papers have not escaped criticism. One line of attack has been to critique the papers on their own merits by arguing that a variety of methodological problems cloud their empirical analysis122 and their policy implications,123 some of which we will discuss in more detail below.

At least as important, a number of scholars have conducted their own empirical studies that have yielded results failing to show evidence of a relationship between common ownership and any meaningful amount of competitive harm. In widely reported findings, for instance, Pauline Kennedy, Daniel O’Brien, Minjae Song, and Keith Waehrer used the same data as in the Airline Paper but a different empirical methodology, and found that common ownership had no statistically significant effect on airline prices.124 Subsequent empirical research by other scholars likewise found little or no competitive harm of common ownership in either airlines or banking.125 Still other studies generated empirical results indicating no statistically significant positive relationship between common ownership and competitive harm in other industries. For instance, in a recent study published in the Journal of Financial Economics, Andrew Koch, Marios Panavides, and Shawn Thomas conducted an empirical analysis that indicated that common ownership is not positively related to prices or industry profitability and is not negatively related to measures of non-price competition.126 However, there have also been some studies of industries other than banking or airlines going the other way.127

3. Evaluating the empirical literature as a whole. Although, as just discussed, much of the scholarship since the Airline and Banking papers finds no evidence that the current level of common ownership is generating meaningful competitive harm, the totality of the empirical evidence is mixed.128 This Article’s analysis aids in the resolution of this empirical impasse. All else equal, where two bodies of empirical work respectively support opposing hypotheses, but one hypothesis is the more plausible of the two, the work supporting the more plausible hypothesis is more likely to be the correct one.

Our analysis suggests that the hypothesis that common ownership at current levels reduces competition is highly implausible. The more implausible a hypothesis, again all else equal, the more likely that results in a study purporting to support the hypothesis, though consistent with the hypothesis, are in fact due to something else.129 Also, the more implausible the hypothesis, the more likely it is that the reason a study failing to find statistically significant evidence in support of the hypothesis fails to do so is that the hypothesized relationship does not exist (rather than that it does exist but the test just does not have enough power to find it). All of this helps explain why standard empirical methodology suggests that one start with a plausible hypothesis before one does a statistical study to see if one can reject with a high degree of statistical confidence the theory that the hypothesis is wrong (the null hypothesis), rather than going out to look for strong statistical relationships and then considering which null hypothesis the results might reject and which hypothesis the results support.

A final point should be noted in connection with our argument that the implausibility of the common ownership hypothesis reduces the persuasiveness of any empirical findings in its support. The hypothesis, as we have seen, rests on the assumption that common ownership leads firm managers to consider other firm profits in their output decisions. There is empirical evidence, however, that in fact that firm managers continue to pursue own-firm net revenue maximization despite the presence of common ownership.130 In other words, our analysis showing the implausibility of the common ownership literature’s hypothesis of common ownership reducing competition itself has affirmative empirical support.

#### Even if they’re right, the market swiftly self-corrects.

Paldor ’21 [Ittai; Spring; Law Professor at Hebrew University; Loyola Law Review, “Empirical Findings in Need of a Theory—In Defense of Institutional Investors,” vol. 54]

4. The Scenario Is Frustrated by Capital Market Players' Expected Response

A third important point in this respect is one made by Rock and Rubinfeld. Even if unilateral coordination were likely, the market would presumably self-correct. 148Recall, once again, that the scenario envisaged is one in which the institutional investors who the unilaterally coordinating firm or firms set out to please do not control these firms. This in turn suggests that the unilaterally coordinating firms present a lucrative investment opportunity. As Rock and Rubinfeld state: "Without control, any sacrifice of firm profits out of deference to a shareholder's other holdings will provide a profitable investment opportunity for a shareholder that thinks it can shift the strategy back towards maximizing single firm value." 149

Importantly, a potential shareholder that identified this investment opportunity need not even engage in a takeover battle or attempt to control the firm. As unilateral coordination is wasteful (from the unilaterally coordinating firm's perspective), all other shareholders would benefit from discontinuing such unilateral coordination. And as the benefitted shareholder is not a controlling shareholder, it would be enough for the investor identifying unilateral coordination (or otherwise suboptimal bad management) to buy any amount of stock, explain the situation to other shareholders who have no cross holdings in the industry or whose holdings are larger in the unilaterally coordinating firm, and make a profit by discontinuing the practice. If unilateral coordination occurred, this would clearly attract activist investors, whose task would be easier than usual. 150They could simply purchase stock and draw other shareholders' attention to the fact that profits had been tunneled. The market could be expected to swiftly self-correct.

#### Models don’t account for cross-cutting incentives.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

Footnote 177:

177 See, e.g., Jonathan B. Baker, Overlapping Financial Investor Ownership, Market Power, and Antitrust Enforcement: My Qualified Agreement with Professor Elhauge, 129 HARV. L. REV. F. 212, 217 (2016) (explaining that common ownership studies “do not account for the potentially countervailing impact of financial investors’ ownership interests in inputs, complementary products, and customers, or for the potentially countervailing impact of vertical integration by the firms into complementary lines of business”). Furthermore, intra-common-owner conflicts of interest resulting from the diversity of funds they maintain would serve to further check any competitive influence of common ownership. See, e.g., John D. Morley, Too Big to Be Activist, 92 S. CAL. L. REV. 1407 (2019) (explaining how large investment managers have significant internal conflicts of interest because they operate such a broad array of funds); Madison Condon, Externalities and the Common Owner, 95 WASH. L.REV. 1, 57-59 (2020) (discussing investment managers’ fiduciary duties to fund beneficiaries, who may have conflicting interests).

### Remedy Fails---1NC

#### Concentration metrics fail.

Patel ’18 [Menesh; 2018; Law Professor at UC-Davis; Antitrust Law Journal, “Common Ownership, Institutional Investors, and Antitrust,” vol. 82]

B. THE APPROPRIATE USE OF THE MODIFIED CONCENTRATION MEASURES

The analysis above also shows that the MHHI and MHHI delta should be used with extreme caution when formulating antitrust policy or evaluating the competitive effects analysis of common ownership. As shown in Part II of the article, in many circumstances the MHHI and the MHHI delta may be poor predictors of the competitive effects of common ownership in a particular market. Accordingly, courts and the antitrust agencies should be reluctant to base antitrust policy on the MHHI or the MHHI delta.

As an independent consideration, any MHHI or MHHI delta thresholds separating permissible levels of common ownership from impermissible levels would seemingly be arbitrary as there is no economically sound way to separate “high” levels of those concentration measures from low levels. Tethering antitrust policy or competitive effects analysis to specific thresholds of the modified concentration measures also would run contrary to the trend in modern merger analysis of moving away from a threshold based HHI analysis in favor or a more holistic approach.194

### Inflation Turn---1NC

#### Antitrust increases inflation.

Barrabi ’21 [Thomas; December 28; reporter, citing Lawrence Summer, the Treasury secretary during the Clinton administration and economics professor; the New York Post, “Biden-backed antitrust crackdown could worsen inflation, Larry Summers warns,” https://nypost.com/2021/12/28/biden-backed-antitrust-crackdown-could-worsen-inflation/]

The Biden administration’s push to crack down on antitrust violations could cause the ongoing inflation crisis to worsen rather than improve, economist Larry Summers warned this week.

Summers, the Treasury secretary during the Clinton administration, said proposed antitrust actions were “more likely to raise than lower prices.”

President Biden has called for scrutiny of top meat industry firms and US oil companies, arguing that a lack of competition has contributed to artificially high consumer prices during the COVID-19 pandemic.

“The emerging claim that antitrust can combat inflation reflects ‘science denial,’” Summers wrote on Twitter. “There are many areas like transitory inflation where serious economists differ. Antitrust as an anti-inflation strategy is not one of them.”

US consumer prices surged 5.7 percent in November compared to the same month one year earlier, marking the fastest increase in four decades, according to Commerce Department data. An ongoing labor shortage and supply chain issues have contributed to the problem.

Surging inflation has put pressure on American workers by effectively erasing wage gains and raising the cost of everyday goods. Biden has pushed back on critics who argue his pandemic-era economic policies are stoking inflation.

In November, Biden asked the Federal Trade Commission to consider opening a probe into whether “illegal conduct” was contributing to higher gas prices. He has repeatedly called out meat providers over increased profits during the pandemic.

Summers said he “strongly” supports the Biden administration’s push to ensure fair competition in business. However, the Harvard University economist asserted some measures, such as a Biden-backed push to crack down on prominent meatpacking firms, would result in reduced supply and higher prices.

“Monopoly may lead to high prices but there is no reason to expect it to lead to rising prices unless it is increasing,” Summers added. “There is no basis whatsoever thinking that monopoly power has increased during the past year in which inflation has greatly accelerated.”

### Rate Hikes---1NC

#### No rate hikes or impacts

Fisher ’11-3 [Fisher Investments Editorial Staff; 2021; Market Minder, “The Decidedly Non-Tantrum-Inducing Fed Taper Is Here,” https://www.fisherinvestments.com/en-us/marketminder/the-decidedly-non-tantrum-inducing-fed-taper-is-here]

The Fed officially tapered its quantitative easing (QE) bond purchases today, and far from triggering a tantrum, it ended up being a giant snooze. Instead of being rocked by the news, the S&P 500 flipped from slightly negative on the day before the announcement to close up 0.7%.[i] The 10-year US Treasury yield rose all of 4 basis points on the day, from 1.55% to 1.59%.[ii] Most commentary on the move was laced with sleep aid, with the notion of a “taper tantrum”—prevalent mere months ago—largely disappearing down George Orwell’s famous memory hole. About all pundits could conjure up in the way of angst were questions about when the Fed would hike rates. Let this be a lesson: Markets pre-price widely expected events, including monetary policy decisions, which don’t have a preset market impact.

We don’t often give central bankers kudos, but we would like to start by presenting Fed head Jerome Powell and friends the (ironically named) Mark Carney Award for Acting in Accordance with Forward Guidance, rather than saying A but doing B at the last minute.[iii] The minutes from the Fed’s July meeting revealed monetary policymakers “judged that it could be appropriate to start reducing the pace of asset purchases this year.”[iv] In his late-August (virtual) address at the (virtual) Jackson Hole central banker confab, Powell reiterated that stance and said he believed inflation had made enough “substantial further progress” to warrant tapering. Minutes from September’s meeting teed up this month as Taper Decision Day and outlined a potential path for “monthly reductions in the pace of asset purchases, by $10 billion in the case of Treasury securities and $5 billion in the case of agency mortgage-backed securities (MBS).”[v] That is precisely what the Fed announced today, with the reduction beginning this month. The policy statement left some wiggle room to change course in the future if economic data veer unexpectedly,[vi] but otherwise, QE is set to conclude in June.

And that was that! No fireworks. No big market swings. The tantrum pundits wrote about repeatedly over the summer just hasn’t happened. The S&P 500 is now up 5.1% since those July meeting minutes were released in mid-August.[vii] 10-year Treasury yields are up 33 basis points.[viii] That is even smaller than its move during 2013’s taper talk, which we view as the alleged tantrum that wasn’t. In our view, this echoes the general non-reactions to the Bank of England’s (BoE’s) decision to halt QE outright, the European Central Bank’s taper that chief Christine Lagarde swore wasn’t a taper, the Bank of Canada’s quiet tapering for most of this year, and the Reserve Bank of Australia’s abandonment of its “yield curve control” policy, which set official targets for 3-year yields. None of these moves caused a big ruckus in stocks.

We think this speaks volumes about how markets work. All the hype about 2013’s alleged taper tantrum, warranted or not, set expectations globally for a tantrum this time around. But markets have a long history of pre-pricing popular expectations, then doing something different. All those taper tantrum fears were self-tapering, evidently.

In a perfect world, people would learn the lesson and stop fearing the Fed’s every move toward “tightening,” which we use scare quotes for because ending QE is the opposite of tightening. (More on that here.) But given the shifting focus to rate hikes, we rather doubt it. On the bright side, the heightened focus on a policy lever the Fed won’t pull for several months at least means it, too, will likely be fresh out of surprise power whenever the time comes. We wouldn’t sweat it.

In our view, this whole central bank obsession is misguided. Monetary policy is but one variable affecting the economy, which is far too complex for the Fed to control by tweaking one rate here and another rate there. The US economy is too messy and decentralized, which is a good thing—albeit a factor in recent supply chain disruptions. Moreover, no set level or direction for interest rates is inherently good or bad for the economy or stocks. The appropriateness of any policy depends on prevailing conditions at the time, including the yield curve. The thing we think everyone misses about QE is that it flattens the curve, while tapering and ending it enable the curve to steepen by removing some downward pressure on long rates—hence we see today’s move as an incremental positive. Aggressive rate hikes down the road could invert the yield curve, but there is no indication that will be a risk any time soon.

### Rulemaking Turn---1NC

#### Agency adjudication guarantees rent seeking and corruption.

Lambert ’22 [Thomas; forthcoming; Law Professor at Missouri Law School; Southern Methodist Law Review, “Peering Beyond Nirvana: A Comparative Institutional Analysis of Proposed Means of Addressing the Market Power of Digital Platforms,” vol. 75]

The agency oversight approach, however, is not simply “faster antitrust with expert adjudicators.” While standards-based and flexible, the approach differs from antitrust along three significant dimensions: focus, political susceptibility, and duration of control. Taken together, antitrust courts’ more narrowly focused objectives, greater insulation from political influences, and limited jurisdiction over their subjects render them far less susceptible to adverse public choice concerns than are agencies like the U.K.’s DMU.

In crafting remedies for anticompetitive harm, antitrust courts have a tremendous reservoir of authority.183 But antitrust’s focus—and the objective of any court-ordered remedy—is narrow: the restoration of market output to competitive levels for the benefit of consumers.184 This precludes successful claims by, and remedies in favor of, parties seeking some private benefit apart from the enhancement of market output. A digital markets regulator is unlikely to be as laser-focused on output effects as an antitrust court and will therefore be a more attractive target to rent-seeking firms. The DMU’s “open choices” objective, for example, invites a laggard competitor that might otherwise be driven out of business to seek some rule hindering its more efficient rivals on the ground that preserving its own offering will create a broader range of options for consumers.

A second important difference between antitrust courts and agencies relates to the decisionmakers’ incentives. The federal judges determining liability and imposing remedies in antitrust cases have little reason to please the parties before them. Possessing life tenure and fearing no retribution save possible reversal, they are insulated from outside pressure and motivated to make decisions calculated to enhance market output and thereby benefit consumers. The bureaucrats staffing agencies, by contrast, do not enjoy this level of political insulation. Many will have been appointed by or have ties to a political leader, whom they will wish to please. They may also contemplate future employment at one of their regulatees or at a regulatee’s rival. Even absent contemplation of a job change, they may have a stake in one regulatory outcome over another, as the budget or prestige of their agency may be affected by the regulatory choices they make. Their personal interests are therefore less aligned with the public’s interest in maximizing overall market output.

### Dollar Heg---1NC

#### Dollar heg is inevitable.

Stokes ’18 [Doug; 2018; International Relations Professor at the University of Exeter; International Affairs, “Trump, American hegemony and the future of the liberal international order,” vol. 94]

As the protector of an open, integrated international market, the American state can claim special privileges to enable it to preserve the zone effectively, and there are a number of areas where being the system maker gives the US huge positional advantages. The first such area we should note here is its ‘dollar hegemony’, whereby the greenback acts as the world’s default global currency: this, most notably, allows it to run progressively larger current account deficits without having to worry about foreign exchange reserves. This makes the US Federal Reserve the world’s de facto central bank, giving it the luxury of unilaterally setting borrowing costs for the rest of the global economy. It is this form of dollar hegemony, and the ‘exorbitant privilege’ it affords the American state,28 that has helped inform a range of scholarship on American economic decline, especially in relation to a rising China and the potential internationalization of the renminbi and the associated challenge to US monetary regimes. According to this ‘declinist’ narrative, if the dollar loses its international reserve currency status other aspects of US hegemony, most notably its global military primacy, will begin to crumble as other currencies vie for international monetary leadership.29 In short, the ‘dollar’s reserve currency role is central to America’s geopolitical preeminence and if it loses that status US hegemony will be literally unaffordable’.30 However, not only does this ‘renminbi revisionism’ ignore the ways in which US military primacy in east Asia helps bolster its monetary power (see below); it is not borne out by the hard data. According to the most recently available data from the Bank of International Settlements in its 2016 triennial survey, the dollar accounted for 88 per cent of all over-the-counter trades in foreign exchange markets in 2016. The renminbi accounted for just 4 per cent.31 This is a huge disparity and hardly supports the idea of an imminent end to dollar hegemony.

Dollar hegemony also has profound geopolitical implications. Specifically, the United States can fund its overseas military operations with freshly printed dollars largely at will. Between 2003 and 2008, for example, the ‘largest airborne transfer of currency in the history of the world’ saw the Federal Reserve print and ship US$40 billion in cash to Iraq to help finance the war. In just ‘the first two years, the shipments included more than 281 million individual bills weighing a total of 363 tons’.32 Dollar dominance has thus ensured that imports, debts and overseas military–political operations could all be paid for with greenbacks produced by the American state, which at the same time could gear its domestic macroeconomic management exclusively to conditions within the United States without any significant external constraint. More interestingly, dollar liquidity means that investors continue to use US monetary regimes even in the context of major global economic instability. For example, during the global financial crisis of 2008, not only did we not see a flight from US financial and monetary regimes, we actually saw the reverse: a global flight of capital into US debt markets, to the extent that in some instances US Treasury bonds had negative interest rates.33 In short, dollar hegemony and its privileges allow the US to externalize major crises through its unilateral capacity to alter its interest rates, to force other states to adjust accordingly, and to fund geopolitical hegemony on the cheap.

Second, American global security regimes have allowed the United States to structure regional international relations and other states’ international economic preferences in ways it considers conducive to its interests. In the 1980s Keohane rightly identified that ‘it is difficult for a hegemon to use military power directly to attain its economic policy objectives with its military partners and allies’, as these ‘cannot be threatened with force without beginning to question the alliance; nor are threats to cease defending them unless they conform to the hegemon’s economic rules very credible except in extraordinary circumstances’. He continued, however, that this does not mean that military force has no utility: it ‘has certainly played an indirect role even in U.S. relations with its closest allies, since Germany and Japan could hardly ignore the fact that American military power shielded them from Soviet pressure’.34 This form of leverage has continued in the post-Cold War period.35 For example, in the face of fears over North Korea’s capacity to hit the continental United States with a nuclear missile, President Trump directly linked US trade negotiations with regional security dynamics in east Asia. Trump argued that he had ‘explained to the President of China that a trade deal with the U.S. will be far better for them if they solve the North Korean problem’.36 While enjoying strong economic interdependence with the United States, China is of course emerging as a geopolitical rival to America and a regional hegemon in east Asia. This developing security dynamic helps reinforce east Asian states’ reliance on American military power as a hedge against an increasingly assertive China. This, among other factors, has played a major role in encouraging states that can claim political equality but are subordinate in security terms to buy into broader US-centric monetary and financial regimes.37 In the case of Japan and the United States, for example—which together account for 30 per cent of the world economy—a recent post-TPP statement affirmed the close relationship between US security guarantees and bilateral economic relations: ‘The US commitment to defend Japan through the full range of US military capabilities, both nuclear and conventional, is unwavering’, while the two countries remain firmly wedded to ‘deepening … trade and investment relations and … their continued efforts in promoting trade, economic growth, and high standards throughout the Asia–Pacific region’.38

### Populism War---1NC

#### Populism doesn’t cause war.

Ferguson ’16 [Niall; autumn 2016; Senior Fellow at Stanford University’s Hoover Institution, Senior Fellow of the Center for European Studies at Harvard University, and Visiting Professor at Tsinghua University in Beijing, “Populism as a Backlash against Globalization - Historical Perspectives,” <https://www.cirsd.org/en/horizons/horizons-autumn-2016--issue-no-8/populism-as-a-backlash-against-globalization>]

Such comparisons between the United States today and Germany in the 1930s are becoming commonplace. As a professional historian, I would like to offer what seems to me a better analogy. Our Tranquil Times Journalists are fond of saying that we are living in a time of “unprecedented” instability. In reality, as numerous studies have shown, our time is a period of remarkable stability in terms of conflict. In fact, viewed globally, there has been a small uptick in organized lethal violence since the misnamed Arab Spring. But even allowing for the horrors of the Syrian civil war, the world is an order of magnitude less dangerous than it was in the 1970s and 1980s, and a haven of peace and tranquility compared with the period between 1914 and 1945. This point matters because the defining feature of interwar fascism was its militarism. Fascists wore uniforms. They marched in enormous and well-drilled parades and they planned wars. That is not what we see today. So why do so many commentators feel that we are living through “unprecedented instability?” The answer, aside from plain ignorance of history, is that political populism has become a global phenomenon, and established politicians and political parties are struggling even to understand it, much less resist it. Yet populism is not such a mysterious thing, if one only has some historical knowledge. The important point is not to make the mistake of confusing it with fascism, which it resembles in only a few respects. Rather like a television chef, I shall describe a recipe for populism, based on historical experience. It is a simple recipe, with just five ingredients. Five Ingredients for A Populist Backlash The first of these ingredients is a rise in immigration. In the past 45 years, the percentage of the population of the United States that is foreign-born has risen from below 5 percent in 1970 to over 13 percent in 2014—almost as high as the rates achieved between 1860 and 1910, which ranged between 13 percent and an all-time high of 14.7 percent in 1890. So when people say, as they often do, that “the United States is a land based on immigration,” they are indulging in selective recollection. There was a period, between 1910 and 1970, when immigration drastically declined. It is only in relatively recent times that we have seen immigration reach levels comparable with those of a century ago, in what has justly been called the first age of globalization. Ingredient number two is an increase in inequality. Drawing on the work done on income distribution by Thomas Piketty and Emmanuel Saez, we can see that we have recently regained the heights of inequality that were last seen in the pre-World War I period. The share of income going to the top one percent of earners is back up from below 8 percent of total income in 1970 to above 20 percent of total income. The peak before the financial crisis, in 2007, was almost exactly the same as the peak on the eve of the Great Depression in 1928. Ingredient number three is the perception of corruption. For populism to thrive, people have to start believing that the political establishment is no longer clean. Recent Gallup data on public approval of institutions in the United States show, among other things, notable drops in the standing of all institutions save the military and small businesses. Just 9 percent of Americans have “a great deal” or “quite a lot” of confidence in the U.S. Congress—a remarkable figure. It is striking to see which other institutions are down near the bottom of the league. Big business is second-lowest, with just 21 percent of the public expressing confidence in it. Newspapers, television news, and the criminal justice system fare only slightly better. What is even more remarkable is the list of institutions that have fallen furthest in recent times: the U.S. Supreme Court now has just a 36 percent approval rating, down from a historical average of 44 percent, while the Presidency has dropped from 43 percent to 36 percent approval. The financial crisis appears to have convinced many Americans—and not without good reason—that there is an unhealthy and likely corrupt relationship between political institutions, big business, and the media. The fourth ingredient necessary for a populist backlash is a major financial crisis. The three biggest financial crises in modern history—if one uses the U.S. equity market index as the measure—were the crises of 1873, 1929, and 2008. Each was followed by a prolonged period of depressed economic performance, though these varied in their depth and duration. In the most recent of these crises, the peak of the U.S. stock market was October 2007. With the onset of the financial crisis, we essentially replayed for about a year the events of 1929 and 1930. However, beginning in mid to late 2009, we bounced out of the crisis, thanks to a combination of monetary, fiscal, and Chinese stimulus, whereas the Great Depression was characterized by a deep and prolonged decline in stock prices, as well as much higher unemployment rates and lower growth. The first of these historical crises is the least known: the post-1873 “great depression,” as contemporaries called it. What happened after 1873 was nothing as dramatic as 1929; it was more of a slow burn. The United States and, indeed, the world economy went from a financial crisis—which was driven by excessively loose monetary policy and real estate speculation, amongst other things—into a protracted period of deflation. Economic activity was much less impaired than in the 1930s. Yet the sustained decline in prices inflicted considerable pain, especially on indebted farmers, who complained (in reference to the then prevailing gold standard) that they were being “crucified on a cross of gold.” We have come a long way since those days; gold is no longer a key component of the monetary base, and farmers are no longer a major part of the workforce. Nevertheless, in my view, the period after 1873 is much more like our own time, both economically and politically, than the period after 1929. There is still one missing ingredient to be added. If one were cooking, this would be the moment when flames would leap from the pan. The flammable ingredient is, of course, the demagogue, for populist demagogues react vituperatively and explosively against all of the aforementioned four ingredients. Kearney’s Cause Now, my argument is not intended to dismiss or downplay those elements of Donald Trump’s campaign for President of the United States that have been implicitly, if not explicitly, racist. Nor do I treat lightly the various signals he has given of indifference to, or at least ignorance of, the U.S. Constitution. My point is that these demerits do not by themselves qualify Trump for comparison with Mussolini, much less with Hitler. Rather, I want to argue that Trump has much more in common with the demagogues of the earlier, lesser depression of the late nineteenth century, and that it is to that period that we should look for historical analogies and insights. The best illustration of my case is the now forgotten figure of Denis Kearney, leader of the Workingmen’s Party of California and the author of the slogan “The Chinese Must Go!” Himself an Irish immigrant to the United States—as opposed to the son of a Scottish immigrant and grandson of a German, which is what Donald Trump is—Kearney was part of a movement of nativist parties and “Anti-Coolie” clubs that sought to end Chinese immigration into the United States. The report of the Joint Special Committee to Investigate Chinese Immigration in 1877 gives a flavor of the times. “The Pacific coast must in time become either Mongolian or American,” was the committee’s view. The report argued that the Chinese brought with them the habits of despotic government, a tendency to lie in court, a weakness for tax evasion and “insufficient brainspace […] to furnish [the] motive power for self-government.” Moreover, Chinese women were “bought and sold for prostitution and treated worse than dogs,” while the Chinese were “cruel and indifferent to their sick.” Giving such inferior beings citizenship, the committee’s report declared, “would practically destroy republican institutions on the Pacific coast.” The realities were, it scarcely needs to be said, very different. According to the “Six Companies” of Chinese in San Francisco—corporate bodies that represented the Chinese population of the city—there was compelling evidence that Chinese immigration was a boon to California. Not only did the Chinese provide labor for the state’s rapidly developing railroads and farms; they also tended to improve the neighborhoods in which they settled. Moreover, there was no evidence of a disproportionate Chinese role in gambling and prostitution. In fact, statistics showed that the Irish were more of a charge on the city’s hospital and almshouse than the Chinese. Nevertheless, a powerful coalition of “laboring men and artisans,” small businessmen and “grangers” (the term used to describe those who aimed to shift the burden of taxation onto big business and the rich) rallied to Kearney’s cause. As one shrewd contemporary observer noted, part of his appeal was that he was attacking not just the Chinese, but also the big steamship and railroad companies that profited from employing Chinese labor, not to mention the corrupt two-party establishment that ran San Francisco politics: Neither Democrats nor Republicans had done, nor seemed likely to do, anything to remove these evils or to improve the lot of the people. They were only seeking (so men thought) places or the chance of jobs for themselves, and could always be bought by a powerful corporation. Working men must help themselves; there must be new methods and a new departure […] The old parties, though both denouncing Chinese immigration in every convention they held, and professing to legislate against it, had failed to check it […] Everything, in short, was ripe for a demagogue. Fate was kind to the Californians in sending them a demagogue of a mean type, noisy and confident, but with neither political foresight nor constructive talent. Kearney may have lacked foresight and “constructive talent,” but there is no gainsaying what he and his ilk were able to achieve. Beginning with the Page Law (1875) prohibiting the immigration of Asian women for “lewd or immoral purposes,” American legislators scarcely rested until Chinese immigration to the United States had been stopped altogether. The Chinese Exclusion Act (1882) suspended immigration of Chinese for 10 years, introduced “certificates of registration” for departing laborers (effectively re-entry permits), required Chinese officials to vet travelers from Asia, and, for the first time in American history, created an offense of illegal immigration, with the possibility of deportation as a part of the penalty. The Foran Act (1885) banned all contract laborers from immigrating to America. Legislation passed in the Scott Act (1888) banned all Chinese from travel to the United States except “teachers, students, merchants, or travelers for pleasure.” In all, between 1875 and 1924, more than a dozen pieces of legislation served to restrict and finally end altogether Chinese immigration. No one should therefore underestimate the power of populism. For all his coarseness and bombast, Denis Kearney and his allies effectively sealed the American border along the Pacific coast of the United States; indeed, one cartoon of the time depicted them constructing a wall across the San Francisco harbor. In the 1850s and 1860s, as many as 40 percent of all Chinese emigrants had travelled beyond Asia, though the numbers arriving in the United States had in fact been relatively small (between 1870 and 1880, a total of 138,941 Chinese immigrants came, just 4.3 percent of the total, a share dwarfed by the vast European exodus across the Atlantic in the same period). What exclusion did ensure in the late nineteenth was that Chinese immigration would not grow, as it surely would have, but instead dwindled and then ceased. Ironies Populism, then, is not just a form of political entertainment. One sometimes hears it said of Donald Trump: “Ah, he says wild things on the campaign trail, but when he is president it will be fine.” History suggests otherwise. It suggests that men who threaten to restrict immigration—as well as to impose tariffs and to discourage capital export, as populists generally do—mean what they say. Indeed, populists are under a special compulsion to enact what they pledge in the campaign trail, for their followers are fickle to begin with. In the case of Trump, most have already defected from the Republican Party establishment. If he fails to deliver, they can defect from him, too. Of course, populists are bound eventually to disappoint their supporters. For populism is a toxic brew as well as an intoxicating one. Populists nearly always make life miserable for whichever minorities they chose to scapegoat, but they seldom make life much better for the people whose ire they whip up. Whatever the demagogues may promise—and they always promise “jam today”—populism tends to have significantly more economic costs than benefits. Restricting immigration, imposing tariffs on imported goods, penalizing firms for investing abroad: such measures, if adopted by an American government in 2017, would be almost certain to reduce growth and employment, rather than the reverse. That has certainly been the Latin American experience—and few regions of the world have run the populist experiment more often. The foreign dimension brings us to a final irony. Despite their habitual insistence on narrow national self-interest, populists are nearly always part of a global phenomenon. Globalization had been making enormous strides prior to 1873, with world trade, migration, and international capital flows growing at unprecedented rates. But the crisis of that year generated a populist backlash against globalization that was itself global in its scope. Then, just as now, the principal targets of the demagogues were immigration, free trade, and high finance. Just as the United States excluded immigrants and raised tariffs, so did European countries by adopting similar discriminatory measures. In Bismarck’s Germany, populism was often antisemitic—as it was in the France of the Dreyfus Affair—while in late Victorian Britain it was anti-Irish. Tariffs went up almost everywhere except in Britain. Populism today has a similarly global quality. In June, the British vote to leave the European Union was hailed by populists right across the European continent as well as by Donald Trump in the United States and, implicitly, by Vladimir Putin in Russia. Yielding to the Complicators Let me conclude with a note of qualified optimism. Because populism is not fascism, populist victories should not be construed as harbingers of war—if anything, the opposite is true. In the 1870s and 1880s, populists did achieve significant reductions in globalization: not only immigration restrictions, but also higher tariffs. But they did not form many national governments, and they did not subvert any constitutions. Nor were populists much interested in starting wars; if anything, they lent towards isolationism and viewed imperialism as just another big business racket. In most countries, the populist high tide was in the 1880s. What came next—in many ways as a reaction to populism, but also as an alternative set of policy solutions to the same public grievances—was Progressivism in the United States and socialism in Europe. Perhaps something similar will also happen in our time. Perhaps that is something to look forward to. Nevertheless, we would do well to remember that World War I broke out during the progressive not the populist era. The world today is, as I observed at the outset, in much less turmoil than one might infer from television news. Nevertheless, the economic and social consequences of globalization and the most recent financial crisis sowed the seeds for the populist backlash that we now see. Populists are not fascists. They prefer trade wars to actual wars; administrative border walls to more defensible fortifications. The maladies they seek to cure are not imaginary: uncontrolled rising immigration, widening inequality, free trade with “unfree” countries, and political cronyism are all things that a substantial section of the electorate have some reason to dislike. The problem with populism is that its remedies are wrong and, in fact, counterproductive. What we most have to fear—as was true of Brexit—is not therefore Armageddon, but something more prosaic: an attempt to reverse certain aspects of globalization, followed by disappointment when the snake oil does not really cure the patient’s ills, followed by the emergence of a new and ostensibly more progressive set of remedies for our current malaise. The “terrible simplifiers” may have their day then. But they will end up yielding power to well-intentioned complicators, those more congenial to educated elites, but probably every a bit as dangerous, if not more so.

