# 1NC---Dartmouth LV---Harvard Round 3

## OFF

### 1

States CP

#### The fifty states and relevant subnational entities, through the Multistate Antitrust Task Force, should issue a rule subject to notice and comment that adopts a symmetric competition standard for anticompetitive business practices.

#### States solve.

Arteaga & Ludwig ’21 [Juan; 1/28/21; Partner @ Crowell & Moring LLP, JD @ Columbia; and Jordan; Partner @ Crowell & Moring LLP, JD @ Loyola Law School, Los Angeles; “The Role of US State Antitrust Enforcement,” *Global Competition Review*; https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement; AS]

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. 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’. 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. 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.

Since the reawakening of state antitrust enforcement nearly 30 years ago, state attorneys general have continued to play an important role in the enforcement of both state and federal antitrust laws. During periods of lax federal antitrust enforcement, state attorneys general have often ramped up their enforcement activity in order to protect consumers from anticompetitive transactions and business practices. During periods of vigorous federal antitrust enforcement, they have often served as strong partners for the DOJ and FTC by, among other things, offering valuable insights about competitive dynamics in local markets, assisting with obtaining information from key market participants (including state governmental entities that are direct purchasers of goods and services), and helping develop and implement litigation strategies for cases being tried before federal judges presiding in their states.

Since January 2017, state attorneys general have increasingly played a leading and independent antitrust enforcement role. State antitrust enforcers have significantly increased their enforcement activity and willingness to act separately from their federal counterparts because many of them believe that there has been ‘under-enforcement’ by the DOJ and FTC. State antitrust enforcers have also been able to enhance their influence over key competition policy issues and the antitrust enforcement agenda within the United States because there appears to have been a significant decline in the coordination and relationship between the DOJ and FTC.

### 2

Regulate CP

#### The United States federal government should regulate digital technology and companies, including at least employing common-law principles, establishing public interest standards, promoting competition, and illegalizing those anticompetitive business practices which cause net-harm on one side of platforms.

#### Non-antitrust enforcement is sufficient

Rill 2 – was an Assistant Attorney General for the Antitrust Division in the Department of Justice (James, "The Evolution of Modern Antitrust among Federal Agencies." George Mason Law Review, vol. 11, no. 1, Fall 2002, p. 135-142. HeinOnline)//gcd

Multiple federal enforcement agencies with competition-related authority, broadly defined, have evolved from several different roots. From the outset, these agencies were not uniformly consumer-welfare impelled or oriented, nor have they altogether evolved in that direction. Their focus has been as much on social and political, non-consumer-welfare concerns-a continuing condition more prevalent before the mid-1970s than today. Federal economic concerns with market power brought about the establishment of regulatory agencies prior to enactment of the Sherman Act.' The patriarch, the Interstate Commerce Act of 1887,2 was a congressional response to concerns with the alleged monopoly and political power of the nation's railroads. Over the ensuing years, numerous other non-antitrust agencies were vested with power to regulate competition. Evolving from concerns with "bigness" as a threat to markets and, indeed, to the political system, legislation was enacted to address particular industries. This legislation afforded specialized agencies authority to regulate competition, to some extent in the same vein as that vested in the traditional antitrust agenciese.g., the Packers and Stockyards Act of 19213 and the Public Utility Holding Company Act of 1935.' Specialized agencies were also created to deal with the competitive functioning of industries in markets which were believed to embrace public assets, for example, air space and airlines and, initially, spectrum and broadcast communications. Part of the concern with "bigness" derived from fear of "excessive" competition, leading to statutory and regulatory restrictions on low-level pricing and limitations on market entry. The antitrust statutes were not immune from infection by this concern, as evidenced by enactment of the Robinson-Patman Act in 1936.' While the jurisdiction of sectoral agencies over competition and the relevant industries was often expressed in the governing statues as antitrust concerns, the overarching mandate was, and is, to protect and advance "the public interest." This ambiguous standard continues to provide sectoral agencies with more latitude to address industry competitive and other attributes beyond consumer welfare. The unfortunate ambiguity of this standard is brilliantly illuminated in an address by Judge Henry Friendly in the 1962 Oliver Wendell Holmes lectures at Harvard Law School and in a subsequent article in the Harvard Law Review.

### 3

FTC Tradeoff DA

#### Plan trades off with FTC resources in other areas

Reinhart 21 – Tara Reinhart, head of the Antitrust/Competition Group in Skadden’s Washington, D.C. office, “Lina Khan’s Appointment as FTC Chair Reflects Biden Administration’s Aggressive Stance on Antitrust Enforcement,” 6/18/21, https://www.skadden.com/insights/publications/2021/06/lina-khans-appointment-as-ftc-chair

Second, like all antitrust enforcers, Ms. Khan and the FTC will face resource constraints. Bringing antitrust litigation is an expensive and laborious process, often requiring millions of dollars for expert fees and a large army of FTC staff attorneys and taking many months or even years to accomplish. Typically, the FTC can only litigate a handful of antitrust matters at a time. It seems likely that Congress will provide more funding to the FTC in the current environment, but even with these extra resources, the FTC will still have to pick its cases carefully and cannot challenge every deal or every instance of alleged unlawful conduct.

#### Resources are key to FTC privacy leadership.

Hoofnagle et al. ’19 [Chris; 8/8/19; Adjunct Professor of Information and Law @ Cal; Woodrow Hartzog; Professor of Law and Computer Science @ Northeastern University; and Daniel Solove; John Marshall Harlan Research Professor of Law @ George Washington; “The FTC can rise to the privacy challenge, but not without help from Congress”; https://www.brookings.edu/blog/techtank/2019/08/08/the-ftc-can-rise-to-the-privacy-challenge-but-not-without-help-from-congress/; AS]

We think the FTC is still the right agency to lead the US privacy regulatory effort. In this essay, we explain the FTC’s structural and cultural strengths for this task, and then turn to reforms that could help the FTC rise to modern information privacy challenges. Fundamentally, the FTC has the structure and the legal powers necessary to enforce reasonable privacy rules. But it does need to evolve to meet the challenge of regulating modern information platforms.

THE FTC WIELDS GREAT POWERS TEMPERED WITH EXPERIENCE

The FTC has remarkable powers. At its creation a century ago, Congress gave it unprecedented investigatory and enforcement tools. These have been broadened over time as the FTC has faced new wrongs. Today, the FTC can examine business practices even where there is no investigatory predicate, and as a general-purpose consumer protection agency, it can sue almost any business.

As a result, the FTC is nimble and can adapt to new technologies without an act of Congress. Founded in the days