## Adv---Investment

### Crowd Out---1NC

#### Investment crowd-out makes no sense.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

5. Crowding Out. The airline paper suggests three possible causal links between common ownership and a decline in competition, two of which – the idea that common ownership leads to managerial compensation packages that discourage competition164 and the “inertia” idea that common owners will be passive and not join an activist hedge fund campaigns aimed at pushing a firm’s managers to compete more effectively165 – have been rebutted above. The third is that common owners “crowd out” activist hedge funds.166 The authors are not explicit as to what “crowding out” means. For this to be distinct from the inertia mechanism, however, it must be the idea that because of the rise of common ownership, it is harder for activist shareholders to acquire their typically 5% to 7% stake that they use as their base before going out to persuade other owners to vote with them in a proxy fight aimed at changing how the firm is managed. The idea that such “crowding out” would have a significant effect on the likelihood of a successful activist hedge fund campaign does not accord with modern corporate finance theory. Even if the Big Three hold, say, 21% of the shares of each company in an industry, the other 79% are still held by other investors who will sell their shares if they believe that the price in the market is above the value to them of continuing to hold their shares. And that price, prior to the activist hedge fund putting in its buy orders, will be the same – the market’s view of the expected future cash flow to be paid to the holder of the share discounted to present value – whether the Big Three own no shares or 21%. The standard textbook theory conclusion is that the demand curve for a given stock is flat,167 which would mean that the presence or absence of the Big Three would not affect the price at which the activist hedge fund could then buy. To the extent that real world markets might deviate somewhat from this textbook conclusion,168 the common ownership adherents have not shown that the deviation is sufficient to significantly affect the likelihood of activist hedge fund success, i.e., that despite the remaining large pool of shares available to be traded in a public market, it would be significantly more costly to acquire 5%-7% of the shares relative to the Big Three not holding 21% of the shares.169

Footnote 169:

169 Rock and Rubinfeld reach a similar conclusion, describing the idea as “puzzling.” See Rock & Rubinfeld, supra note 9, at 250. See also id. (“[I]ndex funds collectively holding only around 16 percent of the stock of a typical airline will hardly prevent activist hedge funds from acquiring large (e.g., 9 percent) positions. Indeed, as discussed earlier, Warren Buffett acquired substantial positions over a short period of time.”)

### Buybacks Turn---1NC

#### Stock buybacks improve growth.

Edmans ’17 [Alex; September 15; Professor of Finance at London Business School, Ph.D. from MIT; Harvard Business Review, “The Case for Stock Buybacks,” https://hbr.org/2017/09/the-case-for-stock-buybacks]

Such a nefarious use of corporate funds makes for great headlines. But these claims are very rarely backed up by large-scale evidence, and often driven by a misunderstanding of how buybacks actually operate.

The claim that the need to buy back stock forces firms to cut investment puts the cart before the horse. A more plausible view goes like this: First, firms allocate funds to investment based on the opportunities that are available. If they have spare cash left over after taking all value-creating investment opportunities then they may use it for buybacks. This highlights a logical error in the UK Government’s quote above: “surplus capital” is, by definition, capital left over after all productive investments have been made.

The evidence suggests this view is more accurate. A comprehensive survey of financial executives concluded that “repurchases are made out of the residual cash flow after investment spending.” Other studies find that CEOs repurchase more stock when growth opportunities are poor, and when they have excess capital. It is the exhaustion of a firm’s investment opportunities that lead to buybacks, rather than buybacks causing investment cuts.

Moreover, the claim that buybacks weaken companies long-term isn’t borne out by the data. Firms that buy back stock subsequently beat their peers by 12.1%

over the next four years. Rather than eroding long-term firm value, buybacks create value by ensuring that surplus capital is not wasted. For several years, Yahoo was valued at below the sum of its parts, partially due to concerns that it would waste its cash on poor acquisitions; more broadly, a large-scale study found that, in poorly governed firms, $1 of cash is valued at only $0.42 to $0.88. This highlights the value that can be unlocked simply by not frittering away corporate resources.

In addition, buybacks offer firms the flexibility to vary how much they return to shareholders year to year. Even if a company repurchased lots of stock last year, it can buy back zero this year. Even after announcing a repurchase program this year, it can decide not to follow through with it with few negative consequences. Repurchases are much more flexible than dividends, the alternative way in which companies return cash to their investors, which attract less ire. While a company can chop and change its repurchase policy depending on its investment requirements, it needs to maintain historic dividend levels since dividend cuts lead to a significant stock price fall. This means that it is better to return surplus capital in the form of repurchases (or through a special dividend) because increasing the ordinary dividend implicitly commits the firm to maintaining the higher dividend level in the future.

The flexibility of repurchases is attractive for other reasons. Consumers with credit cards, and companies with revolving credit lines, value the option to pay back their debt at any time. They particularly overpay when the interest rate – the rate of return required by the bank – is high, just as firms particularly repurchase when the stock price is low and thus the rate of return required by shareholders is high. If a credit card only allowed consumers to make the minimum payment every month, few would take out the card. Similarly, if firms were restricted from buying back shares, they may not issue equity to begin with. Fewer companies would go public, instead financing themselves by taking on more debt. Debt is a useful analogy for a second reason. A borrower who pays back debt is making an investment that pays off in the future, by reducing her future interest obligations. Similarly, a company that buys back stock has to pay fewer dividends in the future.

The idea that buybacks (or, for that matter, dividends) stifle investment is “partial thinking.” It considers investment only in the company in question and ignores the fact that shareholders can reinvest the cash returned elsewhere. And this represents a second advantage of buybacks over dividends. In a buyback, investors choose whether to sell their shares back. They will likely only do so if they have alternative investment opportunities; no rational investor would sell their stock and just horde the cash. Dividends are paid out to all investors, even those who have no good alternative investment opportunities and who may indeed allow the cash to sit idle. In this way, repurchases are targeted: they return cash to shareholders with the best other uses for it.

Indeed, the fundamental premise implicit in many buyback critiques — that more investment is good and less investment is bad — violates a basic idea in Finance 101. Investment only creates value if its returns are higher than the other projects shareholders could invest in. It takes no skill to simply spend money. Responsible companies don’t invest willy-nilly; they invest when opportunities are good, and show restraint when opportunities are bad. A restriction on repurchases could take us back to the 1970s, where CEOs simply wasted free cash on building empires – RJR Nabisco being a prime example – rather than paying it out to be allocated elsewhere. Repurchases allow shareholders to reallocate funds to young, high-growth firms that are screaming out for a cash injection. Relatedly, few argue that equity issuance is a definitively value-creating action; indeed, selling shares significantly reduces the stock price if done without shareholder approval – as such issuances are most likely to be motivated by empire building. Yet, repurchases are simply the opposite of equity issues.

# 2NC

## Adv---Prices

### Uniqueness---US Growth---2NC

#### The economy’s going gangbusters, in a good way.

Milbank ’12-29 [Dana; 2021; reporter; the Washington Post, “Opinion: This is the worst economy we never had,” https://www.washingtonpost.com/opinions/2021/12/29/this-is-worst-economy-we-never-had/]

After a year of such deception, the United States is experiencing the worst economy we never had. The economy is going gangbusters — historically so. Yet Americans, particularly Republicans, express a gloom not matched by economic reality — or by their own spending behaviors. Polls and consumer-confidence indices show an economic pessimism as grim as when millions lost jobs in the pandemic shutdown. This is, in large part, because disinformation has prevailed. Partisanship long colored economic views, but now Republicans, in addition to occupying a parallel political reality, are expanding an alternate economic universe.

“America’s economy improved more in Joe Biden’s first 12 months than any president during the past 50 years notwithstanding the contrary media narrative contributing to dour public opinion,” Matthew Winkler, former editor in chief of Bloomberg News, wrote last week. Among the gains: The economy expanded an estimated 5.5 percent in 2021 (fourth-quarter growth dramatically outpaced Europe and even China). Unemployment plunged to 4.2 percent. Record-setting U.S. stock markets (the S&P 500 is up nearly 30 percent) outperformed the world. Productivity jumped. Corporate profits are the largest since 1950 and corporate debt the lowest in 30. Consumer credit expanded. Confidence among CEOs is the highest in 20 years. The American Rescue Plan cut child poverty in half.

“The force of the American expansion is also inducing overseas companies to invest in the U.S., betting that the growth is still accelerating and will outpace other major economies,” added the Wall Street Journal.

The fly in the ointment is inflation estimated at 5.6 percent for the year — the highest in 40 years — which is suppressing disposable income. This causes real pain for consumers, particularly low-income Americans buying groceries and gas and anybody buying a car. But studies show that, among the lowest earners, wage gains outpaced inflation. Also, inflation is less than half what it was 40 years ago, and, unlike then, today’s bond yields signal investors don’t expect inflation to worsen. Forty years ago, stagnant growth combined with inflation to cause “stagflation.” Now the economy is roaring.

#### America growth outpaces other nations now.

Fairless ’12-21 [Tom; 2021; financial reporter, citing Fabio Panetta, who sits on the European Central Bank’s six-member executive board, Aneta Markowska, chief financial economist at Jefferies in New York; the Wall Street Journal, “Booming U.S. Economy Ripples World-Wide,” https://www.wsj.com/articles/booming-u-s-economy-ripples-world-wide-straining-supply-chains-and-driving-up-prices-11640082604]

FRANKFURT—A booming U.S. economy is rippling around the world, leaving global supply chains struggling to keep up and pushing up prices.

The force of the American expansion is also inducing overseas companies to invest in the U.S., betting that the growth is still accelerating and will outpace other major economies.

U.S. consumers, flush with trillions of dollars of fiscal stimulus, are snapping up manufactured goods and scarce materials.

U.S. economic output is set to expand by more than 7% annualized in the final three months of the year, up from about 2% in the previous quarter, according to early output estimates published by the Federal Reserve Bank of Atlanta. That compares with expected annualized growth of about 2% in the eurozone and 4% in China for the fourth quarter, according to JPMorgan Chase.

Major U.S. ports are processing almost one-fifth more container volume this year than they did in 2019, even as volumes at major European ports like Hamburg and Rotterdam are roughly flat or lag behind 2019 levels. The busiest U.S. container ports are leaping ahead of their counterparts in Asia and Europe in global rankings as volumes surge, according to shipping data provider Alphaliner.

In Europe, “durable goods consumption is showing nothing like the boom that is ongoing in the United States,” said Fabio Panetta, who sits on the European Central Bank’s six-member executive board, in a speech last month. Consumption of durable goods has surged about 45% above 2018 levels in the U.S., but is up only about 2% in the eurozone, according to ECB data.

Consumption of durable goods in the U.S. has surged.

Factory gate prices in China are far outpacing consumer prices, signaling a gulf between weak domestic demand and strong overseas demand that is powered in particular by U.S. hunger for China’s manufactured goods.

While tangled global supply chains also play a role in driving global inflation, economists and central bankers are increasingly pointing to ultrastrong U.S. demand as a root cause.

“Are we crowding out consumers in other countries? Probably,” said Aneta Markowska, chief financial economist at Jefferies in New York. “The U.S. consumer has a lot more purchasing power as a result of fiscal policy than consumers elsewhere. Europe could be in a stagflationary scenario next year as a consequence.”

The U.S. accounts for almost nine-tenths of the roughly 22-percentage-point surge in demand for durable goods among major advanced economies since the end of 2019, according to data from the Bank of England.

“Very strong U.S. demand is certainly where [global supply bottlenecks] started,” said Lars Mikael Jensen, head of network at container ship giant A.P. Moller-Maersk A/S.

“It’s like a queue on a highway. The increase in volume in the U.S…takes ships away from other markets,” said Mr. Jensen. “Problems in one place will trigger problems somewhere else, we live in a global world.”

The U.S. economy will likely grow by around 6% in 2021 and 4% or more in 2022, the highest rates for decades, analysts say. Strong U.S. growth momentum is expected to push the unemployment rate to the lowest level in almost seven decades by 2023, according to Deutsche Bank analysts.

U.S. economic output is likely to surpass its pre-pandemic path early next year, while output in China and emerging markets will remain about 2% below that path through 2023, according to JPMorgan Chase.

U.S. wages are growing by about 4% a year, above the precrisis trend rate, compared with less than 1% growth in the eurozone, according to data from the Bank for International Settlements, a Switzerland-based bank for central banks.

### Uniqueness---Business Confidence---2NC

#### Business confidence is high.

Hanselman ’21 [Heather; December; Associate Editor; McKinsey & Company, “The coronavirus effect on global economic sentiment, December 2021,” https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/the-coronavirus-effect-on-global-economic-sentiment]

Executive sentiment ends the year on a generally positive note, with most survey respondents expecting 2022 to bring better economic conditions despite heightened risks from the pandemic and inflation.

December 2021

Respondents to the latest McKinsey Global Survey on the economy end a largely optimistic year with mostly positive expectations for 2022.1 These relatively upbeat outlooks, both for the global economy and for respondents’ countries, come despite a resurgence in concerns about the state of the COVID-19 pandemic: countries across Europe and North America had been reporting rising case numbers since early October, and WHO declared the Omicron variant to be one of concern just days before the survey launched.2 Respondents—particularly those in Latin America and North America—also see inflation as a pressing economic threat.

A majority of respondents (57 percent) expect both the global economy and their countries’ economies to improve in the next six months, though this proportion has declined since the summer (Exhibit 1). The shares of respondents predicting economic improvements, both globally and domestically, are similar in size to those in the December 2020 survey who expected improvement. Respondents in India, Greater China, and Asia–Pacific are the most optimistic: more than three-quarters in each of those locations predict improvements in their countries. Just 26 percent in Latin America say the same.

Exhibit 1, omitted.

Expectations for the global economy and respondents’ home countries ended the year where they started in January.

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Respondents’ expectations for their own companies tell a similar story: they are still largely positive even after trending downward since the summer. Sixty-four percent expect customer demand to increase in the next six months, down from 74 percent in the June survey. Nearly two-thirds of respondents expect profits to increase, compared with 74 percent in June and September.

#### Confidence is high.

Pickert ’12-1 [Reade; 2021; reporter, citing the Business Roundtable Survey, which interviews over 100 CEOs; Bloomberg, “CEO Confidence Surges to Record in Business Roundtable Survey,” https://www.bloomberg.com/news/articles/2021-12-01/ceo-confidence-surges-to-record-in-business-roundtable-survey]

Confidence among chief executive officers of large U.S. companies jumped to a record high as expectations for hiring, capital investment and sales all improved.

The Business Roundtable’s CEO Economic Outlook index rose 10 points to 124 in the fourth quarter, the highest in 20 years worth of data, according to the report released Wednesday. The survey, conducted Nov. 3-22, also showed CEOs expect the U.S. economy to grow 3.9% next year.

### Thumpers---2NC

#### Everything is non-binding.

Holding et al. ’21 [Christopher, Paul Jin, Andrew Lacy, Arman Goodwin; July 15; Experts at JD Supra, a daily source of legal intelligence on all topics business and personal, distributing news, commentary, and analysis from leading lawyers; JD Supra, “Biden Executive Order Calls for Heightened Antitrust Scrutiny,” <https://www.jdsupra.com/legalnews/biden-executive-order-calls-for-7783960/>]

Key Implications

Revised horizontal and vertical merger guidelines are expected, which will likely implement a much more aggressive approach to deals. Note, however, that agency merger guidelines are not binding on courts and merger challenges under more aggressive theories may be met with skeptical courts;

Anticipate delays in HSR review especially for deals in industries singled out by the Order (e.g., tech, pharma, healthcare, among others), even if competitive overlaps are minimal;

Deals not subject to HSR filing requirements, even when purchase prices are relatively low, should be reviewed by antitrust specialists to assess risk, especially in the sectors identified in the Order;

#### FTC is deadlocked

Sisco ’21 [Josh; October 5; Legal reporter covering antitrust, former Senior Correspondent at various market analysis firms; The Information, “Staff Exits Complicate FTC Chief Lina Khan’s Agenda,” <https://www.theinformation.com/articles/staff-exits-complicate-ftc-chief-lina-khans-agenda>]

But the FTC has problems. The politically appointed commissioners who run it are likely to be deadlocked on major decisions for several months at least. And a spate of senior staff departures—with many more likely to come—means its new chair Lina Khan may not have enough bodies to tackle her stated goals, including dismantling parts of Amazon, for some time. To manage an expected increase in cases, she's going to need to hire a lot more like-minded trial lawyers with the experience to stand up in court and win cases.

The takeaway:

* Chopra’s departure could leave FTC deadlocked for months
* Senior merger enforcement lawyers are shopping resumes
* More departures are expected

A deadlocked FTC is inevitable. The Senate on Friday confirmed Rohit Chopra, a current FTC commissioner and a key Khan ally, to take over the Consumer Financial Protection Bureau, which means he will leave the FTC. Until the Senate confirms his replacement—Alvaro Bedoya, a privacy and surveillance expert—to the five-member FTC, a two-to-two deadlock along party lines awaits Khan, depending on what cases she tries to bring. The replacement process could take months. Chopra has one more week left at the FTC, so Khan may push through actions while she still has a three-to-two Democratic majority, though the actions may not be made public right away.

#### Biden will be pulled away from antitrust.

**Kelly ’1-27** [Makena; 2022; reporter; Verge, “Amy Klobuchar leads her final assault on Big Tech’s power,” https://www.theverge.com/2022/1/27/22904320/amy-klobuchar-amazon-apple-facebook-google-antitrust-competition-bill]

Still, any new rules have been perceived as a sizable threat to an industry that’s broadly avoided any form of regulation over the last few decades. Throughout last week’s markup, senators on both sides of the aisle proposed changes to the bill that could drastically change its effectiveness. Klobuchar told The Verge that she was willing to work in good faith with other senators, but “we have to have a bill that actually does something.”

“Everyone’s trying to win a popularity contest with the tech companies. You’ve got to come to grips that these companies will be fine. They’re trillion-dollar companies. We’re just making space for competitors,” she said.

While the Biden administration appears eager to take on corporate power this year, its efforts could be sullied by more pressing issues as lawmakers return to their districts looking to tout big Democratic wins as the midterm elections heat up. Asked if antitrust reform was a winning issue for Democrats, Klobuchar said she hadn’t “thought of it in that way.”

### AT: Insurance Exemption

#### It barely eroded the exemption – the effect is litigation alone.

DeFilippo ’21 [Aimee; January; partener at Jones Day focusing on mergers and acquisitions; Jones Day Insights, “New Law Eliminates 75-Year-Old Antitrust Exemption for ‘Business of Health Insurance’,” <https://www.jonesday.com/en/insights/2021/01/new-law-eliminates-75yearold-antitrust-exemption-for-business-of-health-insurance>; KP]

The Development: Congress unanimously passed and before leaving office, President Trump signed into law, the Competitive Health Insurance Reform Act ("CHIRA"). CHIRA limits application of the McCarran-Ferguson Act, an exemption from the federal antitrust laws, as it relates to the business of health insurance.

The Context: Since 1945, the McCarran-Ferguson Act has exempted certain conduct of insurers from challenge under the federal antitrust laws. State insurance regulators and the health insurance industry's trade group have long maintained that repealing the McCarran‑Ferguson Act is unnecessary, in part, because state antitrust and insurance laws already prohibit conduct such as price fixing that CHIRA proponents claim that McCarran-Ferguson insulates.

Looking Ahead: In addition to the reasons above, CHIRA is not likely to bring significant changes to the operations of health insurers because (i) it leaves the exemption in place for certain critical activities; (ii) other federal antitrust exemptions may nonetheless apply; and (iii) health insurers' procompetitive activities should be found lawful under the federal antitrust laws. However, antitrust claims abhor a vacuum. In the past, expansion of antitrust liability in an industry, including health care, has spawned waves of litigation, attracted by automatic treble damages in successful challenges. Health insurers should expect increased antitrust litigation, and possibly government investigations, and therefore should review their business practices to ensure compliance with the federal antitrust laws.

### Link---2NC

#### Even targeted antitrust sends a broad signal of aggressive overregulation.

Keating ’21 [Raymond; June 18; Chief Economics for the Small Business and Entrepreneurship Council and Adjunct Professor in the MBA Program at the Townsend School of Business at Dowling College; SBE Council, “Antitrust Fictions (and Actions) Will Have Real, Negative Economic Consequences,” <https://sbecouncil.org/2021/06/18/antitrust-fictions-and-actions-will-have-real-negative-economic-consequences/>]

The Real Outcome: Less Competition and Innovation, Fewer Choices, Diminished Investment and Entrepreneurially Opportunity

It needs to be understood that while supposedly targeting so-called “Big Tech,” these intrusive regulations and substantial costs would fall on competitors as well, thereby actually discouraging competition in technology markets. For good measure, moving ahead with his kind of hyper-antitrust regulation of tech firms lays the groundwork for doing so in other industries, such as in retail, energy, health and medical sectors, and so on. This is what Senate anti-trust crusaders hope to accomplish.

The message is clear: Beware entrepreneurs, businesses and investors if you become too successful or if you cross certain political constituencies. The government stands ready to punish you via intrusive and costly regulation.

It doesn’t matter that this entire attack on “Big Tech” is based on political fictions, as the policies would generate negative economic consequences. Political, antitrust fictions do not somehow make the fallout for entrepreneurship, investment and innovation any less real.

#### 2. STABILITY---antitrust is settled law. Changing legal standards disrupts forty-years of precise application, cascading into economy-wide stagnation through arbitrary revisions.

Thierer ’21 [Adam; February 25; Senior Research Fellow with the Mercatus Center at George Mason University; The Hill, “Open-ended antitrust is an innovation killer,” <https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer>]

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: discouraging the sort of vibrant innovation and consumer choice that made America’s tech companies household names across the globe.

Sen. [Amy Klobuchar](https://thehill.com/people/amy-klobuchar) (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, [recently introduced](https://www.klobuchar.senate.gov/public/_cache/files/e/1/e171ac94-edaf-42bc-95ba-85c985a89200/375AF2AEA4F2AF97FB96DBC6A2A839F9.sil21191.pdf) the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

The most important feature is the proposed change to the legal standard by which regulators approve business deals. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like simple, semantic tweaks, but – much like some of the other policy ideas currently circulating – they would upend decades of settled law and create a sea change in U.S. antitrust enforcement. This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. [Josh Hawley](https://thehill.com/people/joshua-josh-hawley) (R-Mo.). Hawley recent [offered an amendment](https://www.axios.com/josh-hawley-big-tech-merger-ban-1467081d-216c-45a2-9d09-9416dfbde330.html) to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated how dynamic media and technology markets can be with firms constantly searching for value-added arrangements that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that government bureaucrats are better suited to make these calls than businesspeople and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – are remarkably open-ended and could be easily abused. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for cronyism and economic stagnation.

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines [proclaimed](https://www.technewsworld.com/story/55185.html) that “MySpace Is a Natural Monopoly,” and [asked](https://www.theguardian.com/technology/2007/feb/08/business.comment), “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits [insisted](https://www.marketwatch.com/story/apple-should-pull-the-plug-on-the-iphone) “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new [corporate “Big Brother”](http://www.ojr.org/ojr/workplace/1017966109.php?__cf_chl_jschl_tk__=67a5f6a101935b8e3586ca48216d31ba6d4e03de-1612467283-0-AXvbGCtUx-p_N4T-8_2m8OHezQUhQ9kelg9-pVuD6IzKvFfXrllJujU9ERvjqjyIsAeCovUw9bfZqq75_NYasBM87SnQT_027hDJOhjXeowzK1QQH_7vcmr1tS4XgCGC_NNx6UGbAvVgcJNFhSkqkVKKeRJ-BjdDA7Vus-gwmr7wQXcS7KKfTtHyqxdRfureL9alpZHU2IJcbbdYaZpTjTrfcJHCKa8pIZcdiScjaRJmON9X1Ip20Vuv7tyDHbZSvcrn88WrY_9N_qBpKvZhQ4PAe90w5Fx5iHjjNIzoNMKSpToTFGLbPdqawgge9PVubSQbkS7xXDXxCBMA2Sh-Y_U) that would decimate digital diversity and online competition.

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

#### 3. SCOPE---it’s impossible to limit because of inherently economy-wide application AND displaces market self-correction.

Nachbar ’19 [Thomas; June 2019; Professor of Law at the University of Virginia School of Law, JD from the University of Chicago Law School, AB in History and Economics from the University of Illinois; The Antitrust Source, “Book Review: Heroes and Villains of Antitrust,” p. 8]

That regulatory skepticism had a particular salience for antitrust law, which itself is designed to maintain a particular balance between private and government action in markets. 53 Since Adam Smith, the argument of so-called free-market intellectuals has not been that markets are perfect but rather that they are comparatively better at solving problems than governments. Part of the argument is that, in most cases, market forces will drive a firm that has adopted an inefficient practice to shift to a more efficient one, lest it lose more business than it gains from the practice. But if antitrust law outlawed a practice, there is no potential for the market to correct—the practice once outlawed would remain outlawed. 54 And because antitrust law applies to all industries, a practice outlawed for one firm or industry would be outlawed for all firms in all industries, or be interpreted as such by risk-averse firms and their risk-averse lawyers—not to mention the treble damages that the liable antitrust defendant would have to pay.

Importantly, there would be no way to correct the error. The intuition underlying that broader regulatory skepticism has a particular resonance for antitrust, reflecting antitrust’s own misgivings about monopoly while recognizing that the only true monopoly is government itself. If you can’t trust anyone, you might as well decentralize your distrust. Verizon and AT&T may be big, but at least when they mess up, there’s a possibility for correction; not so when the federal government makes a similar mistake. That skepticism is readily apparent in the Supreme Court’s modern antitrust doctrine. 55

Footnote 55:

5 See Credit Suisse Sec. (USA) LLC v. Billing, 551 U.S. 264, 284 (2007) (“In sum, an antitrust action in this context is accompanied by a substantial risk of injury to the securities markets and by a diminished need for antitrust enforcement to address anticompetitive conduct.”); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 546 (2007) (“It is one thing to be cautious before dismissing an antitrust complaint in advance of discovery, but quite another to forget that proceeding to antitrust discovery can be expensive.”) Verizon Commc’ns, Inc. v. Law Offices of Curtis V. Trinko, LLP, 540 U.S. 398, 414 (2004) (“Mistaken inferences and the resulting false condemnations ‘are especially costly, because they chill the very conduct the antitrust laws are designed to protect.’”) (quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 594 (1986))

End of Footnote 55.

#### 4. ABRUPTNESS---the surprise nature of the plan generates uncertainty that disrupts business planning.

Abbott ’21 [Alden; February 2021; Senior Research Fellow at the Mercatus Center of George Mason University, J.D. from Harvard Law School and M.A. in Economics from Georgetown University; Concurrences, “Competition Policy Challenges for a New U.S. Administration: Is the Past Prologue?” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>]

12. But recent suggestions put forth in an October 2020 House Judiciary Subcommittee on Antitrust majority report (HJSMR) [[12](https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nb12)] and in a November 2020 report by the Washington Center for Equitable Growth (WCEGR) [[13](https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nb13)] (coauthored by various prominent critics of Trump administration antitrust enforcement who served in the Obama administration) would go far beyond application of existing antitrust law to big digital platforms. In particular, the HJSMR proposes taking a highly regulatory approach to digital platforms, including imposing “[s]tructural separations and prohibitions of certain dominant platforms from operating in adjacent lines of business.” [[14](https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nb14)] The WCEGR also endorses the use of rulemaking (and, in particular, FTC rulemaking) to tackle significant problems of competition. [[15](https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nb15)] Rushing into rulemakings on platforms (especially without a clear showing of market failure) poses major risks, however, including, in particular, the creation of disincentives to invest in platform-specific innovation; and the interference with potential efficiency-seeking transactions by platform operators and suppliers of complements (in light of inevitable government second-guessing of platform-related business decision-making). The JBA antitrust team may wish to keep such potential costs in mind in setting competition policy vis-à-vis digital platforms.

13. To address the perceived growth and abuse of market power that are said to afflict the American economy, the HJSMR and WCEGR have also proposed to amend and thereby “toughen” the core antitrust statutes, to alter burdens of proof in litigation, and to bestow a substantial increase in resources on federal antitrust enforcers. [[16](https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#nb16)] The problem of scarce agency resources has long been highlighted by enforcement agency leadership, and certainly merits attention. The call for dramatic systemic change in antitrust enforcement norms, however, should be approached cautiously, with a jaundiced eye. In our common-law-based antitrust system, a major disruption to long-familiar statutory schemes would generate major uncertainty regarding antitrust enforcement principles and substantially disrupt business planning for an indeterminate amount of time. Many welfare-enhancing transactions could be sacrificed. The harm to consumer and producer welfare due to lost socially beneficial business initiatives would be hard (if not impossible) to measure, but nonetheless real. It is certainly possible that such losses would outweigh (perhaps substantially) whatever welfare gains might flow from statutory enforcement “reform.” In other words, it should not casually be assumed that “more and different” antitrust would be an unalloyed benefit. As in all other areas of law enforcement, likely costs as well as purported benefits should be central to the antitrust public policy calculus. (Costs would include, of course, the likelihood and magnitude of “false positives” under the new enforcement regime, not just the reduction in socially beneficial transactions.)

### Link---Common Ownership---2NC

#### The plan can’t be narrowly tailored AND hammers investment.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

Finally, and perhaps most important, the Article’s analysis raises a cautionary red flag to policymakers who may be contemplating significant modifications to antitrust law or policy in response to common ownership. At current common ownership levels, such policies, while well-intentioned, would be imprudent. Existing antitrust law is well-suited to address any plausible competitive harm resulting from common ownership. Any significant retooling of antitrust law or policy for purposes of eradicating or significantly tamping down on current levels of common ownership would be an ill-advised effort to solve a non-problem. Such a reform would add to the costs of the investment vehicles of choice for tens of millions of ordinary Americans for such major life purposes as retirement and the education of their children.

#### The policies would undoubtedly be overbroad.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

For this reason, it would be imprudent at this time for policymakers to make large-scale modifications to antitrust policies in response to common ownership, such as through wide-scale antitrust investigation of common ownership, prohibitions of common ownership, or safe harbors. As the Article’s analysis shows, these policies are not just overbroad. They could also generate significant social cost, ultimately to the detriment of the very consumers that antitrust seeks to serve.230

#### Logic would prohibit almost all investment.

Paldor ’21 [Ittai; Spring; Law Professor at Hebrew University; Loyola Law Review, “Empirical Findings in Need of a Theory—In Defense of Institutional Investors,” vol. 54]

IV. Policy Implications

Following the now widely accepted analysis according to which cross ownership of firms in oligopolistic product markets spontaneously results in supra-competitive pricing, antitrust doctrine has been called on to combat such cross ownership. The argument is that such cross ownership should be considered to run afoul of section 7 of the Clayton Act. 208To that end, interpretations and analyses of the "investment-only" exemption afforded by the HSR have been advanced, arguing that when the relevant transaction-size and firm-size thresholds are met, acquisitions of oligopolistic firms' stock by cross owning institutional investors should be subject to ex ante antitrust scrutiny. 209

The problem, however, is that application of antitrust law to passive cross ownership has a significant social cost on the one hand and is redundant in addressing the actual competitive concerns on the other. Additionally, coordination is neither alleged, nor likely, as demonstrated by Hemphill and Kahan. 211Disallowing mergers based on the new theories of competitive harm is thus an attempt to address a very rare (and possibly merely theoretical) phenomenon with a blunt tool, the costs of which far exceed its benefits.

First, it is extremely unlikely that institutional investors act as cartel ringmasters. Hemphill and Kahan review the modus operandi of institutional investors, and explain that the generation of, transmission of, and inducement to follow a cartelistic strategy is complex. 212There are several reasons for this. To begin with, the institutional investors that are identified in the literature on anti-competitive effects of common ownership are, with few exceptions, comprised of different business entities. 213Each of these institutional investors is treated in the literature as a single entity, because their holdings are reported to the SEC on a consolidated basis 214and through the same legal entity. 215However, from a business perspective, these are multi-layered structures with divergent interests. 216Their investment, recommendation, and voting operations are conducted by fund portfolio managers, analysts, and centralized voting units. 217Fund portfolio managers make investment decisions for the funds they manage, and each fund portfolio manager is incentivized to increase the value of the fund under her management. 218Fund portfolio managers care very little about the performance of other funds under different (business) management within the same institutional investor. 219As each fund's portfolio is likely to be different from other funds' portfolios, fund portfolio managers have conflicting interests with respect to competition between portfolio firms. 220A second reason for why it would be difficult for an institutional investor to orchestrate a cartel is that transmission of the strategy, even assuming one was devised, and inducing performance are also complicated and dangerous. 221Regardless of who within the institutional investor's organization interacted with portfolio firms' managers, a formidable problem in its own right, 222Hemphill and Kahan argue that discussions of specific prices and quantity are likely to draw attention. 223Institutional investors regularly focus on corporate governance and compensation structure. 224A discussion of specific quotas or prices (with more than one product-market firm) would "almost certainly raise eyebrows." 225And institutional investors are extremely sensitive to the reputational costs associated with scandals. 226The huge impact of even very slight changes in assets under management is destructive, even if it is not accompanied by criminal charges. 227Institutional investors (specifically mutual fund companies):

Have largely succeeded in staying on everybody's good side. The largest players, in particular, enjoy a squeaky-clean image. Any suggestion that an investment advisor as a whole ... had a policy of encouraging firms to pursue an anticompetitive strategy would be damaging... . And a criminal investigation, let alone an indictment, could be devastating. 228

Thus, although theoretically possible, the cartel-ringmaster scenario is an extremely unlikely one. Moreover, even regardless of the implausibility of the scenario, blocking mergers based on the new theories of competitive harm seems unjustified from a regulatory cost-benefit analysis.

On the cost side, the logic behind applying merger control for fear of explicit coordination or information-sharing applies not only to cases of significant cross ownership. It applies to any case of a shareholder owning stock in two competing firms. The implications of a rule designed to prevent such competitive harm would be that all instances of cross holding should be regulated, regardless of the share of the outstanding stock that is held in each of the firms. Any transaction meeting the transaction-size and firm-size thresholds would need to be blocked. As explained, in contrast to unilateral coordination, regular coordination - tacit or explicit - benefits both coordinating firms. If a shareholder is in a position to stabilize a cartel (and bear the associated risks), other shareholders' interests will also have been served through this coordination. The incentives to eliminate competition are ever-present, and cross ownership does not alter them in any way. Thus, coordination through a joint shareholder is simply a matter of opportunity and willingness, not of a difference in incentives. The question of whether cross ownership is significant should not matter. If explicit coordination is truly a concern (and there is little reason to think that it is), the "investment-only" exception to premerger scrutiny would be effectively abolished. In the specific context of institutional investors, a prohibition on cross ownership has unimaginable costs. A rule regulating institutional investors' ability to diversify their portfolio will impact the degree of diversification, which is an important social tool. Such a rule will increase institutional investors' (and through them, retail investors') exposure to firm-specific idiosyncratic risk. Posner et al.'s proposal to limit institutional investors' holdings in oligopolistic industries is a notable example of this risk. Posner et al. have suggested limiting institutional investors by either allowing them to own stock of only one firm in an oligopolistic industry, or by limiting the holdings in each of the firms to a total of 1 percent of the value of the industry. 229The first of these clearly results in reduced diversification. The second limits the total amount any institutional investor may invest in a specific (oligopolistic) industry, which imposes a social cost borne by both sides of the investment transaction: Institutional investors are forced to invest significantly larger portions of their portfolio in less appealing opportunities, and oligopolistic-product-market firms are denied access to capital which would otherwise have been forthcoming. Posner et al. acknowledge that their proposal has a negative impact on diversification. 230They argue that the size of the effect on diversification would be limited. 231But even if the effect on diversification is limited, it nonetheless exists. The diversification and discretion of the investors through whom the vast majority of investors are exposed to capital markets is curtailed. And this will affect trillions of dollars of investments.

On the benefit side of applying merger control to this setting, very little can be gained from such application. As cross ownership itself does not affect the incentives of management, no spontaneous anti-competitive conduct can be expected to ensue. Competition may be inhibited only through explicit coordination at the managerial level. Such coordination already violates both antitrust laws and corporate laws. As explained, each institutional investor has opposing preferences with respect to the unilaterally coordinating firm. Therefore, institutional investors would need to coordinate amongst themselves in order to agree on which firm would unilaterally coordinate. This kind of agreement would itself be an antitrust offense. Even assuming such an agreement were reached, institutional investors would then need to communicate their instructions to management, which could not know how to act until instructed. Instruction to management to prefer a course of action that benefits the cross owning shareholder (or shareholders) at the expense of the firm (and all other shareholders) is disallowed by corporate law. Managers who complied with the instructions would be intentionally inflicting harm on the corporation, 232thereby breaching their own fiduciary duties. 233

It is important to note that, in this context, corporate law would prohibit compliance with such instructions independently of antitrust laws. In other circumstances, anti-competitive conduct benefits all coordinating firms, and as a derivative, all of their shareholders. Therefore, absent an antitrust prohibition, corporate law should not only allow, but in fact encourage anti-competitive conduct and coordination. If not for antitrust law's prohibition, corporate law would applaud even the formation of cartels. It is only antitrust law's condemnation of cartels and other anti-competitive business practices that makes them problematic from a corporate-law perspective.

By contrast, in the current setting the vast majority of the unilaterally coordinating firms' stakeholders lose from the anti-competitive conduct. As mentioned, unilateral shareholding is simply a form of tunneling. With the exception of the cross owning shareholder (or shareholders), whose holdings in the unilaterally coordinating firm must be relatively small (otherwise unilateral coordination will have been unprofitable), all shareholders of the unilaterally coordinating firm lose from this unilateral coordination. Corporate law prohibits such conduct, which is an egregious breach of management's fiduciary duties, regardless of any antitrust-law prohibition.

Therefore, two independent legislative systems, antitrust law and corporate law, already prohibit the only type of conduct that cross ownership may incentivize. And each of these pieces of legislation prohibits the conduct independently of the other's prohibition. There is little value in additional pieces of legislation that may be applied to the situation.

If there were no downside to applying merger control to the situation, its application would be neither beneficial nor harmful. But given the social cost of forcing institutional investors to less lucrative investments or to undiversified (or much less diversified) portfolios, and given the unlikelihood of the cartel ringmaster scenario, the social cost is significant. And the benefit of an additional piece of legislation that may be cited to address conduct that is already prohibited seems extremely small. It is far better to steer clear from unnecessarily regulating institutional investors' strategy, diversification, and discretion.

The conclusion to be drawn from the analysis presented in this Article is, therefore, that antitrust law should not be harnessed to prohibit passive cross ownership by non-controlling institutional investors.

#### The plan would annihilate investment.

Lambert ’20 [Thomas; November; Law Professor at the University of Missouri; Boston College Law Review, “Mere Common Ownership and the Antitrust Laws,” vol. 61]

As great as the decision costs would be for enforcers and adjudicators, those facing business planners would be larger still. 247Given that no single institutional investor could prevent the adverse price effects that would satisfy the second element of Professor Elhauge's liability test, institutional investors could protect themselves from liability only by negating the first, which would require them to refrain from common ownership in markets where MHHI and MHHIΔ exceed certain levels. That would require business planners to calculate and continually monitor MHHI and MHHIΔ in every market where their institutions held stock of multiple competitors. Because both metrics are influenced by (1) the market shares of the firms sharing common owners, (2) the ownership percentages of the firms' common shareholders, and (3) the ownership stakes of the firms' non-diversified shareholders, an institutional investor holding shares of competing firms could find itself at risk of antitrust liability if the market shares of its portfolio firms rose, if other intra-industry diversified investors adjusted their holdings of firms within the industry, or if major non-diversified shareholders decreased their ownership stakes. 248Planners for an institutional investor holding stakes in competing firms would therefore have to recalculate MHHI and MHHIΔ on a near daily basis to ensure that the investor's stockholding--the one thing the investor can control--could not be deemed to have contributed to a softening of competition.

Of course, institutional investors could avoid these decision costs if they simply refrained from holding shares of multiple firms competing in concentrated markets. 249That appears to be the outcome that Professor Elhauge and other common ownership critics seek to encourage with their proposals to impose antitrust liability based on mere common ownership. 250But, if institutional investors were to take that tack, retail investors would lose access to many of the diversified investment opportunities that create value for them. 251

Most obviously, driving institutional investors to refrain from intra-industry diversification would eliminate true index funds. Nearly all significant stock indexes include more than one firm from some concentrated industry, so fund managers could not simply invest in all the firms included in an index. Although they could select one indexed firm from each concentrated industry, any fund that was so managed would not be a true index fund; a hallmark of such a fund is the absence of manager discretion, resulting in lower management fees. 252

Inducing each institutional investor to hold stock in only one firm per concentrated industry would also reduce the variety of actively managed mutual funds that retail investors could select. 253Common ownership critics maintain that intra-industry diversification at the institutional investor level--not just at the individual fund level--leads to softened competition in concentrated markets. 254That implies that institutional investors could not avoid liability for common ownership merely by ensuring that each of their individual funds held stock in only one firm competing in a concentrated industry. Each institutional investor would instead have to select only one company per concentrated industry for all of its individual funds. Thus, institutional investors could not offer a diverse range of actively managed mutual funds featuring different investment strategies such growth, income, or value. As an example, if Southwest Airlines was a growth stock and United Airlines a value stock, 255an institutional investor would be unable to offer a growth fund featuring Southwest and a value fund featuring United.

Eschewing intra-industry diversification would also make it impossible for institutional investors to design funds that bet on an industry as a whole but limited fund investors' exposure to company-specific risks within that industry. 256Imagine, for example, a financial crisis that led to a sharp, across-the-board decline in the stock prices of commercial banks. A retail investor might believe that the commercial banking sector as a whole would rebound but that some individual banks would likely fail. That investor would want to invest in commercial banking generally but to limit risk by holding a diversified portfolio within the sector. If institutional investors were induced to hold only one stock per industry, they could not offer the sort of fund this retail investor would prefer.

The welfare squandered by eliminating these sorts of value-creating investment opportunities would constitute "error costs"-- i.e., losses that result from discouraging welfare-enhancing practices in the quest to preclude welfare-reducing ones. 257Other error costs would emerge if institutional investors sought to avoid antitrust liability by remaining entirely passive--not voting their shares, engaging with management, or threatening to sell their shares--at the firms where they are invested. They might take such a tack so that they could claim they had no influence over their portfolio firms, and thus could not have contributed to any softening of competition. 258But, such passivity by institutional investors creates its own costs: empirical evidence shows that long-term institutional investors tend to reduce agency costs at their portfolio firms, 259and those efficiencies would likely not be achievable if institutional investors were fully passive. 260

### AT: Shocks Inev---2NC

#### Cyclical recession is outdated – it’s only a question of maintaining a positive trend in growth.

Barner ’20 [Brian and Lakshman Achuthan; June 1; Head of Analytics at ValueBridge Advisors, guest Professor at the Colin Powell School at the City University of New York, M.B.A. with Honors and Distinction from the Ross Business School at the University of Michigan; Co-Founder of the Economic Cycle Research Institute, Board of Governors for the Levy Economics Institute of Bard College; Investopedia, “Business Cycle,” <https://www.investopedia.com/terms/b/businesscycle.asp>]

The Varieties of Cyclical Experience

The pre-WWII experience of most market-oriented economies included deep recessions and strong recoveries. However, the post-WWII recoveries from the devastation wreaked on many major economies by the war resulted in strong trend growth spanning decades.

When trend growth is strong—as China has demonstrated in recent decades—it is difficult for cyclical downswings to take economic growth below zero, into recession. For the same reason, Germany and Italy did not see their first post-WII recession until the mid-1960s, and thus experienced two-decade expansions. From the 1950s to the 1970s, France experienced a 15-year expansion, the U.K. saw a 22-year expansion, and Japan enjoyed a 19-year expansion. Canada saw a 23-year expansion from the late 1950s to the early 1980s. Even the U.S. enjoyed its longest expansion until that time in its history, spanning nearly nine years from early 1961 to the end of 1969.9﻿

With business cycle recessions having apparently become less frequent, economists focused on growth cycles, which consist of alternating periods of above-trend and below-trend growth. But monitoring growth cycles requires a determination of the current trend, which is problematic for real-time economic cycle forecasting. As a result, Geoffrey H. Moore, at the ECRI, went on to a different cyclical concept—the growth rate cycle.10﻿

Growth rate cycles—also called acceleration-deceleration cycles—are comprised of alternating periods of cyclical upswings and downswings in the growth rate of an economy, as measured by the growth rates of the same key coincident economic indicators used to determine business cycle peak and trough dates. In that sense, the growth rate cycle (GRC) is the first derivative of the classical business cycle (BC). But importantly, GRC analysis does not require trend estimation.

### Internal---Growth---2NC

#### It’s a strong, self-fulfilling indicator---shocks turn growth into recession.

Greenlaw ’18 [Steven and Timothy Taylor; January 2; Professor of Economics at the University of Mary Washington, Ph.D. in Economics from Binghamton University; Managing Editor of the Journal of Economic Perspectives, former lecturer at the University of Minnesota; Principles of Economics, “The Aggregate Demand/Aggregate Supply Model,” Ch. 24]

How Changes by Consumers and Firms can Affect AD

When consumers feel more confident about the future of the economy, they tend to consume more. If business confidence is high, then firms tend to spend more on investment, believing that the future payoff from that investment will be substantial. Conversely, if consumer or business confidence drops, then consumption and investment spending decline.

The University of Michigan publishes a survey of consumer confidence and constructs an index of consumer confidence each month. The survey results are then reported at [http://www.sca.isr.umich.edu](http://www.sca.isr.umich.edu/), which break down the change in consumer confidence among different income levels. According to that index, consumer confidence averaged around 90 prior to the Great Recession, and then it fell to below 60 in late 2008, which was the lowest it had been since 1980. Since then, confidence has climbed from a 2011 low of 55.8 back to a level in the low 80s, which is considered close to being considered a healthy state.

One measure of business confidence is published by the OECD: the “business tendency surveys”. Business opinion survey data are collected for 21 countries on future selling prices and employment, among other elements of the business climate. After sharply declining during the Great Recession, the measure has risen above zero again and is back to long-term averages (the indicator dips below zero when business outlook is weaker than usual). Of course, either of these survey measures is not very precise. They can however, suggest when confidence is rising or falling, as well as when it is relatively high or low compared to the past.

Because a rise in confidence is associated with higher consumption and investment demand, it will lead to an outward shift in the AD curve, and a move of the equilibrium, from E0 to E1, to a higher quantity of output and a higher price level, as shown in [Figure 1](https://opentextbc.ca/principlesofeconomics/chapter/24-4-shifts-in-aggregate-demand/#CNX_Econ_C24_014) (a).

Consumer and business confidence often reflect macroeconomic realities; for example, confidence is usually high when the economy is growing briskly and low during a recession. However, economic confidence can sometimes rise or fall for reasons that do not have a close connection to the immediate economy, like a risk of war, election results, foreign policy events, or a pessimistic prediction about the future by a prominent public figure. U.S. presidents, for example, must be careful in their public pronouncements about the economy. If they offer economic pessimism, they risk provoking a decline in confidence that reduces consumption and investment and shifts AD to the left, and in a self-fulfilling prophecy, contributes to causing the recession that the president warned against in the first place. A shift of AD to the left, and the corresponding movement of the equilibrium, from E0 to E1, to a lower quantity of output and a lower price level, is shown in [Figure 1](https://opentextbc.ca/principlesofeconomics/chapter/24-4-shifts-in-aggregate-demand/#CNX_Econ_C24_014) (b).

#### Only diminished confidence can cause a recession.

Angeletos ’15 [George-Mariosj, Fabrice Collard, and Dr. Harris Dellas; March 16; Economics Professor at MIT; Professor at the Toulouse School of Economics; Monetary Economics, Macroeconomics, and International Economics Professor at the University of Burn; VOXEU CEPR, “Confidence, aggregate demand, and the business cycle: A new framework,” <https://voxeu.org/article/confidence-aggregate-demand-and-business-cycle-new-framework>]

Macroeconomic activity and economic confidence seem closely linked. Figure 1 shows the relationship between the cyclical component of GDP and a popular measure of economic confidence, the University of Michigan Consumer Sentiment Index. There has not been a single instance of a recession during this period that has not been preceded-accompanied by a significant deterioration in confidence.

The popular press and economic commentators often invoke this relationship when reporting on macroeconomic developments. For example, they attribute recessions to declines in aggregate demand that are triggered by sagging confidence. They link reductions in hiring and investment by firms to their pessimism about the demand for their products; and reduced spending by consumers to their pessimism about their job and income prospects. Consumers' and business' confidence indexes move together, indicating that the pessimism of one class of agents often appears to justify, if not feed, that of other.

Previous attempts to introduce coordination failures and market psychology

A literature in macroeconomics that blossomed in the late 80s and the 90s sought to rationalise this close link between market psychology and macroeconomic activity within a class of models that featured multiple equilibria and self-fulfilling fluctuations (e.g., Cooper and John 1988, Benhabib and Farmer 1999). The appealing feature of these models was that they could accommodate coordination failures and movements in economic confidence without any commensurate movements in ‘hard’ fundamentals, such as peoples’ abilities and tastes or the economy’s know-how, or expectations of such fundamentals. Yet, these models are not part of the core chute of quantitative macroeconomic models used nowadays to study the data and guide macroeconomic policy. This probably reflects the fact that, although equilibrium multiplicity is an interesting theoretical concept that highlights the perils of coordination failure, it also poses serious difficulties when evaluating a model’s empirical performance or when seeking to guide policymaking.

Mainstream macroeconomic models have little use ‘for confidence’

Mainstream dynamic stochastic general equilibrium (DSGE) models, on the other hand, simply opt to ignore the possibility of either coordination failure or extrinsic shifts in market sentiment. By imposing that economic agents share a single, common belief about the current state and the future prospects of the economy (e.g., agents never disagree with one another on how deep a recession might be, how long the recovery may take, or when the next boom is coming), these models are built on the convenient but unrealistic assumption that the millions of firms and consumers, whose joint behaviour determines macroeconomic activity, can coordinate their actions in a perfectly orchestrated manner. In so doing, these models also take a narrow view of the notions of confidence and market psychology; those are linked exclusively to uncertainty about fundamentals such as technology and policy, with uncertainty about the actions of others and the possibility of coordination failures being ruled out. We find this both limiting and counterproductive.

Waves of optimism and pessimism as a driver of the business cycle

In Angeletos et al. (2015), we thus seek to liberate the formation of expectations in mainstream DSGE models. We accomplish this by introducing a certain type of higher-order uncertainty (what I believe, that you believe, that I believe, that you...) which relates directly to the firms’ and the consumers’ expectations about the short-term economic outlook.

The paper contains contributions on both the methodological and applied front.

* The methodological contribution lies in devising a method that bypasses the technical difficulties associated with incomplete information and higher-order uncertainty.
* The applied contribution derives from accommodating certain waves of optimism and pessimism about the short-term economic outlook, quantifying their importance within real business cycle and New Keynesian models, and establishing that these waves help capture multiple salient features of the data in a manner that is not easily rivalled by existing structural mechanisms.

The key mechanism of our model is encapsulated by the following narrative. Consider a negative confidence shock represented by the belief that other agents have developed a pessimistic outlook about the short-term prospects of the economy (with the medium- to long-term prospects remaining invariant). As firms expect the demand for their products to be low for the next few quarters, they too find it optimal to lower their own demand for labour and capital. Households, on their part, experience a transitory fall in wages and total income. They react by working less and by cutting down both consumption and saving. Variation in confidence, therefore, leads to a strong co-movement between employment, output, consumption, and investment at the business-cycle frequencies, without commensurate movements in labour productivity, TFP, or the relative price of investment at any frequency. It is precisely these co-movement patterns that represent the key properties of observed business cycles and that existing structural mechanisms have difficulty accounting for.

### AT: Rulemaking Solves---2NC

#### FTC rulemaking would kill the economy.

Abbott ’21 [Alden; August 9; the Federal Trade Commission’s General Counsel (2018-2021), adjunct professor at George Mason University, J.D. from Harvard Law School, M.A. in economics from Georgetown University; Truth on the Market, “FTC Antitrust Enforcement and the Rule of Law,” https://truthonthemarket.com/2021/08/09/ftc-antitrust-enforcement-and-the-rule-of-law/]

Proposed FTC Competition Rulemakings

The new FTC leadership is strongly considering competition rulemakings. As I explained in a recent Truth on the Market post, such rulemakings would fail a cost-benefit test. They raise serious legal risks for the commission and could impose wasted resource costs on the FTC and on private parties. More significantly, they would raise two very serious economic policy concerns:

First, competition rules would generate higher error costs than adjudications. Adjudications cabin error costs by allowing for case-specific analysis of likely competitive harms and procompetitive benefits. In contrast, competition rules inherently would be overbroad and would suffer from a very high rate of false positives. By characterizing certain practices as inherently anticompetitive without allowing for consideration of case-specific facts bearing on actual competitive effects, findings of rule violations inevitably would condemn some (perhaps many) efficient arrangements.

Second, competition rules would undermine the rule of law and thereby reduce economic welfare. FTC-only competition rules could lead to disparate legal treatment of a firm’s business practices, depending upon whether the FTC or the U.S. Justice Department was the investigating agency. Also, economic efficiency gains could be lost due to the chilling of aggressive efficiency-seeking business arrangements in those sectors subject to rules. [Emphasis added.]

In short, common law antitrust adjudication, focused on the consumer welfare standard, has done a good job of promoting a vibrant competitive economy in an efficient fashion. FTC competition rulemaking would not.

### AT: Inflation---2NC

#### Inflation doesn’t affect confidence. Fundamentals are strong.

Valliere ’21 [Greg; November 23; Chief U.S. Policy Strategist of AGF Investments; Industry and Expert News, “The Over-Hyped Inflation Panic,” https://perspectives.agf.com/ci-the-over-hyped-inflation-panic/]

THIS CITY IS GRIPPED by an inflation panic, fueled by pervasive media hysteria that even extends to the weather. It’s going to be cold !! There could be major rainstorms !! We never underestimate the media’s desire to boost ratings and sell newspapers.

INFLATION WILL BEGIN TO SUBSIDE BY SPRING: Oil prices already are falling, and clogged ports are beginning to loosen up. But the over-reaction may persist today as Joe Biden delivers a speech on inflation and may announce an opening of the Strategic Petroleum Reserve, a relatively meaningless gesture that might knock a few cents off the price of gasoline.

BIDEN APPARENTLY WILL INTENSIFY his populist bashing of big business for its alleged collusion and price-gouging, but the collusion seems more apparent by dockworkers in Long Beach, California.

AFTER YEARS OF TRANQUIL PRICES — despite weekly fear-mongering by the Wall Street Journal editorial page — the Cassandras finally got some inflation, just as a broken clock is correct twice a day. The irony with this panic is that the economy is indisputably strong.

MOST PRIVATE FORECASTERS expect about 5% GDP growth this quarter; the Atlanta Fed GDP forecast, admittedly on the high side, is for an 8.2% rise. And growth in the first half of 2022 — lubricated by two years of monetary and fiscal stimulus — should be solid.

REPUBLICANS ARE LOOKING FOR AN ISSUE — any issue — to divert attention away from the Donald Trump train wreck, so they have gained traction with an argument that the economy is terrible. It’s not. The unemployment rate continues to plunge and could be close to 4% by the end of winter, a tremendous boost for real disposable income.

IN THE TWO MOST REPUBLICAN STATES IN THE UNION — Nebraska and Utah — the jobless rates are 1.9% and 2.2%, respectively.

YET INFLATION HAS SPOOKED Washington and the media, even though we’re tempted to offer this bit of heresy: there’s some upside to inflation. People have gotten raises — a 5.9% hike in Social Security benefits, generous new labor contracts, etc. — and virtually everyone who owns a house has enjoyed significant appreciation.

PRESIDENT BIDEN NEEDS BETTER MESSANGING: Like most Democrats, he’s afraid to boast that the stock market seems to finish at record highs every few days. The markets anticipate a future of decent economic growth, full employment, solid earnings, remarkably low interest rates and inflation that will level off.

AND LEST WE FORGET, these solid fundamentals should persist despite the worst global pandemic in 100 years. There was no template for dealing with it; policymakers were in totally uncharted waters.

SO AS THE MEDIA RANTS about inflation, huge storms, and clogged airports, we suggest that everyone needs to take it down a notch. The economy is solid, a remarkable Thanksgiving gift considering where we were just one year ago.

#### It’s a media frenzy without any data.

Baker ’21 [Dean; November 24; Senior Economist at the Center for Economic and Policy Research, Economics Ph.D. from the University of Michigan; CEPR, “The Media’s War Against Biden Over Inflation,” https://cepr.net/the-medias-war-against-biden-over-inflation/]

The Media Has Decided Inflation is *The* Issue and Will Not Let the Data Get in the Way

We are likely to see many more stories along these lines in the weeks and months ahead as the media seem determined to say that inflation is the crisis of the century, no matter how much they have to abuse the data to make this point. They should be embarrassed to run pieces like the ones above, but unfortunately, shame has no place in policy discussions these days.

As I said at the beginning, inflation is a problem, but we need to look at the issue with clear eyes. There are good reasons for believing that many of the price increases we have seen in recent months are temporary and will be reversed. This is most notable with new and used cars, but also with many other items.

### AT: Omicron---2NC

#### Omicron is fine

Conerly ’12-4 [Bill; 2021; Economics Ph.D. at Duke University; Forbes, “Omicron Variant May Be Good For Economy,” https://www.forbes.com/sites/billconerly/2021/12/04/omicron-variant-may-be-good-for-economy/?sh=25799f1f5d91]

The omicron variant of Covid-19 has sparked great fear. With time, we may find the fear to have been justified, but we may find the opposite: that this is good news for the economy.

It’s still early days for our knowledge of omicron. Waiting to learn more seems to make sense, but consider this: Business decisions are being made every day. Any person who waits for perfect certainty—about the economy, technology or Covid-19—will never make a single decision. In many areas decisions have to be made this week. So it’s worthwhile to consider how omicron may be good for the economy.

Omicron seems to be displacing the delta variant in South Africa. Ted Wenseleers showed that delta’s share of total Covid-19 cases in South Africa has plummeted while omicron has surged, leading many to expect it to displace the delta variant around the world.

So far omicron seems no worse than delta in how sick people become, with a possibility that it will be less lethal. Many viruses in the past have evolved to be milder, because killing the host does not help the virus spread. This is the upside for the economy.

The omicron virus may have mutated so that it has greater ability to infect those who already had been exposed to earlier variants or been vaccinated. Greater volume of total infections is the economic downside.

From an economic forecasting viewpoint, business leaders should consider the upside potential of omicron. Although it is way too early to be sure, we may find that the Covid becomes dominated by a less dangerous mutation. Illness would continue if this happens, but with fewer deaths and hospitalizations. People would come to feel more comfortable dining out, traveling and seeking routine non-Covid healthcare tests and procedures. This rosy view is far from certain.

### Incorrect---2NC

#### 2. MAKING A DECISION. Managers have no idea who to serve and face jailtime.

Paldor ’21 [Ittai; Spring; Law Professor at Hebrew University; Loyola Law Review, “Empirical Findings in Need of a Theory—In Defense of Institutional Investors,” vol. 54]

The idea of spontaneous competitive harm is, in fact, even less persuasive than the analogy to bid rigging suggests. This is due to the fact that it is not a single shareholder who cross-owns portfolio firms, but several institutional investors. The difference in these institutional investors' holdings guarantees that if one institutional investor benefits from the scheme, another institutional investor will lose. As subsequently explained in detail, in all of the industries surveyed in the empirical studies, some institutional investors' holdings were larger in one portfolio firm, while other institutional investors had larger stakes in other portfolio firms. 69Thus, any conduct that tunneled profits to the benefit of one institutional investor would have simultaneously harmed other institutional investors. The scheme would harm the majority of the prominent shareholders - precisely those shareholders that managements presumably want to benefit. Another layer of complication is introduced. Not only are managers ill-incentivized to participate in the scheme, they also cannot spontaneously realize which institutional investor they are to serve, and which they are to alienate. The fact that there are many institutional investors who cross-own further frustrates any possibility of spontaneous harm.

Once again, an agreement could theoretically be struck between institutional investors according to which the benefitting institutional investor compensates the losing institutional investors. But such an agreement would, as explained, be an outright criminal offense, which institutional investors are unlikely to engage in. In any event, spontaneous coordination is impossible. Perhaps counter-intuitively, cross ownership by several institutional investors actually safeguards against any spontaneous anti-competitive outcome.

#### 3. LOOSE LIPS SINK SHIPS. Investors are scandal averse.

Paldor ’21 [Ittai; Spring; Law Professor at Hebrew University; Loyola Law Review, “Empirical Findings in Need of a Theory—In Defense of Institutional Investors,” vol. 54]

First, it is extremely unlikely that institutional investors act as cartel ringmasters. Hemphill and Kahan review the modus operandi of institutional investors, and explain that the generation of, transmission of, and inducement to follow a cartelistic strategy is complex. 212There are several reasons for this. To begin with, the institutional investors that are identified in the literature on anti-competitive effects of common ownership are, with few exceptions, comprised of different business entities. 213Each of these institutional investors is treated in the literature as a single entity, because their holdings are reported to the SEC on a consolidated basis 214and through the same legal entity. 215However, from a business perspective, these are multi-layered structures with divergent interests. 216Their investment, recommendation, and voting operations are conducted by fund portfolio managers, analysts, and centralized voting units. 217Fund portfolio managers make investment decisions for the funds they manage, and each fund portfolio manager is incentivized to increase the value of the fund under her management. 218Fund portfolio managers care very little about the performance of other funds under different (business) management within the same institutional investor. 219As each fund's portfolio is likely to be different from other funds' portfolios, fund portfolio managers have conflicting interests with respect to competition between portfolio firms. 220A second reason for why it would be difficult for an institutional investor to orchestrate a cartel is that transmission of the strategy, even assuming one was devised, and inducing performance are also complicated and dangerous. 221Regardless of who within the institutional investor's organization interacted with portfolio firms' managers, a formidable problem in its own right, 222Hemphill and Kahan argue that discussions of specific prices and quantity are likely to draw attention. 223Institutional investors regularly focus on corporate governance and compensation structure. 224A discussion of specific quotas or prices (with more than one product-market firm) would "almost certainly raise eyebrows." 225And institutional investors are extremely sensitive to the reputational costs associated with scandals. 226The huge impact of even very slight changes in assets under management is destructive, even if it is not accompanied by criminal charges. 227Institutional investors (specifically mutual fund companies):

Have largely succeeded in staying on everybody's good side. The largest players, in particular, enjoy a squeaky-clean image. Any suggestion that an investment advisor as a whole ... had a policy of encouraging firms to pursue an anticompetitive strategy would be damaging... . And a criminal investigation, let alone an indictment, could be devastating. 228

#### 3. LITERATURE CONSENSUS.

Ginsburg ’18 [Douglas and Keith Klovers; Judge on the Court of Appeals of the DC Circuit; Former Attorney Adviser, US Federal Trade Commission; Frédéric Jenny: Standing Up for Convergence and Relevance in Antitrust, Liber Amicorum, “Common Ownership: Solutions in Search of a Problem,” vol. 2]

The economic evidence that common ownership causes anticompetitive harm is very thin. For every study finding anticompetitive effects, there are three refuting it. Several scholars dispute whether the theory is faithfully represented in the empirical model,63 whether that model is properly specified,64 and whether causation can be inferred from the coefficients predicted by the model.65 Kwon uses an entirely different model that predicts common ownership may increase competition.66

#### 4. GENERALIZATION. There are zero effects outside of single-industry studies.

Koch ’21 [Andrew, Marios Panayides, Shawn Thomas; January; Finance Professor at the University of Pittsburgh; Finance Professor at the University of Cyprus; Finance Professor at the University of Pittsburgh; Journal of Financial Economics, “Common ownership and competition in product markets,” vol. 139, no. 1]

9. Conclusion

We find that greater common institutional ownership within an industry is not reliably associated with significantly higher industry profitability, the presumed end result of reduced competition among industry participants. While we find isolated instances in which reasonable a priori choices of industry classifications, profitability measures, common ownership measures, and empirical specifications generate results consistent with common ownership significantly increasing profitability, the vast majority of other reasonable a priori choices on these dimensions do not yield results consistent with reduced competition. Further, this conclusion holds in subsamples of industries where reduced competition via common ownership is expected to be facilitated, in subsamples of industries for which potential selection bias due to requiring firms to have public equity are smaller, and in subsamples of industries for which there have not been substantive changes to industry codes. This conclusion continues to hold when we use the plausibly exogenous variation in common ownership that results from mergers of institutional investors. We also find that common ownership does not reliably decrease competition among rival firms on nonprice dimensions or on prices themselves. Our failure to reject the null of no relation between common ownership and industry profitability does not appear to be due to low-power tests. The effects we estimate are close to zero with tight bounds, and our estimates are sufficiently precise such that anticompetitive effects of common ownership would be identifiable if they existed.

Our results are inconsistent with increased common ownership decreasing product market competition. Our evidence indicates that the results of single-industry studies concluding increased common ownership decreased competition in the airline and banking industries (see, e.g., Azar, Raina, Schmalz, Azar, Schmalz, Tecu, 2018) do not broadly generalize to other industries. Increased common ownership has not ushered in a new era of widespread anticompetitive behavior similar to that observed in the U.S. during the late 19th century. With the obvious caveat that our results are conditional on the extent of common ownership observed over our sample period and thus may not extrapolate to substantially higher levels of common ownership, we conclude that antitrust restrictions seeking to limit intra-industry common ownership are not currently warranted.

B. INDIVIDUAL INVESTORS have diversified portfolios.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

7. Other considerations. Finally, this Article’s analysis buttresses the findings of other scholars who have identified an array of reasons why, regardless of the mechanism, we should be skeptical about common ownership generating any competitive harm. For instance, common owners may also hold positions in downstream suppliers, input providers, or firms in complementary industries. These other ownership interests would diminish or eradicate the common owners’ interest in lessened competition in the relevant market.176 As perhaps the most obvious example, if a common owner also maintains a large position in a firm that purchases products from the commonly owned firms, the common owner’s position in the downstream purchaser would cause it to prefer more, not less, competition by the product market firms, all else equal.

As made transparent by the analysis in Section I.B, the common ownership model used in the literature does not take these offsetting considerations into account, as the model focuses solely on shareholders’ portfolios in the relevant market, not in other markets. Thus, even under the blended-shareholder assumption used in the common ownership literature—which this Article argues is an incorrect assumption, at least at current levels of common ownership—the common ownership model exaggerates common ownership’s competitive effects by failing to take into account common owners’ shareholding positions in industries outside of the relevant market.177 This is an especially important consideration, since it is the large-scale index funds managed by the Big Three, which have significant ownership positions in all publicly traded firms in industries spanning the economy, that have been primarily responsible for driving up common ownership levels.

#### C. MULTIPLE INVESTORS at a firm will conflict.

Paldor ’21 [Ittai; Spring; Law Professor at Hebrew University; Loyola Law Review, “Empirical Findings in Need of a Theory—In Defense of Institutional Investors,” vol. 54]

5. The Opposing Interests of Institutional Investors Safeguard Against Competitive Harm

A final shortcoming of the anti-competitive theory has to do with the divergent holdings of institutional investors. Portfolio firms are cross-owned by several institutional investors with different holdings in each firm. This is a fatal blow to the possibility of competitive harm. The reason is that if each institutional investor's stake in the competing firms is different, each investor will prefer that a different firm be the unilaterally coordinating firm. Investors want profits to flow to the firm in which their own holdings are greatest. Each institutional investor's preference will thus depend on its individual difference in holdings and may therefore be very different from other institutional investors' preferences. If investor X, a cross owner of firms A and B, has larger holdings in firm A than in firm B, and investor Y, a second cross owner, has larger holdings in firm B than in firm A, portfolio firms' managements will be deadlocked even if they have made the decision to engage in this form of tunneling. To understand how limiting this is to the theory of competitive harm, it is helpful to note that in all of the industries surveyed in the recent literature, a conflict of interests among institutional shareholders would severely challenge any hope of unilateral coordination.

The pharmaceutical industry, which is presented by Azar et al. as an illustrative industry conducive to unilateral coordination, demonstrates this neatly. 151According to Azar et al., in the pharmacy industry, the five largest institutional investors who hold stock in CVS are BlackRock, Fidelity, Vanguard, State Street, and Wellington. 152They hold a total of slightly less than 25 percent of CVS's stock. 153The same institutional investors also hold approximately 19.55 percent of Walgreens' stock. 154Assuming the product market is relatively concentrated, the hypothesis is that industry firms' managements will act to further the interests of these shareholders at the expense of other shareholders. However, once the joint holdings of the three largest institutional investors are broken down by investor, it becomes clear that if management were to attempt to serve these investors it would, absent explicit coordination, find itself baffled. The respective holdings are elaborated in the following table:

|  |  |  |
| --- | --- | --- |
| Investor | Holdings in CVS | Holdings in Walgreen |
| BlackRock | 5.9% | 4.44% |
| Fidelity | 5.1% | 3.07% |
| Vanguard | 4.78% | 5.26% |

BlackRock and Fidelity hold approximately 6 percent and 5 percent of CVS's stock, respectively, and approximately 4.5 percent and 3 percent of Walgreens' stock, respectively. They both have a strong preference for profits to flow from Walgreens to CVS. But Vanguard holds 4.78 percent of CVS's shares and 5.26 percent of Walgreens' shares. Vanguard thus prefers that profits flow to Walgreens. If CVS were to unilaterally coordinate (i.e., unprofitably raise its own prices to the benefit of Walgreens), BlackRock and Fidelity would have lost. If Walgreens were to do the same, Vanguard would have lost.

Under these circumstances, unilateral coordination is even less likely. It is difficult to decide which influential institutional investor to serve and which to harm. Furthermore, even if management somehow makes this decision, a problem of detection emerges. Unlike serving an influential shareholder when all other shareholders are dispersed, lay retail investors, who have neither the incentives nor the ability to monitor performance, 156in the current setting there will always be a professional (institutional) shareholder with significant holdings that has been harmed. This shareholder is as likely to realize that it has been harmed as the benefitted shareholder is to realize that it has been benefitted. And since the harmed shareholder has significant holdings in the unilaterally coordinating firm, it is much more likely to take action.

Again, institutional investors may coordinate between themselves and agree that profits should flow to CVS, where their joint holdings (25 percent) are greater than their joint holdings in Walgreens (19.55 percent). 157BlackRock and Fidelity, who will have gained from this, will have gained more than Vanguard will have lost. As the net effect of this unilateral coordination is positive (from the cross owners' joint perspective), the losing party can be compensated. But this requires both explicit coordination at the investors' level, which would be a criminal offense, and some method through which the joint decision is conveyed to management (which would, in turn, be violating its own duties). As Hemphill and Kahan explain, intervening with firm conduct at such a level would be extremely conspicuous. 158In any event, the structural incentives created by horizontal shareholdings cannot spontaneously result in unilateral coordination.

#### D. INVESTOR ATTENTION.

Gilje ’20 [Erik, Tom Gormley, and Doron Levit; July; Finance Professor at the University of Pennsylvania; Managing Director of Hedge Fund Research at Cambridge Associates; Finance Professor at the University of Pennsylvania; Journal of Financial Economics, “Who's paying attention? Measuring common ownership and its impact on managerial incentives,” vol. 137, no. 1]

Despite the recent attention such common ownership has received, little discussion has taken place about when, if at all, managers will have an incentive to internalize the preferences of common investors and, more importantly, how one should quantify the extent to which common ownership affects managers’ incentives. For example, while there is a sense that the rise of common ownership is driven, in part, by the merger of asset managers (e.g., see Azar et al., 2018) and the increasing popularity of index investing (e.g., see Harford et al., 2011), little consideration has been given to whether such mergers and index-induced overlapping ownership structures should be expected to increase managers’ motives to internalize how their actions could affect the value of other firms. For example, if index fund investors or asset managers with larger, more diversified holdings are less informed or attentive to firm-specific actions, then managers would have little incentive to internalize the impact of their actions on the holdings of such investors.

In this paper, we fill this void by deriving a model-based measure that quantifies the impact of common owners on managerial motives. For a given pair of stocks, we quantify the impact ownership overlap will have on a manager's incentive to internalize how their actions could affect the value of the other firm. The resulting measure is simple and has a number of appealing properties. The measure is general in that it does not depend on the nature, sign, or magnitude of the externality and is best seen as a relative measure of how important common ownership is for manager incentives per unit of externality. Moreover, our model shows that the impact of each common investor on managerial incentives will intuitively be the product of three inputs: the extent to which the manager cares about that investor's preferences (which is proportional to the investor's ownership stake), the importance that investor places on the externality (which is proportional to his or her ownership stake in the other firm), and the likelihood that investor is informed about whether the manager's actions have improved the value of his or her overall portfolio (which, among other things, is related to the importance of the firm in the investor's portfolio).

A key feature of our measure is that it accounts for the possibility that not all institutional investors are fully attentive, which finds substantial empirical support (e.g., Ben-Rephael et al., 2017; Fang et al., 2014; Lu et al., 2016; Schmidt, 2019). This differs from other measures of common ownership, which assume that all investors are fully informed about the externalities that firms impose on each other [e.g., see the MHHID measure that was developed by Bresnahan and Salop (1986) and O'Brien and Salop (2000) and implemented by Azar et al. (2018)]. Our model assumes that less attentive investors do not contribute as much to managers’ incentive to internalize how their choices affect other firms. This assumption is consistent with evidence that investor inattention reduces firm monitoring and weakens the incentives of managers to take actions that benefit their shareholders (Kempf et al., 2017; Liu et al., 2019). Our measure also differs from existing measures in that it is invariant to the specific nature of externalities, allowing for its use in studying the effects of common ownership in a wider range of contexts.

We then take our measure of common ownership to the data to illustrate the importance of accounting for investor attention. In doing so, we must make specific modeling choices, including how managers ascribe importance weights to each investor, but we show that our subsequent findings are not sensitive to these choices. And, we begin by assuming that an investor's likelihood of being attentive is increasing in how important the stock is in the overall investor's portfolio, which is both theoretically micro-founded (e.g., Veldkamp and Van Nieuwerberg, 2010) and supported by empirical evidence (Fich et al., 2015; Gargano and Rossi, 2018; Iliev and Lowry, 2015; Iliev et al., 2019; Ward et al., 2018).

Accounting for investor attention is necessary to properly quantify the rise of common ownership and its importance for managerial motives. If one uses a version of our measure that assumes full investor attention, then managerial incentives to internalize ownership overlap for the average stock pair increased between 1980 and 2012 by 2,937%. But, if one instead allows for investor inattention, average incentives increased by 162%–1,301%, depending on how one models attention. The smaller increase in incentives, which is concentrated among small-cap stocks and holds regardless of how stock-pairs are weighted, occurs because the rise of common ownership coincides with investors becoming increasingly diverse in their holdings and, hence, less attentive as owners. This finding highlights that investor attention can affect how much common ownership affects incentives, which is still much debated by academics and policy makers.

Further highlighting the importance of investor attention, we find that managerial motives to internalize externalities can be lower following asset manager mergers. Calculating the predicted changes in managerial incentives resulting from the merger of Barclays Global Investors (BGI) and BlackRock in 2009, we find that 39%–56% of stock-pairs would experience a decline in incentives to internalize externalities following the merger. This decrease in incentives occurs because some stocks become less important in the larger, more diversified portfolio of the merged entity, which can reduce the likelihood that the larger common investor is as attentive as the two previously unmerged common investors. Only when we assume full attention does the merger necessarily increase managerial incentives to internalize externalities.

The possibility of inattention also raises the question of whether index investing, which contributes to ownership overlap, shifts the motives of managers to internalize the consequences of their actions on other companies. Index investors could be less attentive due to their highly diversified portfolio.2 When measuring managerial incentives to internalize such externalities, we find that the relative contribution of the three institutions that account for 80% of indexed assets (BGI and BlackRock, State Street, and Vanguard) ranges between 1.5% and 46.1% in recent years, depending on how one models investor attention. We also find that managers’ incentive to internalize externalities sometimes decreases when both firms are included in the same index (e.g., Russell 2000 index) despite sharp increases in ownership overlap.

Our findings highlight a key aspect of our model; that is, ownership overlap is a necessary but insufficient condition for shifting managerial incentives. For example, two stocks’ inclusion in the same index, combined with the growing popularity of index funds, naturally increases ownership overlap, which enhances managerial motives to internalize externalities. However, if these new common investors are less attentive, then managers’ incentives to internalize externalities can decline. By reducing the importance of each stock in investors’ overall portfolios, indexing decreases investors’ likelihood of evaluating whether managers take actions to improve the overall value of investors’ increasingly diverse portfolios.

Given the important role of investor inattention, we estimate the association between investor attention and portfolio weights. While theory and empirical evidence show that this association is positive, the exact functional form is unclear. Following Iliev and Lowry (2015), we proxy for an institutional investor's attention by examining whether its votes follow the recommendations of the proxy advisory firm Institutional Shareholder Services (ISS). The underlying premise is that, all else equal, attentive investors are less likely to rubber-stamp ISS recommendations. We confirm earlier findings in the literature that institutional investors are more likely to disagree with ISS recommendations for stocks that represent a larger proportion of their portfolio, but we also find evidence that this relation is concave, suggesting that the increase in investor's attention is diminishing as the proportion gets larger.

The estimated concave association between investor attention and portfolio weights does not change our earlier findings. To illustrate this, we let the data speak for themselves by fitting the attention function nonparametrically and using the implied estimates to construct a fitted version of our proposed measure of common ownership. Our main results continue to hold with the fitted version of our measure.

Our findings illustrate the importance of accounting for investor attention and cast doubt on the idea that overlapping ownership structures, particularly those driven by asset manager mergers, significantly shift managers’ incentives or induce anticompetitive behaviors among firms in the airline and banking industries (e.g., Azar et al., 2018, 2019). A bulk of the ownership overlap shown in those industries is driven by diversified asset managers such as BlackRock, State Street, and Vanguard. Because these firms own large stakes in virtually every US publicly listed company, a common ownership measure that accounts for investor attention suggests that such diversified investors are less likely to provide managers with strong incentives to soften competition. Moreover, these studies attempt to overcome endogeneity concerns using the growth of index funds and the merger between BlackRock and BGI as exogenous increases in managers’ incentive to soften competition. Our analysis indicates that managers’ incentive to internalize externalities (i.e., soften competition) can sometimes be weaker, not stronger, when two stocks are included in the same index and after the Blackrock and BGI merger.

To illustrate the applicability of our measure and the ease in which it can be used, we investigate its predictive power in the context of mergers and acquisitions (M&A), when externalities between firms are likely important. We find evidence that managerial incentives to internalize externalities positively predict target selections. This is particularly true when using the version of our common ownership measure in which we fit the attention function nonparametrically using voting data. While suggestive, these findings must be interpreted with caution because they do not isolate exogenous variation in common ownership, and we cannot exclude the possibility that omitted factors drive this correlation.

Overall, our findings contribute to the growing literature on common ownership by providing a framework for understanding when common ownership is and is not likely to shift managerial incentives. Quantifying the impact of overlapping ownership structures on incentives is important both for those seeking to make policy recommendations and for those attempting to study the impact of common ownership.3 The use of common ownership measures that fail to account for investor attention could introduce measurement errors and induce biases that are hard to sign. To our knowledge, we are also the first to show time series and cross-sectional patterns of common ownership and its impact on managerial incentives across the entire universe of US publicly traded firms.

We provide a general way to measure common ownership that can be used in future studies and help researchers avoid using either ad hoc measures of common ownership or measures that make the implausible assumption of all investors being fully attentive. While we make specific modeling choices when taking our proposed measure to the data, our model is flexible in that future researchers can easily change the importance weights that managers assign to different investors (e.g., by instead assuming that managers care only about their largest five investors) or how one models investor attention [e.g., by instead assuming economies of scale in monitoring and adding investors’ assets under management (AUM) as another input for an investor's likelihood of being attentive]. In addition, versions of our measure can be constructed that capture a manager's incentive to internalize the impact of his or her actions on an entire set of firms (e.g., all product-market competitors), which can be useful in studying whether common ownership induces anticompetitive behaviors.4

Finally, our paper contributes to the theoretical literature on common ownership (e.g., see Azar, 2017; Edmans et al., 2019; Hansen and Lott, 1996; Kraus and Rubin, 2010; López and Vives, 2019; O'Brien and Salop, 2000; Rubin, 2006). Similar to this literature, we study how common ownership could affect corporate outcomes by shifting managerial incentives. The key distinction between our model and others is our assumption that investors perhaps do not pay full attention to actions taken by managers. As a consequence, managers in our model do not fully internalize the preferences of their inattentive investors, which can have significant implications for understanding of the importance of common ownership. This feature also differentiates our approach from Lewellen and Lewellen (2018), who argue that common owners themselves perhaps do not have incentives to internalize externalities.

#### Finally, even if they’re right about the theory in general, they overstate the case.

Lambert ’20 [Thomas; November; Law Professor at the University of Missouri; Boston College Law Review, “Mere Common Ownership and the Antitrust Laws,” vol. 61]

IV. WHY ANTITRUST CONDEMNATION OF MERE COMMON OWNERSHIP WOULD LIKELY REDUCE SOCIAL WELFARE

Thus far, this Article's analysis has been legal and descriptive: it has shown why neither Section 7 of the Clayton Act nor Section 1 of the Sherman Act condemn mere common ownership. Next, this Article considers why, as a normative matter, that is a good thing. In short, those who call for condemning mere common ownership under the antitrust laws have not shown that the marginal benefits of such condemnation are likely to exceed the marginal costs it would entail. Courts and enforcers should thus refrain, at least on the current record, from adopting aggressive interpretations of Section 7 of the Clayton Act and Section 1 of the Sherman Act to preclude mere common ownership.

The marginal benefit of condemning mere common ownership would be the elimination of anticompetitive harms (i.e., allocative inefficiencies from supracompetitive pricing) that result from the practice. On the current record, we have no idea of the magnitude of those harms and thus of the benefit of eliminating them. To be sure, the studies purporting to show harms from common ownership have estimated adverse price effects of the practice. The airline study, for example, concluded that airfares are 3% to 7% higher because of current levels of common ownership. 236Likewise, the banking study found that a one standard deviation increase in the common ownership metric raised fees on interest-bearing checking accounts by 11% and increased the minimum balance required to avoid fees by 17%. 237The trustworthiness of those studies, however, is a matter of dispute as they have been criticized on methodological grounds, 238and other studies have reached contrary conclusions. 239

More importantly for our purposes, the studies have not attempted to quantify the adverse effects of mere common ownership, and they therefore tell us nothing about the marginal benefit of expanding the scope of the antitrust laws to condemn it. As explained above, the studies that purport to show harm from horizontal shareholding correlate some measure of common ownership of the firms in a market--MHHIΔ or a variant thereof--with price effects in that market. 240In so doing, the studies have lumped together all instances of common ownership: those accompanied by anticompetitive agreements (for example, hub-and-spoke conspiracies, collaborations among common investors to encourage industry profit maximization), and those where no such agreements are present. This is understandable, as it would be extremely difficult for researchers to know when common ownership involved additional anticompetitive agreements and when it did not. But the failure to segregate instances of mere common ownership from "common ownership plus anticompetitive agreement" implies that the common ownership studies cannot give a sense of the added social benefit that would result from policing the former. It could be that most of the alleged welfare loss from common ownership could be eliminated simply by stepping up enforcement against anticompetitive agreements that may emerge when there is substantial common ownership of firms in concentrated industries. If that is the case, the marginal benefits of expanding antitrust to condemn mere common ownership could be small.

In any event, the efficiency gain from eliminating the slight price increases allegedly shown to result from common ownership is the upper limit of the potential marginal benefit from condemning mere common ownership. If critics are correct that the common ownership studies have overstated the social harms of horizontal shareholding, or if such harms could be reduced by simply stepping up enforcement against actual anticompetitive agreements (common ownership "plus"), then the marginal benefits of condemning mere common ownership will be less than the quantum of harm purportedly demonstrated by the common ownership studies.

### Remedy Fails---2NC

#### It won’t fit the relevant market.

Patel ’18 [Menesh; 2018; Law Professor at UC-Davis; Antitrust Law Journal, “Common Ownership, Institutional Investors, and Antitrust,” vol. 82]

Because they also do not incorporate measures of product substitutability, market concentration metrics reflecting common ownership, such as the MHHI, similarly may not accurately reflect the unilateral effects of common ownership in a differentiated goods market.121 If there is little substitutability between the products sold by the commonly owned firms in the relevant market, common ownership may not generate substantial competitive harm, even though modified market concentration measures may suggest otherwise.

The underlying reasoning parallels the reason why a merger among firms selling weak substitutes may not generate substantial unilateral price effects. If the commonly owned firms’ products are poor substitutes, then the fact that the shareholders of one of the firms have concurrent ownership interests in a rival firm does not strongly incentivize either commonly owned firm to compete less, since only a small proportion of the sales that one of the commonly owned firms forgoes as a result of competing less will accrue to the other firm.

To see this more concretely, suppose there are four bakeries in a given city, bakeries A, B, C, and D, that each sell bread. Each bakery is owned by a set of investors. Suppose that one of the investors of bakery A, investor 1, acquires an ownership interest in bakery B, so there is common ownership resulting from 1’s ownership in bakeries A and B. For simplicity, assume that investor 1 is the only owner of bakery A, that bakery B has just one other owner in addition to A, and that C and D each have a single owner.

If investor 1 were to acquire a 40 percent interest in bakery B, so that the investor has a 100 percent interest in bakery A and a 40 percent interest in bakery B, then there may be an inclination to conclude that the common ownership results in significant increases in bread prices in the market. It could be argued that bakeries A and B now have a significant incentive to compete less because some of the bread sales that either firm loses from its diminished competition generate additional bread sales for the other bakery, which benefits their common owner. The MHHI and MHHI delta would lend support to that prediction of competitive harm depending on the distribution of market shares. If the four bakeries had split the market, the common ownership results in a MHHI of 3231 and MHHI delta of 731.122 If the Horizontal Merger Guidelines were applied to these concentration numbers to gauge the potential competitive harm associated with the acquisition of investor 1’s 40 percent interest in bakery B, then the acquisition would warrant antitrust scrutiny.123

The prediction of competitive harm, however, is driven in part by implicit assumptions about demand side substitutability that may not be accurate. If the bread sold by bakeries A and B are very close substitutes compared to the bread sold by bakeries C or D, then the common ownership may result in significant price increases. But if they are not close substitutes, then the common ownership would not generate strong incentives for bakery A or B to compete less since only a small fraction of the resulting lost sales would be diverted to the other bakery in which investor 1 has a common ownership interest.

For instance, suppose that bakery A is located next door to bakery C and that bakery B is located next door to bakery D, but that A and C are located a considerable distance from B and D. In this case, the fact that investor 1 acquires an ownership interest in bakeries A and B may not generate substantial increases in the price of bread, since bakeries A and B compete more with C and D, respectively, than with each other. An increase in the price of bakery A’s bread likely will result in more sales being diverted to bakery C—a bakery in which the common owner does not have an ownership interest—than bakery B, thus muting incentives for the common ownership to cause bakery A (or bakery B) to increase prices.124 It is worth emphasizing that the example does mean that common ownership cannot result in significant unilateral effects––only that that the extent of those effects is driven in part by the extent to which consumers view the products sold by firms under common ownership as substitutes, which is not fully captured by concentration-based common ownership metrics such as the MHHI.

The potentially diminished ability of the MHHI to predict the unilateral effects of common ownership in differentiated goods markets is not a hypothetical consideration. Nearly all markets involve at least some degree of product differentiation,125 implying that substitutability concerns are relevant to an assessment of the competitive effects of common ownership in a broad range of markets, rather than just in isolated markets.

Additionally, even if there were no product differentiation, so long as the market structure differs in materially relevant ways from the model from which the MHHI is derived, the MHHI may poorly predict the unilateral effects of common ownership.126 For instance, instead of a standard Cournot model, O’Brien and Waehrer recently analyzed the competitive effects of common ownership using a homogeneous goods model involving a dominant firm and a fringe of small firms selling a fixed quantity. Using this specification, O’Brien and Waehrer show that while an increase in common ownership127 generates competitive harm in the form of higher prices, neither the MHHI delta nor the MHHI accurately predict even the direction of the price effect of common ownership, let alone the magnitude of any resulting price effect. In particular, at high levels of common ownership, an increase in common ownership generates additional competitive harm through higher prices but results in lower values of both the MHHI and the MHHI delta.128

The inability of the MHHI to predict as a general matter the competitive harm of common ownership is to be expected given that the MHHI is not a generalized measure of competitive harm (and never was proffered as such by O’Brien and Salop), but instead is a measure of market concentration that *in certain circumstances* is theoretically connected to unilateral effects—namely, if the market structure is sufficiently as postulated by the underlying model. Just as how the HHI only adequately predicts unilateral effects in certain circumstances, the MHHI also only adequately predicts unilateral effects in certain circumstances.

### Inflation Turn---2NC

#### Antitrust won’t cure inflation, BUT it will introduce unpredictability into legal standards.

Spencer ’22 [Tom; January 7; Don Lavoie Fellow at the Mercatus Center, Young Voices contributor, and the vice chairman for International Chapters of the Center for New Liberalism; the National Review, “Inflation and Antitrust: Right Target, Wrong Weapon,” https://www.nationalreview.com/2022/01/inflation-and-antitrust-right-target-wrong-weapon/amp/]

Milton Friedman famously declared that inflation is “always and everywhere a monetary phenomenon.” A statement of the obvious that cannot be said enough, it essentially tells us that inflation can occur only when the quantity of money increases faster than the rise in output. Simple as it may be, it’s an excellent starting point for understanding where inflation comes from, not least at a time of fiscal and monetary largesse. Nevertheless, we are now seeing the Biden administration blame some of today’s inflation on malevolent behavior by large corporations — behavior, they claim, that ought to be addressed by antitrust officials. To believe that is not only to believe in nonsense; it’s to accept a radical interpretation of decades of antitrust law.

Since the 1980s the key metric by which antitrust law has been conducted has been the consumer-welfare standard. Simply put, this forces courts to analyze the effects of business conduct on their customers. If that conduct is found to harm them, then it will violate the standard.

To some progressives, that is insufficient. They have begun to argue for what former U.S. senator Orrin Hatch referred to as “hipster antitrust” — or, as Larry Summers recently said, decrying the notion that antitrust could be used as a weapon against inflation, “hipster Brandeisian antitrust.” In other words, these progressives advocate that we look to the market structure as a whole rather than specific conduct. Such a view is more than a nod to the beliefs of mid-20th-century structuralist economists such as Joe Bain and Edward Chamberlain who held that it was inherently damaging when one company reached a certain level of dominance in its market sector — beliefs reflected in the jurisprudence of Justice Louis Brandeis.

Adopting anything resembling this doctrine would provide regulators with a much wider definition of what constitutes illegal actions. Under this standard, moreover, it wouldn’t be a stretch to hold that higher prices are the product of malfeasance by big business — an idea with obvious appeal to the current administration. It’s politically easier for an administration to pin inflation on large corporations than to accept its share of the blame for our current mess.

It’s also politically easier for an activist Federal Trade Commission to use inflation-fighting as cover for the pursuit of its own progressive agenda. The problem faced by both the administration and the FTC is that their arguments rest on shaky foundations. Essentially, they rest upon the simple premise that monopolies — or near monopolies — are in a position to increase their prices more than companies in more-competitive markets. This is not particularly controversial, but to suggest that it is a significant reason for the general rise in prices is wrong. When demand increases but supply remains constrained — as would be expected as we exit a lockdown — prices ought, quite naturally, to increase. They would increase by an even greater amount, too, if the same supply disruptions increase costs.

Furthermore, as Joey Politano has explained, the data that the “hipsters” are using are massively insufficient. This is because profit margins lack any historical correlation with inflation rates and also are extremely volatile. This means that they rarely, if ever, are transmitted into general increases in the price of goods.

To penalize companies that are able to increase prices in response to an increase in both costs and demand, simply because of their market position, would be self-defeating. That market position may, in the longer term, help them to keep prices down. Take the example of Amazon’s logistics service. The company is able to use its market power to negotiate better deals with existing delivery services than would either consumers or smaller intermediaries. This means that when Amazon contracts with small businesses to offer its warehouses and delivery services, which (in the latter case) are often sub-contracted out to existing firms such as UPS, they can pass those cost-savings on to the businesses themselves, leading to lower prices.

Moreover, where a market has “too many” firms at different stages of the production process, profit will have to be baked into each step if those firms are to survive. However, if a single company owns many of the stages that take a product from production to the end buyer, then profit need not be made at each step along the way. The general consequence, then, is that the company is in a position to deliver lower prices to consumers. This is why Francine Lafontaine and Margaret Slade, in a 2007 paper published in the Journal of Economic Literature, found that requirements by antitrust authorities that integrated companies break up typically led to higher prices and lower service levels for consumers.

Sadly, the inflation-based argument for legal intervention on allegedly antitrust grounds is not the only way that “antitrust” is being used as a cover for progressive activism. We have seen calls for breaking up firms because of concerns related to worker safety, inequality, the environment, and a range of other reasons that have little or no relation to traditional understandings of antitrust. To be sure, these issues matter. But to maintain that it is the place of antitrust to deal with them is, to put it mildly, a stretch.

In the Constitution of Liberty, Friedrich Hayek famously railed against judicial activism. While laws are often an imperfect expression of principles, the underlying principles should be simple — or, at least, relatively easy to grasp — if the rule of law is to work well. If instead, laws or regulations are drafted or interpreted in a way that gives those administering or enforcing them too much discretion, it undermines the predictability that ought to be provided to market actors. Put another way, people ought to be able to know with a high degree of certainty what conduct is permitted and what is not.

The application of the consumer-welfare standard to antitrust is an example of the perfect Hayekian rule. Although its underlying principle is clear enough, it also allows judges the degree of flexibility necessary if they are to keep up with changes in our understanding of what harm is. For example, during the 1980s, not a single vertical merger was challenged. Despite the fact that, as discussed above, vertical integration ought to offer the consumer lower prices, that will not always be the case. Our understanding of the harm that vertical integration can cause has advanced since the 1980s, and now economists agree that under rare circumstances the foreclosure risks feared after the Second World War can hurt consumers. For example, the 2015 merger between Comcast and Time Warner was abandoned after the Department of Justice feared it would “make Comcast an unavoidable gatekeeper for Internet-based services” — a fear that related to the effect it may have on consumer welfare. But if market structure had been the basis on which the case had been decided, then it’s easy to see how many possible mergers would have been abandoned, given the lack of certainty. (And with them, of course, would have gone the opportunities for consumers to reap the many virtues of vertical integration.)

No one should believe that antitrust could work as an effective method for stopping or slowing down inflation. Attempting to use it as such would introduce an element of unpredictability into the law that would be destructive and serve no good purpose. Efforts to take us down that route should be rejected.

#### Firm size diminishes price.

Bork ’21 [Robert; September 8; the second one, president of the Washington-based Antitrust Education Project; the Hill, “Biden's antitrust demagoguery will drive inflation, not cure it,” https://thehill.com/opinion/finance/571009-bidens-antitrust-demagoguery-will-drive-inflation-not-cure-it]

If left unchallenged, the Biden administration may succeed in diverting some heat over rising inflation. Large corporations are not in good order with voters on both the left and right. The president cannot be allowed, however, to use a political diversionary tactic that would perversely do the opposite of what he claims to do: Biden’s antitrust policies would raise the prices of basic needs for consumers.

Let’s start with food prices and Big Ag.

Two University of Idaho economics professors, Philip Watson and Jason Winfree, wrote in The Idaho Statesman that larger farms and agricultural companies, which have the capital to invest in expensive technology and economies of scale, actually have been making food steadily more affordable. It is precisely because of these economies of scale that the cost of food, until the disruption of the pandemic, was taking less out of household budgets. The professors conclude that “breaking up Big Ag could have the disastrous effect of raising food prices, which would likely have a disproportionate impact on poorer households.”

If the Biden approach to agriculture and food is demagogic, its approach to oil and gas is risible. The current increase in gasoline prices results from the supply chain disruption caused by the pandemic, exacerbated by recent hurricanes and storms. It also may be partly because of the unrelenting hostility of the Biden administration to American energy, putting public lands off limits, killing the Keystone XL pipeline and using regulation to harass the fracking industry, despite the fact that cleaner-burning natural gas has helped reduce America’s greenhouse gas emissions. Technological advances led the United States to surpass Saudi Arabia and Russia in 2018 to become the world’s leading producer of oil. Biden’s antitrust policy also may be contributing to the sudden reversal of this energy glut. It was out of antitrust concerns that Berkshire Hathaway pulled out of a major natural gas pipeline deal earlier this year.

What has been the Biden administration’s response to recent shortages? It has not been to stimulate production at home or to help clear pipeline bottlenecks. Instead, national security adviser Jake Sullivan issued a statement pleading with OPEC and Russia to come to our rescue. OPEC demurred and Russian President Vladimir Putin used Sullivan’s entreaty to issue a humiliating “nyet.”

The real cause of inflation, of course, is recovery from a pandemic and the temporary economic depression it caused. It also might be driven by the reckless spending by presidents and Congresses of both parties. Our national debt is now 125 percent of our gross domestic product — higher than the previous high in 1946, when we won a victory over Germany and Japan rather than losing a war to the Taliban.

#### It won’t solve, and more government overreach can only hurt.

Tucille ’22 [JD; January 5; editor, citing Larry Summers, the Treasury secretary during the Clinton administration and economics professor, and Economist Nicolás Cachanosky; Reason, “Biden's Antitrust Enforcement Won't Fix Inflation,” https://reason.com/2022/01/05/bidens-antitrust-enforcement-wont-fix-inflation/]

But the attack on the meatpacking industry is only part of an overall push to tout antitrust enforcement as a cure-all for inflation. The administration pushes the policy even though "White House officials concede that their antitrust moves are unlikely to reduce costs for U.S. businesses or consumers immediately," as The New York Times reported on Christmas Day. They're not even shy about admitting that "fighting inflation was not the initial motivation for Mr. Biden's competition agenda."

So, antitrust is an unlikely and opportunistic remedy for price hikes constituting "the largest 12-month increase since the period ending June 1982," as the Bureau of Labor Statistics announced last month.

"The emerging claim that antitrust can combat inflation reflects 'science denial,'" argues Larry Summers, who headed former President Barack Obama's National Economic Council. "There are many areas like transitory inflation where serious economists differ. Antitrust as an anti-inflation strategy is not one of them." In fact, he adds, it's "more likely to raise prices than lower them" by reducing supply.

To find a solution, then, we need to better identify the problem.

"Starting in March 2020, in response to the disruptions of Covid-19, the U.S. government created about $3 trillion of new bank reserves, equivalent to cash, and sent checks to people and businesses," points out economist John Cochrane in a new paper for a Cato Institute policy conference. "The Treasury then borrowed another $2 trillion or so, and sent more checks. Overall federal debt rose nearly 30 percent."

"It is hard to ask for a clearer demonstration of fiscal inflation, an immense fiscal helicopter drop, exhibit A for the fiscal theory of the price level," he adds.

Economist Nicolás Cachanosky explicitly agrees with Cochrane in a December piece for the American Institute for Economic Research "that these stimulus plans are a candidate to explain the recent spike in inflation rates." He argues that officialdom is downplaying the role the massive sums sent directly to consumers and firms by the Trump and Biden administrations played in sending prices through the roof.

"It is more convenient for the government to argue that inflation is due to supply-chain shocks or scapegoats (such as evil corporations) than admitting it is of their own doing," Cachanosky comments. "Can you imagine the Biden Administration admitting that the American Rescue Plan and all those checks sent to families across the country are an important part of the reasons why we have higher inflation today?"

That means that antitrust policy isn't going to get us out of this mess because the corporate concentration it targets (forget that the government officials pushing antitrust helped create that concentration) isn't the culprit. In fact, more red tape may worsen the problem. For example, the Hoover Institute's David R. Henderson warns that White House plans to reregulate railroads threaten further supply-chain disruptions and higher prices.

#### Even the most lefty economists don’t think antitrust would solve inflation.

Pino ’22 [Thomas; January 19; William F. Buckley Fellow in Political Journalism at National Review Institute; National Review, “Inflation Isn’t about Antitrust,” https://www.nationalreview.com/2022/01/inflation-isnt-about-antitrust/amp/]

The Biden administration and key Democrats such as Senator Elizabeth Warren have trotted out a new idea about inflation: It’s caused by greedy monopolies. It’s not a monetary problem or a fiscal problem. It’s an antitrust problem.

Paul Glastris, editor in chief of Washington Monthly, asks why most economists have dismissed monopolization as an explanation for inflation. He’s responding to the Washington Post editorial board, which wrote a strong editorial against the idea. Glastris writes, “I’m not sure why the Post editorial board, much less economists like [Larry] Summers and [Dean] Baker, are so dismissive of the idea that monopolistic corporations might choose to exploit their pricing power at this moment of maximum leverage.”

To understand the argument, let’s start with the economic theory on monopolies. One of the symptoms of monopoly is higher prices than those in a competitive market. In a perfectly competitive market, firms have no price-making power at all because the market participants bargain their way to an equilibrium price that no single participant has any control over.

That is, of course, a blackboard abstraction, and in the real world, firms set their own prices. But they can’t just set them at whatever they want. If McDonald’s set the price of a burger at $1,000, they probably wouldn’t sell any. They have to keep in mind what Wendy’s, Burger King, Five Guys, etc., are offering. You can see how more competitors would make it more difficult to raise prices; in our example, burger customers could just seek out another restaurant for a similar product.

There’s economic logic, then, to the idea that lack of competition would result in price increases. It’s standard textbook theory. It’s an idea with which economists such as Larry Summers and Dean Baker are very familiar.

The reason they won’t give credence to the White House’s narrative on inflation is because it simply isn’t true. Glastris’s counterexamples illustrate why.

First and foremost, inflation is defined as a general increase in the price level. “General” is the operative word there. Glastris writes, “Thanks to lax antitrust enforcement, four companies now control 55 to 85 percent of the markets for beef, pork, and poultry. Since the fall of 2020, the price of beef has risen by more than 20 percent, far higher than the inflation rate.”

Possible monopolization, it’s true. But that would only explain why the price for meat is increasing, not why we’re experiencing a general increase in the price level.

As to whether it’s even monopolization in the first place, an increase in prices is not the only textbook symptom of monopoly. If an increase in prices is due to monopolization, it would coincide with a reduction in supply. We haven’t seen that in the meat industry. According to the USDA, total red-meat and poultry production was higher over the period of January through November 2021 than it was over the same period in 2020, when inflation was at normal levels. And U.S. meat production has been increasing steadily since the early ’60s, more than doubling over that time span.

Glastris goes on to note the case of semiconductors. At first blush, the logic is reasonable: Semiconductors are used in many products, so their unavailability would result in many prices increasing across many sectors. “As recently as a decade ago,” he writes, “America was producing vast numbers of cutting-edge semiconductors right here on our shores.”

But that “decade ago” part causes problems. The disparity between domestic and international semiconductor production is not a new development. It has gradually developed over years and cannot explain the surge in inflation that began last summer.

Another common denominator for many goods is ocean shipping. Glastris writes (correctly) that “three vast carrier alliances, all foreign owned” have gained control over almost all of the ocean-freight market. He says, “These alliances then built super-sized cargo ships that can only dock in a few ports, like the ones in Los Angeles and Long Beach, which now service 40 percent of all U.S. traffic.” That’s all correct. Then, he says, “This highly consolidated system kept shipping prices, and hence overall inflation, low for years. Now, its brittleness is contributing to inflation.”

Wait a second, consolidation was keeping prices low for years? Then it caused inflation, starting in late summer of 2021? Ocean shipping isn’t any more monopolized today than it was in 2020. And yet according to the Freightos Baltic Index, the price of a shipping container has gone up over 600 percent since January 2020. Something else must be going on.

Glastris brings up land transportation as well. He says that in the past, many goods were delivered by rail but now move on trucks because “the federal government allowed the railroad industry to monopolize.”

First, it must be noted that for passenger rail, the federal government was the monopolizer when it created Amtrak in 1971. For freight rail, it is true that there are fewer Class I railroads in the U.S. today than there were before the industry was deregulated in 1980. But since deregulation, freight rates and operating costs have been lower, and innovation has been higher. That’s not symptomatic of monopolization, even though there are fewer competitors, and it wouldn’t explain a general increase in prices, either. And the mere fact that goods are being shipped by truck instead proves that freight railroads have competition, even if it isn’t from other freight railroads.

Specific examples of potential monopolization are worth debating. It’s not silly to be concerned that global ocean shipping is effectively controlled by a cartel. But none of these sector-specific examples is sufficient to explain a general increase in the price level.

Aha, but they’re all happening at the same time! Exactly, which is why monopolization can’t be the answer. For the monopolization theory to work, proponents would need to explain why nearly every sector of the economy decided to start using its monopolistic price-making power at roughly the same time late last summer after not using it at any time in recent memory before then. That’s not economics; it’s a conspiracy theory.

The cause of the current bout of inflation is the fastest increase in the money supply in the history of the Federal Reserve system combined with record levels of fiscal stimulus combined with supply constraints that are limiting GDP growth. Too much money, not enough goods. The supply constraints are largely due to decades of bad transportation policy and pandemic-related labor shortages. But there wouldn’t be an issue if it weren’t also true that consumers are buying more stuff than ever before with an economy juiced with money from the Fed as the backdrop.

Those are separate concerns from antitrust. Economists understand that, which is why even most left-leaning economists aren’t playing ball with the Biden administration as it tries to pin inflation on the “greed of meat conglomerates,” or whatever industry it decides to single out next.

### AT: Fed/Rate Hikes---2NC

#### They’ll turn dovish.

Edwards ’12-9 [William; 2021; reporter, citing Marko Papic, the chief strategist at Clocktower Group; Business Insider, “The chief strategist at a $1.5 billion firm shares his 2 best ideas for where to invest in 2022 — and says the Fed will turn dovish again to avoid triggering a recession as stocks face a likely 'deep correction' in December,” https://www.businessinsider.com./where-to-invest-your-money-in-2022-fed-turn-dovish-2021-12]

But according to Marko Papic, the chief strategist at Clocktower Group, which manages $1.5 billion in assets, the Fed probably had it right the first time: Inflation will likely prove "transitory," and fears about it are overblown. Papic said he thought 5% inflation would be seen the same as 2% had been in recent years.

"Investors are overstating how much 'misery' inflation is bringing to the median voter," Papic said in a recent note. "Homeowners have seen their real estate assets appreciate, savers have seen equities and crypto appreciate, and wages are rising. If American consumers were so depressed and worried about prices, why are they quitting in droves?"

The Fed's backtracking to a more hawkish stance is going to have consequences, Papic said. He said investors should prepare for stocks to suffer a "deep correction" this month as interest rates start to rise.

He added that tightening monetary policy soon would be a greater risk of a recession, which he said was a bigger threat than inflation.

Papic said he believed the Fed would again reverse course and become very dovish once again so as not to trigger a downturn. He said he thought this second reversal would take place early next year or perhaps before the end of this year.

Papic also said he saw the Fed turning dovish again because Biden had three Federal Open Market Committee appointments to make in the months ahead.

#### Only confidence matters.

Langdana ’19 [Farrokh; June 21; Finance and Economics Professor at Rutgers University; Rutgers University, “Ignore the Fed! Interest rate changes are largely irrelevant,” https://www.business.rutgers.edu/business-insights/ignore-fed-interest-rate-changes-are-largely-irrelevant]

We all need to stop obsessing on what the Fed will or will not do. It simply does not matter anymore; in fact, the Fed has been impotent for the last decade or so.

Here is why:

1. The Fed can only—ONLY—change very short term (overnight) interest rates, known as the Federal Funds Rates. Real capital growth and real economic activity, on the contrary, are driven by long term interest rates which are functions of expected future inflation, and are endogenously determined. (The Fisher Effect links long term nominal interest rates to expected inflation.)
2. Furthermore, economic activity—capital investment—is given by: I = I –fi where I is capital investment (housing is included here), I is investor confidence, i are long term interest rates, and f is the sensitivity (elasticity) of capital investment (I) to interest rates. The main point here is that I (investor confidence) is the main determinant of capital investment. Even when interest rates were low during the Subprime Crisis here in the US from 2007 to 2015, and earlier in Japan, with I (investor confidence) low, the Liquidity Trap prevailed. Capital investment (I) remained dead in the water in spite of the low (almost zero %) interest rates. Bottom line: It is investor confidence that matters, interest rates by themselves do nothing.
3. In a world of super-mobile global capital, small interest rate changes are quickly arbitraged away as massive amounts of capital quickly slosh in and out of safe-haven countries such as the US. A small increase in US rates, for example, would attract massive capital inflow, quickly negating the interest rate gradient, and vice versa.
4. Conventional macro texts link the Fed’s Open Market Operations with a quick response in real economic activity; there was an era in which Keynesian macroeconomists could jump-start and soft-land economies with great impunity. Well, all that is gone—long gone. Very simply, to recap, in the Keynesian era, a proposed decrease in short-term interest rates would prompt the Fed to buy existing government bonds and credit the banks’ reserves at the Fed by the amount of the purchase. By virtue of the Reserve Ratio, the banks’ lending ability would increase and this increased liquidity would ripple through the economy, thereby jump starting growth. The problem now is that banks have been “parking” much more at the Fed than they are supposed to—in fact many times what their reserves at the Fed ought to be. Consequently, when these highly padded reserves change due to Open Market Operations, there is no resulting change in the actual liquidity generated in the economy. Back in the Keynesian era, adding a gallon of water into a pond would cause quite a wave. Now adding a gallon of water into a giant lake will not even cause a ripple.
5. Our very own Rutgers grad, Milton Friedman, warned us in the Sixties (see his 1968 seminal “Role of Monetary Policy”) that the Fed could not consistently target real economic activity or even interest rates consistently over time, and should not even bother to try. Monetary policy was not a long term solution to managing economic activity.
6. Finally, we end with Shakespeare. Macbeth comes to mind. In one scene, Macbeth describes Life as a “tale told by an idiot, full of sound and fury, signifying nothing.” The ongoing fuss and hysteria regarding what the Fed will or will not do, and will Jay Powell get fired, and will Trump get to lower interest rates, and on and on, reminds me of Macbeth. Monetary Policy today is a tale full of sound and fury. Signifying nothing. Everyone stand down. Short term Interest rates do not matter. The glory days of the Fed are over.

### AT: Crash---2NC

#### No overvaluation and even if, no crash

Meisels ’21 [Ron; 11/24/21; President of Phases & Cycles, publishing research reports on markers and stocks using behavior analysis for over 40 years; "Markets are not really in uncharted territory: History tells us to stay the course," The Globe and Mail, ProQuest]

To the faint of heart, it may well appear that we find ourselves in uncharted territory. Are we overdue for a 'correction' or even a full-fledged 'bear market' - or will stock prices continue their lengthy upward trajectory?

Having toiled in the study of technical analysis (and its subdivision, behaviour analysis) for longer than I care to admit, I can attest that, by scrutinizing historical data, one is, in fact, able to discern where things are most likely headed - and to map out their investment strategy accordingly. More about that momentarily.

First an analogy: consider that most sensible folk would not embark on a road trip without a map, or without having planned ahead in terms of anticipated driving distances and times, requisite rest and fuel stops, etc. For instance a drive from Toronto to Montreal via Highway 401 is a distance of some 540 km in ideal weather conditions and should take approximately five and a half hours. But unforeseen events such as a flat tire or breakdown could impact the timetable, causing us to take longer than planned to reach our destination.

That same sort of precautionary approach should be applied to investing: just as you would not set out on a road trip without a map and some sort of timetable in mind, you ought not to embark on an investment strategy without a clear indication of where you are headed and how long the journey is likely to take.

Fortunately, as I already indicated, it is possible even in these crazy Covid times to chart a course that helps us navigate through the various market cycles by scrutinizing historic charts, graphs and data.

At the heart of this art is an understanding of the 'secular bull' and 'secular bear' markets which, together, characteristically bridge some 40 years. Bull markets (periods of rising prices) generally last 24-26 years, while bear markets (periods of falling prices) tend to be much shorter.

Recent Historic Bull and Bear Markets:

Bull: 1903 - 1929 (26 years); Bear: 1929 - 1942

Bull: 1942 - 1966 (24 years); Bear: 1966 - 1974

Bull: 1974 - 2000 (26 years); Bear: 2000 - 2009

Bull: 2009 - ?

Each secular bull market subdivides into shorter market cycles which comprise an up-phase (rise) and a down-phase, the latter characterized by a brief dip or pause where volumes and prices plateau as investors opt to take a time out. Think of these pauses as being akin to pulling into a rest stop on Highway 401 for food or fuel during our imaginary Toronto-Montreal road trip. The key point here is that, we planned for such contingencies before heading out.

Which brings us to our present circumstances: we are now 12 years into a secular bull market that began in late 2009. The first cycle extended a mere two years, through 2011, during which the S&P 500 (SPX) gained 103% and subsequently lost 21%. Returning to our road trip analogy, that first cycle would have taken us only from Toronto to, say, Oshawa. No surprise there: the first cycle is typically short, following as it does in the wake of a recently ended bear market. At this point, most investors still believe that the rise is simply a "recovery rally" - a pause - and that the bear is still lurking around, about to pounce and again wreak havoc on stock prices. (The Figure A on the accompanying graphic designates this stage of the cycle as "depression".) Essentially, negative sentiment still lingers and the typical quote on the Street (stemming from the memory of previous bear-market rallies) is "they are not going to fool me again!"

At any rate, the next cycle lasted five years, to 2016, and transported us from Oshawa to Coburg on our imaginary 'TripTik'. (Readers of a certain age may recall these paper predecessors to Google Maps and Waze, which were issued by the CAA.) This phase of our journey constituted a recovery cycle, during which bullish sentiment slowly matured (see "Hope and Relief" on Figure A), and propelled major market indices to all-time highs in 2013. The SPX gained 98%, before declining 15% during the subsequent down-phase.

The ensuing cycle (2016-2018) saw the renewal of bullish growth (+62.5%), followed by a negative turn that ended with a 20.2% decline in the SPX. This cycle (labelled "Optimism"), and primarily driven by investment newbies, transported us from Coburg to Belleville enroute to Montreal. Young investors - many of whom ranged in age from 15 to 18 back in 2011, and had never experienced a bear market - heard about the wonders of the bull-market and the opportunities to reap big profits. They rushed in to cash in. That 20%-plus decline registered by the SPX at the end of this cycle was primarily the result of their over-optimism, which created a sell-off that was sharp and - most importantly, due to its size - proved to be a bear-trap. It is highly unlikely that experienced map readers would have confused Belleville with Montreal!

The next phase of our journey, from Belleville to Kingston, was severely disrupted in early 2020 by the unanticipated arrival of the Covid-19 pandemic. We referred to this calamity in our publications as a "flash-crash", since, technically, it was not part of a conventional cycle. Rather it was reminiscent of the 1987 "crash" in terms of action, direction and outcome: the SPX lost about 35% in both instances. However, in 2020, it took the SPX only five months to recover and hit a new all-time high, as opposed to two years back in the late 1980s. In the wake of both crashes, the SPX not only recovered but subsequently climbed to higher and higher levels. At this writing, the SPX has reached a lofty perch 115% above its March 2020 level. (See "Excitement".). As Mark Twain said, "History doesn't repeat itself, but it often rhymes."

So here we are on our metaphoric road trip, not yet in Kingston (let alone Brockville, Cornwall, or, our final destination, Montreal). Nevertheless, if we were to consult our virtual road map, we'd see that we are currently just 12 years into a secular bull market - which, remember, history tells us is likely to last somewhere around a quarter of a century.

Indeed, the markets do appear to be somewhat overbought these days. But that's not to say that they are about to collapse. Small corrections notwithstanding, what we are more likely to witness in coming months is our arrival in Kingston in early 2022 ("Thrill"), where we will stop for a quick bite that is evocative of a similar pause experienced in 2018, before hitting the road again towards our final destination. It would not come as a great surprise were non-map-readers to again confuse Kingston with Montreal - unaware that we still must navigate through the final cycle ("Euphoria") of this secular bull market, where we are likely to witness different symptoms, including numerous stock-splits, before the next bear market.

Our advice? Rest calm. Stay the course and enjoy the ride. It does pay to do your homework, which clearly indicates that history is on our side.

#### Recent volatility’s insignificant, investors are optimistic, and recession is unlikely.

Gandel ’1/31 [Stephen; 1/31/22; news editor for Deal Book at the New York Times; "Stocks had a lousy start to the year, but Wall Street expects good times ahead.," https://www.nytimes.com/2022/01/31/business/dealbook/stock-market-wall-street.html]

The market seems volatile, but its recent swings have been only slightly bigger than usual. During the past 60 years, the average high-low spread — the difference between the highest point of the day and the lowest point of the day as measured by the market-tracking S&P 500 index — has been 1.4 percent, said Howard Silverblatt, a senior analyst at S&P Dow Jones Indices. So far this year, that measure is 1.8 percent, about the same as it was in 2020, but far less than the 3 percent it averaged in 2008 during the height of the financial crisis.

The average investor has yet to be scared off. Bank of America wrote in a research note last week that its retail clients, as a group, had put more money into the stock market than they had pulled out. In the first three weeks of the year, individuals with accounts at Bank of America bought $2.3 billion more in stocks than they sold.

In the same time, though, hedge funds that use Bank of America to trade sold nearly $3 billion more in stock and bond funds than they bought. “Retail clients remained the biggest buyers (as is typically true in January),” Jill Carey Hall, a Bank of America strategist, wrote in the note. “Clients bought the dip.”

One thing buoying optimism is that corporate profits have kept climbing. Analysts believe that fourth-quarter profits rose 24 percent for companies in the S&P 500 compared with a year earlier, according to the market data service FactSet. Earnings are expected to slow this year but still rise 9 percent in the first three months.

Strong earnings from Apple supported the market last week, easing fears that the tech industry’s period of fast growth may be coming to an end. This week, Amazon and Alphabet, Google’s parent company, will publish their reports for the three months that ended in December.

Another good sign: Sectors that are tied closely to the economy, like financial stocks and industrials, have done better than the market as a whole. Shares of General Electric, for instance, are down only about 2.5 percent since the start of the year. Wells Fargo’s stock price is up about 2.5 percent in 2022.

“I don’t think there is a very big risk for a recession right now,” said James Paulsen, a strategist at Leuthold Group. “Then I don’t think it is a bull ender.”

### Dollar Heg---2NC

#### No Asian debt dumping.

Plender ’21 [John; May 24; economics columnist; Financial Times, “The demise of the dollar? Reserve currencies in the era of going big,” https://www.ft.com/content/408d4065-f66d-4368-9095-c6a8743b0d01

Meantime, international capital appears to be giving Biden the benefit of the doubt. Given their security dependence on the US, big holders of dollar reserves such as Japan and South Korea are unlikely to dump the dollar. As for China, US Treasury data show that from August 2017 to October 2020 China’s holdings of US Treasury securities declined from $1.2tn to $1.05tn. After Biden’s victory they rose in monthly progression to $1.1tn — this despite the new administration’s continuation of much of Trump’s hostile approach to China.

#### No impact.

Farley ’21 [Robert; June 21; Assistant professor at the Patterson School of Diplomacy and International Commerce; *The* Diplomat, “Does It Matter If Dollar Dominance Ends?” <https://thediplomat.com/2021/06/does-it-matter-if-dollar-dominance-ends/>; KS]

What price will the United States pay for the end of dollar hegemony, if indeed dollar hegemony ends? Paul Krugman, New York Times columnist and Nobel Prize laureate, suggests that concern over the end of “dollar dominance” might be misplaced. Krugman expresses well-reasoned skepticism that the end of dollar dominance is nigh, then suggests that even the end of dollar dominance might not have the catastrophic effects on the U.S. economy that some suspect. He points out that dollar dominance doesn’t seem to have much of an effect on interest rates on U.S. debt, and that there’s little reason to believe that the value of the dollar would crash if it ceased to be the foundational international currency.

Krugman evaluates a series of measures of vulnerability, including interest rates and currency volatility, debunking the idea that a fall from primacy will necessarily imply a decline in prosperity. As he points out, the end of dollar dominance (however unlikely) is unlikely to have a crushing impact on the U.S. economy; Great Britain’s economic performance was largely uncorrelated with the end of the dominance of the pound, although the special relationship between London and Washington undoubtedly cushioned Great Britain’s landing. Moreover, key global economic actors such as Canada and Australia have not apparently suffered from their inability to control a hegemonic currency.

But as Henry Farrell and others have pointed out, the defense of the dominance of the dollar has less to do with the prosperity of Americans and American business, and more to do with the weaponization of interdependence. The dominance of the dollar, combined with advanced digital tools of surveillance and analysis, gives the U.S. government unprecedented insight into the functioning of the international economy. This allows the United States to precisely employ sanctions against opponents, monitor tax avoidance and tax evasion, and keep track of the international flow of arms, drugs, and other illicit and semi-licit goods.

Krugman’s column stirs up a question that has bedeviled policymakers and academics for a very long time: To what extent do the citizens of a country benefit from primacy, or even prominence? The historical record is ambivalent, but the wild growth in living standards in Germany and Japan after each was forced to abandon its hegemonic aspirations suggests that any connection between hegemony and prosperity is tenuous and contingent.

### Populism War---2NC

#### No war from global populism

Nye ’17 [Joseph; January/February 2017; University Distinguished Service Professor at the Harvard Kennedy School of Government; “Will the Liberal Order Survive?” Foreign Affairs, https://www.foreignaffairs.com/system/files/pdf/anthologies/2017/b0033\_0.pdf]

It has become almost conventional wisdom to argue that the populist surge in the United States, Europe, and elsewhere marks the beginning of the end of the contemporary era of globalization and that **turbulence may follow** in its wake, as happened after the end of an earlier period of globalization a century ago. But circumstances are **so different today** that the analogy doesn’t hold up. There are **so many buffers against turbulence now**, at both the domestic and the international level, that a **descent into economic and geopolitical chaos**, as in the 1930s, is **not in the cards**. Discontent and frustration are likely to continue, and the election of Trump and the British vote to leave the EU demonstrate that populist reactions are common to many Western democracies. Policy elites who want to support globalization and an open economy will clearly need to pay more attention to economic inequality, help those disrupted by change, and stimulate broad-based economic growth.

It would be a mistake to read too much about long-term trends in U.S. public opinion from the heated rhetoric of the recent election. The prospects for elaborate trade agreements such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership have suffered, but there is not likely to be a reversion to protectionism on the scale of the 1930s. A June 2016 poll by the Chicago Council on Global Affairs, for example, found that 65 percent of Americans thought that globalization was mostly good for the United States, despite concerns about a loss of jobs. And campaign rhetoric notwithstanding, in a 2015 Pew survey, 51 percent of respondents said that immigrants strengthened the country.

## Adv---Investment

### Buybacks Turn---2NC

#### Innovation is high. Share buybacks fuel startups, which straight-turns their advantage.

Wang ’18 [Charles and Jesse Fried; March–April; Glenn and Mary Jane Creamer Associate Professor of Business Administration at Harvard Business School; Law Professor at Harvard; Harvard Business Review, “Are Buybacks Really Shortchanging Investment?” https://hbr.org/2018/03/are-buybacks-really-shortchanging-investment]

These claims are at odds with corporate leaders’ public statements about their commitment to long-term success. Boeing CEO Dennis Muilenburg, for example, notes that “Boeing has won in the marketplace for 100 years because of innovation, and we need to continue to invest in innovation for the future.” Amazon CEO Jeff Bezos sums up his philosophy in six words: “It’s all about the long term.” More significantly, publicly available data on corporate R&D expenditures and cash balances suggests that S&P 500 corporations are in fact spending considerable sums on innovation, in line with the priorities articulated by management—and have ample cash to spend even more.

To understand the disconnect, we decided to examine how S&P 500 companies are actually allocating capital between shareholders and internal investment. We found that these firms are in fact plowing substantial amounts of capital into R&D and capital expenditures. To be sure, the ratio of dividends and stock repurchases to net income is high, reaching 96% during the period from 2007 to 2016. But that ratio is misleading, because it ignores two important factors: First, much of the capital distributed by S&P 500 firms to shareholders via repurchases is returned to the firms, directly or indirectly, via equity issuances—that is, these companies buy back stock from shareholders, but they also sell new stock directly to investors, or grant equity to employees who then sell the shares to investors. Taking these inflows into account substantially changes the picture. Indeed, net shareholder payouts of the S&P 500 firms—which include not just buybacks and dividends but also equity issuances—amounted to only about 50% of net income during the period from 2007 to 2016.

To assess the impact of stock buybacks on the economy, we must look beyond the S&P 500.

Second, net income is a poor metric of income potentially available for investment, because it measures what’s left after R&D investments and many other future-oriented expenditures have already been deducted. A better measure is what we call R&D-adjusted net income: the sum of R&D and net income. If we use R&D-adjusted net income rather than net income in the denominator of our ratio, we see that net shareholder payouts by the S&P 500 from 2007 to 2016 were only about 41%.

The alarm over S&P 500 shareholder payouts reflects not only a misunderstanding of capital flows between those companies and their shareholders but also an exaggerated view of the S&P 500’s role in the nation’s economy. S&P 500 firms account for less than 50% of business profits and less than 20% of employment. To properly assess how net shareholder payouts by S&P 500 firms affect the long-term health of the U.S. economy overall, one must consider their effect on all companies. Capital flowing to S&P 500 shareholders does not go down the economic drain: Shareholders use much of the cash, we know, to invest in smaller public and private firms, supporting innovation and job growth throughout the economy.

The charge that S&P 500 shareholder payouts are starving the U.S. economy of investment does not stand up to the data. In this article, we examine that data, beginning with an analysis of capital expenditures and R&D investment in the S&P 500 over the past decade.

The True Picture

Make no mistake: The proportion of net income distributed to the shareholders of S&P 500 corporations is indeed high. From 2007 to 2016, the S&P 500 firms paid out $7 trillion to shareholders—$4.2 trillion through repurchases and $2.8 trillion through dividends—representing 96% of net income. Microsoft was one of the top cash distributors, paying out a total of $188 billion to shareholders.

Figure omitted.

Those numbers appear to provide evidence that S&P 500 firms are draining themselves of capital for the long term: If firms are distributing almost all their net income through dividends and buybacks, the argument goes, how could they not be underinvesting? A closer examination of the data calls that conclusion into question, for two reasons.

Internal investment is rising.

If companies are distributing nearly all their net income to shareholders, one would expect to see little corporate investment. However, when we look at CAPEX and R&D as a percentage of revenue (a standard gauge of investment intensity used by economists) over the past 25 years, we see that the overall investment intensity of S&P 500 firms, while quite volatile on a year-to-year basis, has been rising over the past decade, and is now near peak levels not seen since the late 1990s. Clearly, S&P 500 firms have found substantial capital for investment, notwithstanding large shareholder payouts.

Figure omitted.

Cash balances are robust.

Even though the investment intensity of the S&P 500 has been steadily rising, one could argue that it might be even higher if firms did not distribute so much capital to shareholders. But corporate cash stockpiles are huge and growing. In 2007 the S&P 500 firms held $2.8 trillion in cash plus cash-equivalent short-term investments. Over the next decade, they accumulated significantly more, ending up with $4.3 trillion in 2016—an increase of about 50%. As a proportion of total assets, cash holdings increased by about 30% during this period. To be sure, some of this cash is held abroad and would be taxed if repatriated for investment. But we estimate that both domestic and foreign cash balances have either remained stable or increased during this time frame. And even if we assume that all the cash in 2016 was held abroad and would have been taxed on repatriation at the highest possible rate (35%), that would have left approximately $2.8 trillion available to S&P 500 firms in 2016 for internal investment.

Figure omitted.

Solving the Puzzle

So what is causing the disconnect between robust investment and cash stockpiles, on the one hand, and claims of excessive shareholder payouts, on the other? The main problem lies in the ratio itself. It fails to account for offsetting equity issuances and assumes incorrectly that none of the expenses subtracted from revenue to arrive at net income is investment-related.

Accounting for equity issuances.

To properly understand how much capital is flowing between companies and shareholders, one must look at net shareholder payouts—dividends and repurchases minus equity issuances.

Some equity issuances are direct: The firm sells stock directly to public investors in exchange for cash, through an underwritten or at-the-market offering. But many equity issuances are indirect: The firm gives shares to a nonshareholder party in exchange for noncash economic consideration, and the nonshareholder party in turn sells the shares to public investors for cash. The economic consideration might be assets (for example, an acquiring firm issues its own equity to shareholders of the target firm) or services (a firm uses equity to compensate its employees, for instance). Our research shows that most equity issuances are indirect. About 50% of total equity issuances are to firms’ own employees, with the vast majority (85%) of those shares going to nonexecutive employees.

From an economic perspective, direct issuances and indirect ones are equivalent. Suppose a firm wishes to pay an employee $100 but has no cash available for that purpose. It could choose to give a share worth $100 to the employee, who could then sell the share to investors for $100 and pocket the cash. Or the firm could sell a share directly to shareholders for $100 and give the employee the cash. The two transactions have exactly the same effect on the firm, the employee, and shareholders.

Taking equity issuances into account has a dramatic effect. For example, we estimate that Microsoft’s net shareholder payouts from 2007 to 2016 totaled $139 billion—about 26% less than the $188 billion the firm distributed in repurchases and dividends. Microsoft is not an outlier. Across all S&P 500 firms, we estimate that direct and indirect equity issuances from 2007 to 2016 totaled $3.3 trillion—about 79% of the $4.2 trillion in repurchases over this period. As a proportion of net income, shareholder payouts for the S&P 500 totaled 96%, but net shareholder payouts totaled a much more modest 50%.

Figure omitted.

Accounting for R&D.

In addition, net income, against which shareholder payouts are often compared, is a poor measure of the income available for internal investment. Why? Because it assumes that the expenses deducted to arrive at net income are entirely unrelated to future-oriented investment. But one of the major expense items deducted is R&D, which by its very nature is future oriented. At most, therefore, net income indicates the amount available for CAPEX and additional R&D.

We calculate that total R&D expenditures amounted to about 28% of total net income for S&P 500 firms from 2007 to 2016. When we add R&D expenses (net of tax effects) back into net income to arrive at R&D-adjusted net income, and then take into account equity issuances as well as shareholder payouts, the overall picture looks very different. From 2007 to 2016, net shareholder payouts by the S&P 500 constituted only 41.5% of R&D-adjusted net income. That left the S&P 500 with $5.2 trillion available for CAPEX, R&D, and other investments.

Figure omitted.

Looking Beyond the S&P 500

The claim that excessive shareholder payouts by the S&P 500 harm the American economy suffers from another flaw: It assumes their shareholders do not put the funds they receive to productive use. We decided to investigate whether non–S&P 500 public firms—which are generally younger and faster growing—were absorbing some of the net shareholder payouts by S&P 500 firms, to fuel investment, innovation, and job creation. That is exactly what we found: Non–S&P 500 public firms were net importers of equity capital. In every single year of the 2007–2016 period, there were net shareholder inflows (that is, negative net shareholder payouts) in those firms. Over the decade, net shareholder inflows amounted to approximately $407 billion, or 11% of the $3.67 trillion in net shareholder payouts by S&P 500 firms.

We then looked at net shareholder payouts by all public companies, integrating data from both S&P 500 and non–S&P 500 firms from 2007 to 2016. These payouts amounted to $3.26 trillion, or 41% of net income (compared with 50% for the S&P 500) and 33% of R&D-adjusted net income (compared with 41% for the S&P 500).

Figure omitted.

It doesn’t end there. Just as a good portion of the net shareholder payouts by S&P 500 firms flows to smaller public firms, a considerable portion of the net shareholder payouts by all public companies is reinvested in firms raising capital through IPOs and in nonpublic businesses backed by venture capital and private equity. Although tracing capital flows into such companies is difficult, we do know that VC and PE funds are now raising more than $200 billion a year—a substantial fraction of the net shareholder payouts generated by all public firms—for investment in private firms.

These firms are vital to the U.S. economy. They account for more than 50% of nonresidential fixed investment, employ almost 70% of U.S. workers, and generate nearly half of business profits. And historically, private firms funded by VC and PE funds, including Silicon Valley start-ups, have generated tremendous innovation and job growth in the United States. Indeed, much of the critical innovation in our economy—including breakthroughs in pharmaceuticals and information technology—takes place in small private firms. Even in the more “blue collar” field of energy, the most valuable and transformative innovations over the past decade have come out of small firms funded by PE and VC investors, not out of publicly traded firms, and have created millions of high-paying jobs. In short, one cannot assess the economic effects of net shareholder payouts by the S&P 500 without understanding how these flows affect all businesses in the economy.

#### Equity consolidation is good! Creates an incentive to improve long-term firm value.

Edmans ’17 [Alex; September 15; Professor of Finance at London Business School, Ph.D. from MIT; Harvard Business Review, “The Case for Stock Buybacks,” https://hbr.org/2017/09/the-case-for-stock-buybacks]

Yet another advantage of repurchases over dividends is that they lead to more concentrated ownership. If a company buys back stock, the CEO now has a greater share in the remaining equity, and so now has stronger incentives to improve firm value. Higher CEO ownership stakes typically improve long-term stock returns. And buybacks concentrate the ownership of not only the CEO, but also of continuing shareholders. A common concern about the public corporation is that it is owned by millions of dispersed shareholders, whose stakes are too small to motivate them to look beyond short-term earnings. By concentrating the ownership of continuing investors, they create blockholders – large shareholders. Since these shareholders have “skin in the game”, they have the incentive to look beyond earnings and instead look to a company’s long-term growth opportunities and intangible assets.

#### It makes companies more efficient.

Hoopes ’21 [Jeffrey and Allison Koester; September 26; associate professor and Harold Q. Langenderfer Scholar of Accounting at the University of North Carolina’s Kenan-Flagler Business School, and the research director of the UNC Tax Center; the Saleh Romeih Associate Professor of Business at Georgetown University’s McDonough School of Business; the Hill, “In defense of share buybacks,” https://thehill.com/opinion/finance/573945-in-defense-of-share-buybacks-why-all-the-hate-around-share-repurchases]

A few months ago, Sen. Elizabeth Warren (D-Mass.) derided buybacks, saying “This is nothing but paper manipulation.” An article about Warren’s remark noted a commonly held belief that “stock repurchases do nothing to improve the quality of a business or the goods and services it produces.” These commonly held beliefs in buybacks are simply false. Here’s why.

A share repurchase most often happens when a firm goes to the stock market and buys back its shares. So, what does that look like in reality? Typically, there’s a person sitting at a computer with their brokerage account open pressing “sell,” and on the other end there’s someone within a firm’s treasury function pressing “buy” at the same time. (The real mechanics are more complicated, but the substance is not.) The seller has no idea that the net recipient of the shares they are selling is the firm. The person is simply selling their shares because they want to hold cash instead of holding the stock. The person can use this cash however they please — invest it in other companies that might have more productive investment opportunities, give it to charity, give it to their kids or whatever else they want to do with it, because, after all, it is their money. The firm is simply buying its own shares on the open market, returning cash with no greater use within the firm to its shareholders.

So, does that somehow mechanically manipulate the stock price or earnings per share (EPS)? No. It is pretty easy to show that the mechanical effect of a buyback is simply to produce a smaller firm with fewer shares outstanding with the same price per share and EPS.

Let’s imagine a simple company with five shareholders, with all earnings paid out as dividends. Each shareholder contributed $1 to the firm in exchange for one share of stock, so the firm’s market value is $5. Assume the company earns a 10 percent return on its $5 of capital, so the firm generates $0.50 of earnings and $0.10 of EPS.

Now imagine the shareholders decide to have the company buy back a single share of the stock. The company takes a dollar from the corporate coffers, gives it to a shareholder in exchange for the share and rips up the repurchased share. What does this do to share price? Four shares are outstanding and there is only $4 of contributed capital, so each share is still worth a dollar. Share price was not manipulated. And what about EPS? A 10 percent return on the $4 of capital makes for $0.40 of earnings, which split four ways yields $0.10 of EPS. EPS was not manipulated. The mechanical effect of a buyback is simply to produce a smaller firm with fewer shares outstanding with the same price per share and EPS.

Is this mechanical effect what we see in real life? No, not necessarily, because firms don’t simply pay out cash that earns the same return as all of their other assets. Rather, a firm will buy back its shares with its least productive assets, meaning, on average, the remaining assets are more productive and the return may well increase.

As a result, the sentiment that buybacks “do nothing to improve the quality of a business” is false. Buybacks help the company eliminate its least productive capital, and make the company more efficient (smaller and with more productive assets, on average). If changing the composition of assets indirectly improves the firm, this may, indeed, increase earnings per share at companies and increase the value of the remaining shares.

Would the person who pressed “sell” have made their initial investment in the firm if they had known that the firm could not freely return this capital? Perhaps, but certainly not for the same price per share. Restricting a company’s ability to freely decide when it can return capital to shareholders makes capital more expensive. And who bears that cost? The very shareholders who want to give the firm their money and then eventually ask the firm to return that capital (where the “ask” is made by the person pressing “sell”).

Can companies engage in repurchases poorly? Certainly. Just as an investor can buy shares and be worse off for it, so too can companies repurchase shares and be worse off for it. But this is no reason to disparage the ability of an investor to purchase shares, or the ability of a company to return capital to investors through repurchases.

Buybacks are a simple adjustment to a company. When a company has too much cash and nothing to do with it, we should want the company to return this cash to its owners. To charge companies a 2 percent tax for doing so suggests a fundamental misunderstanding of why firms repurchase their shares.

#### Buybacks boost startup growth.

Book ’19 [Joakim; September 25; visiting scholar at the American Institute for Economic Research, master’s degree from the University of Oxford; American Institute for Economic Research, “In Defense of Share Buybacks,” https://www.aier.org/article/in-defense-of-share-buybacks/]

What share buybacks do is intentionally reduce the outstanding capital of one’s own company. The managers are putting cash behind their conviction that owners can make better use of spare funds than the company can. As Erica York persuasively explains, companies buy back shares when they have “more cash than investment opportunities.”

It may be that the company has enough cash to sustain its current and future operations and is therefore in no need of the extra money. Another possibility is that a company — as most on the left call for governments to do — is taking advantage of low and even negative interest rates, in effect locking in cheap funding for the foreseeable future. When equity is expensive and debt is cheap and plentiful, prudent management should swap one for the other since dividend payments for shareholders come out of corporations’ positive free cash flows anyway. Even if there is something wrong with our extraordinarily low interest rates, it makes perfect sense for long-term business to take advantage of what looks like temporarily cheap funding.

Notice how Wolf’s sleight of hand undermines his argument. He says that share buybacks do not add value to “the company” with the implication that they don’t add value to the economy. The seller — the counterparty to the actual buyback transaction by the company — can either use the proceeds to buy another financial investment or consume them in the real economy. Below we’ll see how that benefits the economy.

Adding Value to the Economy

Monetary economics makes perfectly clear that money spent always goes somewhere. In this case, corporations buying back their own shares transfer funds to sellers of those shares — the funds do not “vaporize.” Wolf and others stop their assessment here and conclude that managers are transferring funds to shareholders in addition to enriching remaining shareholders when the stock price increases.

There are two reasons why the share price ought to rise: First, upon canceling some of the outstanding shares, every remaining share now represents a larger piece of the overall company. As this transaction didn’t change anything about the company’s underlying operations, every share should now be slightly more valuable. Second, if management successfully replaced expensive equity with cheap debt, the company’s effective cost of capital has fallen — making the shares more profitable investments, all things equal (in jargon, while net income falls due to higher interest rate expenses, the return on equity increases as the fewer shares outstanding more than offset the reduction in net income). This is value creation for the company’s shareholders as well as releasing funds for financial markets to profitably invest elsewhere.

Wolf’s failure to look past these initial effects detracts from his argument. A seller of stock now has funds at his disposal for which he has four actions available to him:

1. Remain liquid, and so effectively provide reserves to his bank or broker that are used for loans elsewhere or pile up as excess reserves at the Fed.
2. Buy another security on the secondary market.
3. Invest the funds in an initial public offering (IPO), transferring his funds to a new and thriving business in need of funds.
4. Remove the funds from the financial system and consume them.

If the seller remains liquid (1) or buys another security (2), he merely pushes the decision to another person faced with the exact same options. If he invests the funds in an IPO (3), the new company invests the proceeds in its operations. If he spends the proceeds in the real economy (4), they show up as somebody else’s income, add to GDP, and send market signals to entrepreneurs elsewhere in the economy to pivot some investment into these lines of production. However long this round of hot potato is, at the end there is a real transaction.

The financial system is beautiful in that a dozen or more internal transactions, through various routes, ultimately have the same outcome: funds are moved from places where they may not earn very much to where they might. In the share-buyback example that Wolf and others lament, idle cash is moved from a corporation that sees no need for it (or a bank reserve earning interest of excess reserves at the Fed) to fueling startups that do. Share buybacks do not, as Wolf seems to believe, occur “at the expense of corporate investment and so of long-run productivity growth” — that investment just takes place elsewhere.

The hypothetical company’s share buyback merely pushed the decision of what to do with the money to the next person in line — transferred the purchasing power from the company itself to somebody seeing more investment opportunities elsewhere.

It is perfectly possible that nobody in the economy sees any productive investments to make and so share buybacks would ultimately just end up in consumption. That might be a worrying sign and a real instance of secular stagnation. That’s not the argument Wolf makes.

Even if it were, his calls for reinvesting in the company or its workers are misguided. Spending money on new investments that the managers themselves don’t think will pay off seems like a surefire way to perpetuate such dismal productivity growth. If nobody in the entire economy can find profitable investments to make, companies naturally ought to liquidate their holdings and give assets back to their owners for consumption — which is precisely what share buybacks accomplish!

The confused objections to share buybacks illustrate the failure to look past the immediate effect and to understand what financial markets do. In a decentralized way, reacting and incorporating the best available information, they transfer funds from those with money but no ideas to those with ideas but lacking money. Financial markets efficiently allocate capital across the economy, but do so in roundabout ways that are easy to miss.

Looking past the immediate effect allows us to see the bigger picture: share buybacks are one cog in a well-functioning financial system, doing precisely what they are supposed to do. That’s a good thing — not something to lament.

### Crowd Out---2NC

#### Investment crowd-out makes no sense.

Fox ’22 [Merritt and Menesh Patel; January 12; Arthur Levitt Professor of Law at Columbia Law School; Acting (Tenure Track) Professor of Law at UC Davis School of Law; Yale Journal on Regulation, “Common Ownership: Do Managers Really Compete Less?” forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3967733]

5. Crowding Out. The airline paper suggests three possible causal links between common ownership and a decline in competition, two of which – the idea that common ownership leads to managerial compensation packages that discourage competition164 and the “inertia” idea that common owners will be passive and not join an activist hedge fund campaigns aimed at pushing a firm’s managers to compete more effectively165 – have been rebutted above. The third is that common owners “crowd out” activist hedge funds.166 The authors are not explicit as to what “crowding out” means. For this to be distinct from the inertia mechanism, however, it must be the idea that because of the rise of common ownership, it is harder for activist shareholders to acquire their typically 5% to 7% stake that they use as their base before going out to persuade other owners to vote with them in a proxy fight aimed at changing how the firm is managed. The idea that such “crowding out” would have a significant effect on the likelihood of a successful activist hedge fund campaign does not accord with modern corporate finance theory. Even if the Big Three hold, say, 21% of the shares of each company in an industry, the other 79% are still held by other investors who will sell their shares if they believe that the price in the market is above the value to them of continuing to hold their shares. And that price, prior to the activist hedge fund putting in its buy orders, will be the same – the market’s view of the expected future cash flow to be paid to the holder of the share discounted to present value – whether the Big Three own no shares or 21%. The standard textbook theory conclusion is that the demand curve for a given stock is flat,167 which would mean that the presence or absence of the Big Three would not affect the price at which the activist hedge fund could then buy. To the extent that real world markets might deviate somewhat from this textbook conclusion,168 the common ownership adherents have not shown that the deviation is sufficient to significantly affect the likelihood of activist hedge fund success, i.e., that despite the remaining large pool of shares available to be traded in a public market, it would be significantly more costly to acquire 5%-7% of the shares relative to the Big Three not holding 21% of the shares.169

Footnote 169:

169 Rock and Rubinfeld reach a similar conclusion, describing the idea as “puzzling.” See Rock & Rubinfeld, supra note 9, at 250. See also id. (“[I]ndex funds collectively holding only around 16 percent of the stock of a typical airline will hardly prevent activist hedge funds from acquiring large (e.g., 9 percent) positions. Indeed, as discussed earlier, Warren Buffett acquired substantial positions over a short period of time.”)

# 1NR

## Christianity

#### Pascal’s wager - we access a pre-fiat s-risk that flips utilitarian calculus

Jackson and Rogers 19 (Elizabeth and Andrew, <file:///Users/ethanmuse/Desktop/Salvaging_Pascals_Wager.pdf>, EM)

The argument commonly known as “Pascal’s Wager” raises a host of interesting questions: historical, mathematical, and philosophical. While historically, several thinkers, including the Muslim philosopher and theologian Al-Ghazālī, have proposed versions of the wager (and Al-Ghazālī’s actually dates earlier than Pascal’s), we will keep to the current convention and refer to the famous argument as “Pascal’s Wager.”1 Our aim in this paper is not primarily historical, and we will not address the textual question of what Pascal or Al-Ghazālī really meant.2 When we refer to “Pascal’s Wager” we will simply be referring to the following decision matrix. Any probability higher than zero for the hypothesis God exists gives us the following expected values (EV), where f is some finite number:

Table

Description automatically generated

The expected value for believing is infinitely positive and the expected value for not believing is infinitely negative.3 Choosing to believe in God is the best option given this matrix. As Pascal said, “Wager, then, without hesitation that [God] is” because “there is here an infinity of an infinitely happy life to gain” and “what you stake is finite.”4 In this paper, we outline a number of key objections to the wager, and we explain how the wager can still be useful for choosing between worldviews in spite of these objections.5 In particular, we show how Pascalian reasoning gives us a reason to care about the (potentially) infinite consequences of our actions; finite ones only come in when the infinite ones are balanced. This paper is structured as follows. In section 2, we explain the many-gods objection and the mixed strategies objection, and how they pose a problem for traditional formulations of the wager. In section 3, we use two thought experiments to show that these objections are structural, but not substantive problems, for the wager. In section 4, we suggest a particular method of comparing worldviews and provide an example of how one might salvage the substance of the wager in light of these objections. In section 5, we address other objections to the wager that apply to our formulation and argue that many of them can actually be incorporated into the decision matrix. We conclude in section 6 that something in the spirit of the wager can be salvaged while incorporating many prominent objections.

#### Objective morality - if God exists, our procedural precedes other considerations

Craig 97 - professor of philosophy at Houston Baptist and Talbot School of Theology (William Lane, <https://www.reasonablefaith.org/writings/scholarly-writings/the-existence-of-god/the-indispensability-of-theological-meta-ethical-foundations-for-morality/>, EM)

Today I want to argue that if God exists, then the objectivity of moral values, moral duties, and moral accountability is secured, but that in the absence of God, that is, if God does not exist, then morality is just a human convention, that is to say, morality is wholly subjective and non-binding. We might act in precisely the same ways that we do in fact act, but in the absence of God, such actions would no longer count as good (or evil), since if God does not exist, objective moral values do not exist. Thus, we cannot truly be good without God. On the other hand, if we do believe that moral values and duties are objective, that provides moral grounds for believing in God. Consider, then, the hypothesis that God exists. First, if God exists, objective moral values exist. To say that there are objective moral values is to say that something is right or wrong independently of whether anybody believes it to be so. It is to say, for example, that Nazi anti-Semitism was morally wrong, even though the Nazis who carried out the Holocaust thought that it was good; and it would still be wrong even if the Nazis had won World War II and succeeded in exterminating or brainwashing everybody who disagreed with them. On the theistic view, objective moral values are rooted in God. God's own holy and perfectly good nature supplies the absolute standard against which all actions and decisions are measured. God's moral nature is what Plato called the "Good." He is the locus and source of moral value. He is by nature loving, generous, just, faithful, kind, and so forth. Moreover, God's moral nature is expressed in relation to us in the form of divine commands which constitute our moral duties or obligations. Far from being arbitrary, these commands flow necessarily from His moral nature. In the Judaeo-Christian tradition, the whole moral duty of man can be summed up in the two great commandments: First, you shall love the Lord your God with all your strength and with all your soul and with all your heart and with all your mind, and, second, you shall love your neighbor as yourself. On this foundation we can affirm the objective goodness and rightness of love, generosity, self-sacrifice, and equality, and condemn as objectively evil and wrong selfishness, hatred, abuse, discrimination, and oppression. Finally, on the theistic hypothesis God holds all persons morally accountable for their actions. Evil and wrong will be punished; righteousness will be vindicated. Good ultimately triumphs over evil, and we shall finally see that we do live in a moral universe after all. Despite the inequities of this life, in the end the scales of God's justice will be balanced. Thus, the moral choices we make in this life are infused with an eternal significance. We can with consistency make moral choices which run contrary to our self-interest and even undertake acts of extreme self-sacrifice, knowing that such decisions are not empty and ultimately meaningless gestures. Rather our moral lives have a paramount significance. So I think it is evident that theism provides a sound foundation for morality. Contrast this with the atheistic hypothesis. First, if atheism is true, objective moral values do not exist. If God does not exist, then what is the foundation for moral values? More particularly, what is the basis for the value of human beings? If God does not exist, then it is difficult to see any reason to think that human beings are special or that their morality is objectively true. Moreover, why think that we have any moral obligations to do anything? Who or what imposes any moral duties upon us? Michael Ruse, a philosopher of science from the University of Guelph, writes, The position of the modern evolutionist . . . is that humans have an awareness of morality . . . because such an awareness is of biological worth. Morality is a biological adaptation no less than are hands and feet and teeth . . . . Considered as a rationally justifiable set of claims about an objective something, ethics is illusory. I appreciate that when somebody says 'Love they neighbor as thyself,' they think they are referring above and beyond themselves . . . . Nevertheless, . . . such reference is truly without foundation. Morality is just an aid to survival and reproduction, . . . and any deeper meaning is illusory . . . . [1] As a result of socio-biological pressures, there has evolved among homo sapiens a sort of "herd morality" which functions well in the perpetuation of our species in the struggle for survival. But there does not seem to be anything about homo sapiens that makes this morality objectively true. Moreover, on the atheistic view there is no divine lawgiver. But then what source is there for moral obligation? Richard Taylor, an eminent ethicist, writes, The modern age, more or less repudiating the idea of a divine lawgiver, has nevertheless tried to retain the ideas of moral right and wrong, not noticing that, in casting God aside, they have also abolished the conditions of meaningfulness for moral right and wrong as well.

#### If God doesn’t exist, then vote neg on presumption

Blumenthal 5 - regulatory engineer based in California (Cynthia Blumenthal, <http://asq.org/standards-shall-should>, EM)

In reality, the incoming materials will most likely be inspected before they are accepted. However, the document users at any time can make a deviation based on the specific situation, as long as the decision making is reasonable and logical. (Recall also that the word should does imply moral obligation.) Such deviation does not violate the document’s requirement.

#### The existence of the Christian god is the only virtuous explanation of the data

Craig 2000 - professor of philosophy at Houston Baptist and Talbot School of Theology (William Lane, https://www.reasonablefaith.org/writings/popular-writings/jesus-of-nazareth/the-resurrection-of-jesus, EM)

In his book Justifying Historical Descriptions, historian C. B. McCullagh lists six tests which historians use in determining what is the best explanation for given historical facts. [6] The hypothesis “God raised Jesus from the dead” passes all these tests:

1. It has great explanatory scope: it explains why the tomb was found empty, why the disciples saw post-mortem appearances of Jesus, and why the Christian faith came into being.

2. It has great explanatory power: it explains why the body of Jesus was gone, why people repeatedly saw Jesus alive despite his earlier public execution, and so forth.

3. It is plausible: given the historical context of Jesus’ own unparalleled life and claims, the resurrection serves as divine confirmation of those radical claims.

4. It is not ad hoc or contrived: it requires only one additional hypothesis: that God exists. And even that needn’t be an additional hypothesis if one already believes that God exists.

5. It is in accord with accepted beliefs. The hypothesis: “God raised Jesus from the dead” doesn’t in any way conflict with the accepted belief that people don’t rise naturally from the dead. The Christian accepts that belief as wholeheartedly as he accepts the hypothesis that God raised Jesus from the dead.

6. It far outstrips any of its rival hypotheses in meeting conditions (1)-(5). Down through history various alternative explanations of the facts have been offered, for example, the conspiracy hypothesis, the apparent death hypothesis, the hallucination hypothesis, and so forth. Such hypotheses have been almost universally rejected by contemporary scholarship. None of these naturalistic hypotheses succeeds in meeting the conditions as well as the resurrection hypothesis.

Now this puts the sceptical critic in a rather desperate situation. A few years ago I participated in a debate on the resurrection of Jesus with a professor at the University of California, Irvine. He had written his doctoral dissertation on the resurrection, and he was thoroughly familiar with the evidence. He could not deny the facts of Jesus’ honorable burial, empty tomb, post-mortem appearances, and the origin of the disciples’ belief in the resurrection. So his only recourse was to come up with some alternate explanation of those facts. And so he argued that Jesus of Nazareth had an unknown, identical twin brother, who was separated from him as an infant and grew up independently, but who came back to Jerusalem at the time of the crucifixion, stole Jesus’ body out of the tomb, and presented himself to the disciples, who mistakenly inferred that Jesus was risen from the dead! Now I won’t bother to go into how I went about refuting this theory. But I think the example is illustrative of the desperate lengths to which scepticism must go in order to refute the evidence for the resurrection of Jesus. Indeed, the evidence is so powerful that one of the world’s leading Jewish theologians, the late Pinchas Lapide, who taught at Hebrew University in Israel, declared himself convinced on the basis of the evidence that the God of Israel raised Jesus of Nazareth from the dead! [7]

The significance of the resurrection of Jesus lies in the fact that it is not just any old Joe Blow who has been raised from the dead, but Jesus of Nazareth, whose crucifixion was instigated by the Jewish leadership because of his blasphemous claims to divine authority. If this man has been raised from the dead, then the God whom he allegedly blasphemed has clearly vindicated his claims. Thus, in an age of religious relativism and pluralism, the resurrection of Jesus constitutes a solid rock on which Christians can take their stand for God’s decisive self-revelation in Jesus.

#### 2--- fulfilled prophecies

Wallace 19 - BST contributor (Jim, <https://www.biblestudytools.com/bible-study/topical-studies/the-old-testament-is-filled-with-fulfilled-prophecy-11652232.html>, EM)

There are many ways to verify the reliability of Scripture from both internal evidences of transmission and agreement, to external confirmation through archeology and science. But perhaps the most persuasive argument can be found in the area of prophecy. If a book accurately and repeatedly predicts the future, it can safely be said that something special is going on, perhaps even something supernatural. And there are so many prophecies in the Scriptures that it should be easy to take a look and decide if the Bible is supernatural. There are so many fulfilled prophecies! In fact, there are so many fulfilled prophecies in the Bible that it is hard to know where to begin! A simple search on the internet will provide you with literally hundreds of sites listing a multitude of fulfilled prophecies in both the Old and New Testaments. It's difficult to know where to begin here in our limited discussion of the issue, so we'll focus narrowly on some of the biggest and best known of prophecies! Here are the most known Old Testament Bible prophecies: The Prophecies of Babylon, Nineveh, Tyre and Edom Let's take a look at a few Bible prophecies that were fulfilled about 2500 years ago when the ancient kingdoms and cities of Babylon, Nineveh, Tyre and Edom were destroyed. The Bible makes the assertion that these entities were destroyed because they had sought to destroy the Holy Land of Israel and the people of Israel (the Jews). Babylon Will Rule Over Judah for 70 Years You can read the first such prophecy in [Jeremiah 25:11-12](http://www.biblestudytools.com/search/?t=niv&q=jer+25:11-12). This prophecy was written sometime from 626 to about 586 BC and was not fulfilled until about 609 BC to 539 BC (approximately 50 years later, depending on your calculation) "...This whole country will become a desolate wasteland, and these nations will serve the king of Babylon seventy years. But when the seventy years are fulfilled, I will punish the king of Babylon and his nation, the land of the Babylonians, for their guilt," declares the Lord, "and will make it desolate forever" ([Jeremiah 25:11-12).](http://www.biblestudytools.com/search/?t=niv&q=jer+25:11-12) In this passage of Scripture, Jeremiah said that the Jews would suffer 70 years of Babylonian domination, and that after this was over, Babylon would be punished. Both parts of this prophecy were fulfilled! In 609 BC, Babylon captured the last Assyrian king and took over the holdings of the Assyrian empire, which included the land of Israel. Babylon then began to flex its muscles by taking many Jews as captives to Babylon and by destroying Jerusalem and the Temple. This domination of the Jews ended in 539 BC, when Cyrus, a leader of Persians and Medes, conquered Babylon, bringing an end to the empire. The prophecy also had another fulfillment: the Babylonians destroyed Jerusalem's Temple in 586 BC, but the Jews rebuilt it and consecrated it 70 years later, in 516 BC. Restoring the Temple showed, in a very important way, that the effects of Babylonian domination had indeed come to an end. Babylon's Gates Will Open for Cyrus If you read [Isaiah 45:1](http://www.biblestudytools.com/search/?t=niv&q=isa+45:1) (written perhaps between 701 and 681 BC), you will find a prophecy that was ultimately fulfilled hundreds of years later in 539 BC. "This is what the Lord says to his anointed, to Cyrus, whose right hand I take hold of to subdue nations before him and to strip kings of their armor, to open doors before him so that gates will not be shut..." ([Isaiah 45:1).](http://www.biblestudytools.com/search/?t=niv&q=isa+45:1) In this passage, the prophet said God would open the gates of Babylon for Cyrus and his attacking army. Despite Babylon's remarkable defenses, which included moats, and walls that were more than 70-feet thick and 300-feet high (with 250 watchtowers) Cyrus was able to enter the city and conquer it. Cyrus and his troops accomplished it by diverting the flow of the Euphrates River into a large lake basin. Cyrus then was able to march his army across the riverbed and into the city. Babylon's Kingdom Will Be Permanently Overthrown In [Isaiah 13:19](http://www.biblestudytools.com/search/?t=niv&q=isa+13:19) (written between 701 and 681 BC) there exists yet another prophecy that was not fulfilled until 539 BC. "Babylon, the jewel of kingdoms, the glory of the Babylonians' pride, will be overthrown by God like Sodom and Gomorrah" ([Isaiah 13:19).](http://www.biblestudytools.com/search/?t=niv&q=isa+13:19) Here, Isaiah tells us that Babylon would be overthrown, permanently. History confirms the fact that following Cyrus' destruction of Babylon in 539 BC, it never again rose to power as an empire. You've got to remember, however, that before the time of Cyrus, Babylon had been defeated by the Assyrian Empire as well, But Babylon was able to recover and later conquer the Assyrian Empire. In light of this reality, I'm sure many people doubted Isaiah when he proclaimed this prophecy. In spite of this, and just as Isaiah predicted, the Babylonian empire was defeated, and never recovered from Cyrus' conquest. Babylon Will Be Reduced to Swampland In [Isaiah 14:23](http://www.biblestudytools.com/search/?t=niv&q=isa+14:23) (written between 701 and 681 BC), the prophet makes yet another prediction that does not come true until 539 BC. "'I will turn her into a place for owls and into swampland; I will sweep her with the broom of destruction,' declares the Lord Almighty" ([Isaiah 14:23](http://www.biblestudytools.com/search/?t=niv&q=isa+14:23)). The prophet makes the bold claim that Babylon, which had been a world power at two different times in history, would be brought to a humble and final end. But not only that, Isaiah claims that Babylon would be reduced to swampland! Well, after Cyrus conquered Babylon in 539 BC, the kingdom never again rose to power, that is certain. And history tells us that the buildings of Babylon fell into a gradual state of ruin during the next several centuries. Interestingly, when archaeologists excavated Babylon during the 1800s, they discovered that some parts of the city could not be dug up because they were under a water table that had risen over the years! The Jews Will Survive Babylonian Rule and Return Home In [Jeremiah 32:36-37](http://www.biblestudytools.com/search/?t=niv&q=jer+32:36-37), (written from about 626 and 586 BC), yet another prophet makes a bold prediction that was ultimately fulfilled in 536 BC. "You are saying about this city, 'By the sword, famine and plague it will be handed over to the king of Babylon'; but this is what the Lord, the God of Israel, says: I will surely gather them from all the lands where I banish them in my furious anger and great wrath; I will bring them back to this place and let them live in safety" ([Jeremiah 32:36-37](http://www.biblestudytools.com/search/?t=niv&q=jer+32:36-37)). In this passage, Jeremiah said that the Jews would survive their captivity in Babylon and return home, and both parts of this prophecy were ultimately fulfilled. Many Jews had been taken as captives to Babylon beginning around 605 BC. But, in 538 BC, they were released from captivity and many eventually returned to their homeland. The Ninevites Will Be Drunk in Their Final Hours In [Nahum 1:10](http://www.biblestudytools.com/search/?t=niv&q=na+1:10) (written around 614 BC) the prophet predicts the condition of the Ninevites at the time of their demise. "They will be entangled among thorns and drunk from their wine; they will be consumed like dry stubble ([Nahum 1:10).](http://www.biblestudytools.com/search/?t=niv&q=na+1:10) In this passage, and once again in [Nahum 3:11](http://www.biblestudytools.com/search/?t=niv&q=na+3:11), the prophet said that during the final hours of the attack on Nineveh, the Ninevites would be drunk. Well, guess what, there is evidence that this prophecy was actually fulfilled! According to the ancient historian Diodorus Siculus: "The Assyrian king gave much wine to his soldiers. Deserters told this to the enemy, who attacked that night." Siculus compiled his historical works about 600 years after the fall of Nineveh, and in doing so, confirmed the Biblical account. Nineveh Will Be Destroyed By Fire Once again, in [Nahum 3:15](http://www.biblestudytools.com/search/?t=niv&q=na+3:15) (written around 614 BC) the prophet makes a prediction which ultimately did come true. "There the fire will devour you; the sword will cut you down and, like grasshoppers, consume you…" (Nahum 3:15). The prophet said that Nineveh would be damaged by fire. Archaeologists unearthed the site during the 1800s and found a layer of ash covering the ruins. According to the Encyclopaedia Britannica: "...Nineveh suffered a defeat from which it never recovered. Extensive traces of ash, representing the sack of the city by Babylonians, Scythians, and Medes in 612 BC, have been found in many parts of the Acropolis. After 612 BC the city ceased to be important..." Tyre Will Be Attacked By Many Nations In [Ezekiel 26:3](http://www.biblestudytools.com/search/?t=niv&q=eze+26:3) (written between 587-586 BC) the prophet predicts the attacks on Tyre that occurred in 573 BC, 332 BC, and 1291 AD. "Therefore this is what the Sovereign Lord says: I am against you, O Tyre, and I will bring many nations against you, like the sea casting up its waves" (Ezekiel 26:3). The prophet said that Tyre, the Phoenician Empire's most powerful city, would be attacked by many nations, because of its treatment of Israel. At about the time that Ezekiel delivered this prophecy, Babylon had begun a 13 year attack on Tyre's mainland. Later, in about 332 BC, Alexander the Great conquered the island of Tyre and brought an end to the Phoenician Empire. Then, after that, Tyre later fell again under the rule of the Romans, the Crusaders and the Moslems, who destroyed the city yet again, in 1291. Tyre's Stones, Timber and Soil Will Be Cast Into the Sea In a remarkable prediction, the prophet writes in [Ezekiel 26:12](http://www.biblestudytools.com/search/?t=niv&q=eze+26:12) (written between 587-586 BC) that the stone, timber and soil of Tyre will be thrown into the sea. This was fulfilled in 333-332 BC. "They will plunder your wealth and loot your merchandise; they will break down your walls and demolish your fine houses and throw your stones, timber and rubble into the sea" (Ezekiel 26:12). The prophet said that Tyre's stones, timber and soil would be thrown into the sea. That's probably a fitting description of how Alexander the Great built a land bridge from the mainland to the island of Tyre when he attacked in 333-332 BC. It is believed that he took the rubble from Tyre's mainland ruins and tossed it - stones, timber and soil - into the sea, to build the land bridge (which is still there). In [Ezekiel 25:14](http://www.biblestudytools.com/search/?t=niv&q=eze+25:14) (written between 593-571 BC), the prophet predicts that the Jews will eventually have revenge against the Edomites. This was not fulfilled, however for over 400 years (until approximately 100 BC) "I will take vengeance on Edom by the hand of my people Israel, and they will deal with Edom in accordance with my anger and my wrath; they will know my vengeance', declares the Sovereign Lord" ([Ezekiel 25:14).](http://www.biblestudytools.com/search/?t=niv&q=eze+25:14) Ezekiel said that the Jews would one day take vengeance on Edom, a nation that had often warred with the Jews. When Ezekiel delivered this prophecy, he and many other Jews were living as captives in Babylon. They didn't have control of their own country, let alone anyone else's. But, about 400 years later, Jews regained independence for Jerusalem and the surrounding area during the "Hasmonaean Period." During this time, the Jewish priest-king John Hyrcanus I defeated the Edomites. According to the Columbia Encyclopedia, Fifth Edition: "Edomite history was marked by continuous hostility and warfare with Jews… At the end of the second century B.C., they were subdued by Hasmonaean priest-king John Hyrcanus I..." Edom Will Be Toppled and Humbled In [Jeremiah 49:16](http://www.biblestudytools.com/search/?t=niv&q=jer+49:16) (written sometime from 626 to about 586 BC) the prophet predicts that Edom will be toppled. This was fulfilled in approximately 100 BC: "'The terror you inspire and the pride of your heart have deceived you, you who live in the clefts of the rocks, who occupy the heights of the hill. Though you build your nest as high as the eagle's, from there I will bring you down,' declares the Lord" (Jeremiah 49:16). Jeremiah said that Edom, a long-time enemy of Israel, would be destroyed. Edom's capital city, Petra, was carved out of a mountain side and had great natural defenses. Nonetheless, it was destroyed and the kingdom of Edom no longer exists. Today, Petra is part of Jordan. The city was conquered by the Romans in the year 106 AD but flourished again shortly after that. But a rival city, Palmyra, eventually took most of the trade away and Petra began to decline. Moslems conquered Petra in the 7th Century and Crusaders conquered it in the 12th Century. Petra gradually fell into ruin. The Greatest [Old Testament Prophecy](https://www.biblestudytools.com/bible-study/topical-studies/the-old-testament-is-filled-with-fulfilled-prophecy-11652232.html) of All There are literally hundreds of other fulfilled prophecies that we could describe here, but clearly one stand head and shoulders above the rest, and we really need to take a minute to describe it. While the Jews were certainly comforted by prophecies that predicted that their enemies would eventually be destroyed, there was a far more comforting prophecy that had been described in the Old Testament. It was a prophecy that predicted the coming of a Messiah, a savior who would deliver the Jews. While there we dozens of messianic prophecies in the Old Testament Scriptures, one of these was incredibly specific in its claims. As we examine this prophecy, we can confirm the supernatural and divine inspiration of the Bible. The Coming of the Messiah In 538 B.C. Daniel wrote the following bold prediction: "So you are to know and discern that from the issuing of a decree to restore and rebuild Jerusalem until Messiah the Prince there will be seven weeks of years and sixty-two weeks of years" (Daniel 9:25). In this prophecy, Daniel is claiming that there will be 69 weeks of years between the issuing of a decree to rebuild Jerusalem and the appearance of the Messiah. Now keep in mind that this bold prediction came 538 years before Christ was born. Now let's investigate a little history, OK? In 464 BC, Artaxerxes, a Persian king, ascended to the throne. His twentieth year as king would be 464 BC. Nehemiah, the Jewish cupbearer to King Artaxerxes, was deeply concerned with the reports about the ruined condition of Jerusalem which came about as the result of their being defeated ([Nehemiah 1:1-4](http://www.biblestudytools.com/search/?t=niv&q=ne+1:1-4)) and as a result, he petitioned the king: "Send me to Judah, to the city of my fathers' tombs, that I may rebuild it. So it pleased the king to send me" ([Nehemiah 2:5-](http://www.biblestudytools.com/search/?t=niv&q=ne+2:5)6). Scripture then provides us with the exact date of this decree to restore and to rebuild Jerusalem. According to the Scriptures the decree is issued "in the month Nisan, in the twentieth year of Artaxerxes the king" ([Nehemiah 2:1](http://www.biblestudytools.com/search/?t=niv&q=ne+2:1)). The Jewish calendar month was Nisan, and since no day is given, it is reasonable to assume that the date would be understood as the first, the Jewish New Year's Day. And, in the Julian calendar we presently use, the corresponding date would be March 5, 444 B.C. This was the day on which the decree was issued to restore and rebuild Jerusalem. Now let's remember this date, March 5, 444 B.C. and take a look at the appearance of the Messiah. You may recall that the Gospels tell us that Jesus, on numerous occasions, had forbidden his followers to make him known as "the Messiah". He would frequently do miracles and tell the disciples not to tell anyone who had done the miracles because his "hour has not yet come" ([John 2:4](http://www.biblestudytools.com/search/?t=niv&q=joh+2:4), 7:6). However, on March 30, 33 A.D., when he entered Jerusalem on a donkey, he rebuked the Pharisees' protest and encouraged the whole multitude of his disciples as they shouted, "Blessed is the King who comes in the name of the Lord". And Jesus said, "If these become silent, the stones will cry out" ([Luke 19:38-40](http://www.biblestudytools.com/search/?t=niv&q=lu+19:38-40)). This was the day on which Jesus was publicly declared the Messiah. Now let's compare the date of the decree (March 5, 444 BC) with the date of Jesus' declaration (March 30, 33 AD). Now before we begin, we need to clarify the fact that the Jewish prophetic year was composed of twelve 30 day months. In other words, the ancient evidence indicates that the Jewish prophetic year had 360 days, not 365 days. Since Daniel states 69 weeks of seven years each, and each year has 360 days, the equation is as follows: 69 x 7 x 360 = 173,880 days. In nothing more than a simple mathematical demonstration, the number of days in the period from March 5, 444 B.C. (the twentieth year of Artaxerxes) to March 30, 33 A.D. (the day Jesus entered Jerusalem on the donkey) can be determined at this point. The time span from 444 B.C. to 33 A.D. is 476 years (remember that 1 B.C. to 1 A.D. is only one year). And if we multiply 476 years x 365.2421879 days per year (corrected for leap years), we get the result of 173,855 days. Now let's add back the difference between March 5 and March 30 (25 days). What is our total? You guessed it, 173,880 days, exactly as Daniel predicted it. So What Does Fulfilled Prophecy Prove? The ancient Jews were careful to use Prophecy as a measuring stick. If someone claimed to be a prophet, yet his predictions did not come true, he was abandoned and his writings did not make it into the canon of scripture. Moses was careful to set this high bar for prophets: <>"When a prophet speaketh in the name of the LORD, if the thing follow not, nor come to pass, that [is] the thing which the LORD hath not spoken, [but] the prophet hath spoken it presumptuously: thou shalt not be afraid of him" (Deuteronomy 18:22). Moses knew that fulfilled prophecy was an evidence! It was an evidence that God was truly at work in the heart of the prophet, giving him insight to something that only God knew about. The exact fulfillment of all the prophecies that we've talked about from the Old Testament is more than enough to demonstrate the accuracy and divine inspiration of the Bible and the truth of Christianity. Remember, only God can "declare the end from the beginning" and forecast to the very day "things that are not yet done" ([Isaiah 46:10](http://www.biblestudytools.com/search/?t=niv&q=isa+46:10)).

#### 3---prior probability of theism is high

#### fine-tuning of physical constants

**Craig, ’10** – William Craig earned a doctorate in philosophy at the University of Birmingham, England, before taking a doctorate in theology from the Ludwig Maximiliens Universitat-Munchen, West Germany, at which latter institution he was for two years a Fellow of the Alexander von Humboldt-Stiftung. He is currently a visiting scholar at the Universite Catholique de Louvain. (William Lane, No Date, *The New Atheism and Five Arguments for God* <http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088> JB)

Before we discuss this argument, it’s important to understand that by “fine-tuning” one does not mean “designed” (otherwise the argument would be obviously circular). Rather during the last forty years or so, scientists have discovered that the existence of intelligent life depends upon a complex and delicate balance of initial conditions given in the Big Bang itself. This is known as the fine-tuning of the universe. This fine-tuning is of two sorts. First, **when the laws of nature are expressed as mathematical equations, you find appearing in them certain constants**, like the constant that represents the force of gravity. These constants are not determined by the laws of nature. The laws of nature are consistent with a wide range of values for these constants. Second, in addition to these constants, there are certain arbitrary quantities that are put in just as initial conditions on which the laws of nature operate, for example, the amount of entropy or the balance between matter and anti-matter in the universe. Now **all of these constants and quantities fall into an extraordinarily narrow range of life-permitting values.** **Were these constants or quantities to be altered by less than a hair’s breadth, the life-permitting balance would be destroyed, and no living organisms of any kind could exist.**[22](http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088#sdfootnote23sym)For example, a change in the strength of the atomic weak force by only one part in 10100 would have prevented a life-permitting universe. The cosmological constant which drives the inflation of the universe and is responsible for the recently discovered acceleration of the universe’s expansion is inexplicably fine-tuned to around one part in 10120. Roger Penrose of Oxford University has calculated that the odds of the Big Bang’s low entropy condition existing by chance are on the order of one out of 1010(123). Penrose comments, “I cannot even recall seeing anything else in physics whose accuracy is known to approach, even remotely, a figure like one part in 1010(123).”**23** And it’s not just each constant or quantity that must be exquisitely finely-tuned; their ratiosto one another must be also finely-tuned. So improbability is multiplied by improbability by improbability until our minds are reeling in incomprehensible numbers. So when scientists say that the universe is fine-tuned for life, they don’t mean “designed”; rather they mean that **small deviations from the actual values of the fundamental constants and quantities of nature would render the universe life-prohibiting or, alternatively, that the range of life-permitting values is incomprehensibly narrow in comparison with the range of assumable values**. Dawkins himself, citing the work of the Astronomer Royal Sir Martin Rees, acknowledges that the universe does exhibit this extraordinary fine-tuning. Here, then, is a simple formulation of a teleological argument based on fine-tuning:

#### kalam cosmological argument

**Craig, ’10** – William Craig earned a doctorate in philosophy at the University of Birmingham, England, before taking a doctorate in theology from the Ludwig Maximiliens Universitat-Munchen, West Germany, at which latter institution he was for two years a Fellow of the Alexander von Humboldt-Stiftung. He is currently a visiting scholar at the Universite Catholique de Louvain.. (William Lane, No Date, *The New Atheism and Five Arguments for God* <http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088> JB)

Everything that begins to exist has a cause.

1. The universe began to exist.
2. Therefore, the universe has a cause.

Once we reach the conclusion that the universe has a cause, we can then analyze what properties such a cause must have and assess its theological significance. Now again the argument is logically ironclad. So the only question is whether the two premises are more plausibly true than their denials. Premise 1 seems obviously true—at the least, more so than its negation. First, it’s rooted in the necessary truth that something cannot come into being uncaused from nothing. To suggest that things could just pop into being uncaused out of nothing is literally worse than magic. Second, if things really could come into being uncaused out of nothing, then it’s inexplicable why just anything and everything do not come into existence uncaused from nothing. Third, premise 1 is constantly confirmed in our experience as we see things that begin to exist being brought about by prior causes. Premise 2 can be supported both by philosophical argument and by scientific evidence. The philosophical arguments aim to show that there cannot have been an infinite regress of past events. In other words, the series of past events must be finite and have had a beginning. Some of these arguments try to show that it is impossible for an actually infinite number of things to exist; therefore, an infinite number of past events cannot exist. Others try to show that an actually infinite series of past events could never elapse; since the series of past events has obviously elapsed, the number of past events must be finite. The scientific evidence for premise 2 is based on the expansion of the universe and the thermodynamic properties of the universe. According to the Big Bang model of the origin of the universe, physical space and time, along with all the matter and energy in the universe, came into being at a point in the past about 13.7 billion years ago (Fig. 1). What makes the Big Bang so amazing is that it represents the origin of the universe from literally nothing. As the physicist P. C. W. Davies explains, “the coming into being of the universe, as discussed in modern science . . . is not just a matter of imposing some sort of organization . . . upon a previous incoherent state, but literally the coming-into-being of all physical things from nothing.”[**5**](http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088#sdfootnote6sym) Of course, cosmologists have proposed alternative theories over the years to try to avoid this absolute beginning, but none of these theories has commended itself to the scientific community as more plausible than the Big Bang theory. In fact, in 2003 Arvind Borde, Alan Guth, and Alexander Vilenkin proved that anyuniverse that is, on average, in a state of cosmic expansion cannot be eternal in the past but must have an absolute beginning. Their proof holds regardless of the physical description of the very early universe, which still eludes scientists, and applies even to any wider multiverse of which our universe might be thought to be a part. Vilenkin pulls no punches: It is said that an argument is what convinces reasonable men and a proof is what it takes to convince even an unreasonable man. With the proof now in place, **cosmologists can no longer hide behind the possibility of a past-eternal universe. There is no escape, they have to face the problem of a cosmic beginning.**[**6**](http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088#sdfootnote7sym) Moreover, in addition to the evidence based on the expansion of the universe, we have thermodynamic evidence for the beginning of the universe. The Second Law of Thermodynamics predicts that in a finite amount of time, the universe will grind down to a cold, dark, dilute, and lifeless state. But if it has already existed for infinite time, the universe should now be in such a desolate condition. Scientists have therefore concluded that the universe must have begun to exist a finite time ago and is now in the process of winding down. Dennett’s view is plainly nonsense. Notice that he’s not saying that the universe is self-caused in the sense that it has always existed. No, Dennett agrees that the universe had an absolute beginning but claims that the universe brought itself into being. But this is clearly impossible, for in order to create itself, the universe would have to already exist. It would have to exist before it existed! Dennett’s view is thus logically incoherent. The cause of the universe must therefore be a transcendent cause beyond the universe. So what properties must such a cause of the universe possess? As the cause of space and time, it must transcend space and time and therefore exist timelessly and non-spatially (at least without the universe). This transcendent cause must therefore be changeless and immaterial because (1) anything that is timeless must also be unchanging and (2) anything that is changeless must be non-physical and immaterial since material things are constantly changing at the molecular and atomic levels. Such a cause must be without a beginning and uncaused, at least in the sense of lacking any prior causal conditions, since there cannot be an infinite regress of causes. Ockham’s Razor (the principle that states that we should not multiply causes beyond necessity) will shave away any other causes since only one cause is required to explain the effect. This entity must be unimaginably powerful, if not omnipotent, since it created the universe without any material cause. Finally, and most remarkably, such a transcendent first cause is plausibly personal. We’ve already seen in our discussion of the argument from contingency that the personhood of the first cause of the universe is implied by its timelessness and immateriality. The only entities that can possess such properties are either minds or abstract objects like numbers. But abstract objects don’t stand in causal relations. Therefore, the transcendent cause of the origin of the universe must be an unembodied mind.[**8**](http://www.reasonablefaith.org/site/News2?page=NewsArticle&id=8088#sdfootnote9sym) Moreover, the personhood of the first cause is also implied since the origin of an effect with.

#### Debate is completely worthless - doesn’t teach persuasion - relies on an anti-educational research model - taking any undergraduate course on research is preferable

Hester 13**.** This is a note posted to the CEDA Forums. The note is from Mike Hester, an extremely successful and influential policy debate coach at University of West Georgia. I have had a lot of respect for him through the years. -Alfred Snider, editor November 22, 2013, 01:27:03 AM. http://www.cedadebate.org/forum/index.php/topic,5407.msg11974.html#msg11974  
To whom it may concern, CEDA-NDT Debate is a hot mess right now. There are so many things wrong, it can sometimes seem like they're all related. Maybe they are (reference Homer Simpson's "one big ball of lies" explanation to Marge), but a delineation may still provide some guidance as to what we can change, what we may have to accept, and where (if anywhere) we may go from here... the foundation We no longer have one, and haven't for more than two decades. Fewer and fewer debate coaches are communication scholars, which is fine because Communication Departments don't consider us anything more than the bastard cousins who show up at the family reunion piss-drunk and demanding more potato salad. Our activity long ago (40 years?) lost any resemblance to a public speaking event attracting outside audiences. The problem is we vacated that academic space without being able to find a home anywhere else. Despite the pious assumptions of some with "policy" in mind, we are not a legitimate "research" community of scholars. The "portable skills" we currently engrain in our students via practice are: all sources are equivalent, no need for qualifications; "quoting" a source simply means underlining ANY words found ANYWHERE in the document, context and intent are irrelevant; and we are the only group outside of Faux News that believes one's argument is improved by taking every point of logic to its most absurd extreme. Simply put, 99.9% of the speech docs produced in debates would receive no better than a C (more likely F) in any upper division undergraduate research-based class. Comically, we are the public speaking research activity that is atrocious at oral persuasion and woefully in violation of any standard research practices. But this letter is not intended to bury Debate, even though it's hard to praise it in its current state. Before any peace treaty ending the Paradigm Wars can be signed and ratified, an honest appraisal of where Debate fits in the Academy is necessary.

#### even if you dismiss the procedural, vote neg --- inherency proves that the aff is undesirable --- it goes against God’s plan

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When human plans fail, it is often because the planner has overlooked some detail. Something unforeseen arises, and suddenly plans collapse. This is because every detail was not taken into account. God’s plan is all-inclusive. It is based on God’s omniscience (knowing all), so that everything past, present, and future is taken into account. God’s omniscience, as we have seen, includes all things which will actually occur, as well as all things which could possibly occur. Every contingency is taken into account in God’s plan. God’s plan is for all creation, things in heaven and on earth, things visible and invisible, thrones, dominions, rulers, and authorities (Colossians 1:16). God’s plan includes seemingly insignificant details. It excludes “good luck” or coincidences. When Joseph wandered about in a field looking for his brothers, he did not just happen to be found and told where his brothers had gone (Genesis 37:14-17). The fact that the pit into which Joseph was thrown was empty was no coincidence (37:24). The passing caravan, which was headed toward Egypt, was no accident either (37:25-28). The fact that Ruth would “happen” upon the field of Boaz, a near kinsman of Naomi, was not mere chance but a matter of God’s providential control (Ruth 2:3). God’s plan includes the sovereign election of individuals to salvation and to destruction. As difficult as this may be for some to accept, it is the clear and consistent teaching of Scripture (John 1:12-13; 6:37, 44, 65; Acts 13:48; 16:14; Romans 9; Ephesians 1:4; Revelation 13:8; 17:8). Apart from the sovereign intervention of God, through His Spirit, no man seeks God, and no man will ever find Him (see Romans 3:10-18; John 6:44). Because salvation is God’s work, and not our own, God should receive the glory. This fact also makes our salvation and sanctification secure (Philippian 1:6). This is no way minimizes our responsibility to proclaim the gospel or man’s responsibility to receive or reject it (see Romans 10; Matthew 28:18-20, etc.). God’s plan also includes the creation of life, the design, and the destiny of men (see Psalm 127; 139). It includes the calling of individuals to specific service (see Jeremiah 1:5; Galatians 1:15). The plan has precise timing as well (Jeremiah 25:11-12; Daniel 9:2, 24-27; 12:11-12; Mark 1:15; 13:32-33; Luke 1:20; John 7:6). (5) The goal of God’s plan is to bring glory to Himself. “But indeed, as I live, all the earth will be filled with the glory of the Lord” (Numbers 14:21). The heavens are telling of the glory of God; And their expanse is declaring the work of His hands (Psalm 19:1). “For My own sake, for My own sake, I will act; For how can my name be profaned? And My glory I will not give to another” (Isaiah 48:11). “Worthy art Thou, our Lord and our God, to receive glory and honor and power; for Thou didst create all things, and because of Thy will they existed, and were created” (Revelation 4:11).24 For from Him and through Him and to Him are all things. To Him be the glory forever. Amen (Romans 11:36).25 The demonstration of God’s glory is offensive to the unbeliever who would rather seek his own glory (see Romans 1:18-25). So it was with Satan as well (see Isaiah 14:12-14; Ezekiel 28:12-15). Charles Hodge aptly points out the error of making man’s happiness the goal of God’s plan: “If we make the good of the creature the ultimate object of all God’s works, then we subordinate God to the creature, and endless confusion and unavoidable error are the consequences.”26 To the Christian, the glory of God is our hope: Through whom also we have obtained our introduction by faith into this grace in which we stand; and we exult in hope of the glory of God (Romans 5:2). (6) God’s plan does not change, and it cannot be thwarted--it is an efficacious (certain) plan. This characteristic of God’s plan is frequently and dogmatically affirmed in the Scriptures. God’s plan does not change:27 In the same way God, desiring even more to show to the heirs of the promise the unchangeableness of His purpose, interposed with an oath, in order that by two unchangeable things, in which it is impossible for God to lie, we may have strong encouragement, we who have fled for refuge in laying hold of the hope set before us. This hope we have as an anchor of the soul, a hope both sure and steadfast and one which enters within the veil (Hebrews 6:17-19).28 The plan of God is absolutely certain: The counsel of the Lord stands forever, The plans of His heart from generation to generation (Psalm 33:11) . Many are the plans in a man’s heart, but the counsel of the Lord, it will stand (Proverbs 19:21). “This is the plan devised against the whole earth; and this is the hand that is stretched out against all the nations. “For the Lord of hosts has planned, and who can frustrate it? And as for His stretched-out hand, who can turn it back?” (Isaiah 14:26-27). “For as the rain and the snow come down from heaven, And do not return there without watering the earth, And making it bear and sprout, And furnishing seed to the sower and bread to the eater; So shall My word be which goes forth from My mouth; It shall not return to Me empty, Without accomplishing what I desire, And without succeeding in the matter for which I sent it” (Isaiah 55:10-11). From the standpoint of the gospel they are enemies for your sake, but from the standpoint of God’s choice they are beloved for the sake of the fathers; for the gifts and the calling of God are irrevocable (Romans 11:28-29). The assuring truth that God’s plan is efficacious (certain) is because it is God’s plan. This is based on the truth that God is all-knowing and all-powerful, that He is faithful to His promises, and that His glory is at stake. It is also based on the fact that God’s plan is eternal and all-inclusive. Nothing is more certain than the plan of God. Having this clearly in mind, let us also take note of some other characteristics of God’s plan. (7) God’s plan is partially and progressively being revealed. The plan of God is complete, fully developed, and as good as done, from God’s point of view: “His works were finished from the foundation of the world” (Hebrews 4:3). From a human point of view, the plan is being unfolded progressively through history and is only partially revealed. The Old Testament Law laid out the broad outline of God’s plan. God’s plan could be seen in its initial outworking through the history of Israel. The Old Testament prophets persisted in calling Israel’s attention to the fundamentals God had laid out in the Law. They also added more detail to the plan which God had outlined in the Law. If the Law foretold of a Savior through the “seed” of Eve (Genesis 3:15), it was later revealed that this seed would be the offspring of David (2 Samuel 7) and also of a virgin (Isaiah 7:14). The suffering of the Messiah is hinted at in Genesis 3;15 and is foreshadowed in the offering up of Isaac (Genesis 22) and in the rejection and suffering of Joseph (Genesis 37-50), as well as in the Passover (Exodus 12). It is further explained in the Psalms (16, 22) and the prophets (Isaiah 53). The coming Messiah, who was at first understood to be a “son of man” is later described as the “Son of God” (see Isaiah 9:6-7; Micah 5:2). And so the Messiah was progressively revealed as the God-man. When the Lord Jesus came to the earth, suffered, died, and rose again, God’s plan for the Messiah’s first coming was fulfilled. The Gospels, along with the Epistles, thoroughly explain the plan of God for Messiah’s first coming. Our Lord, followed by His apostles, gave further insight into God’s plan for His second coming. In its outworking, God’s plan is progressive in yet another way. God’s plan is divided into separate, but related, programs which might be called administrations. Some call them dispensations. Even those who reject dispensationalism admit to one degree or another that there are differences in the way in which God has exercised His rule over men. At each point of change, there are some principles and precepts which remain constant, while other aspects change significantly.29 While God has revealed all that we need to know about His plan for creation, there is much He has purposed not to reveal to us. We are instructed not to seek to fill these gaps (see Deuteronomy 29:29; Revelation 22:18-19). Some prophecies are deliberately “veiled” by highly symbolic imagery, and others are “sealed:” “And those who have insight will shine brightly like the brightness of the expanse of heaven, and those who lead the many to righteousness, like the stars forever and ever. “But as for you, Daniel, conceal these words and seal up the book until the end of time; many will go back and forth, and knowledge will increase. . . . As for me, I heard but could not understand; so I said, “My lord, what will be the outcome of these events?” And he said, “Go your way, Daniel, for these words are concealed and sealed up until the end time. “Many will be purged, purified and refined; but the wicked will act wickedly, and none of the wicked will understand, but those who have insight will understand. “And from the time that the regular sacrifice is abolished, and the abomination of desolation is set up, there will be 1,290 days. “How blessed is he who keeps waiting and attains to the 1,335 days! “But as for you, go your way to the end; then you will enter into rest and rise again for your allotted portion at the end of the age” (Daniel 12:3-4, 8-13). At times of sin and rebellion against God, the prophetic lamp is extinguished, so to speak. This is because God does not wish to inform nor to comfort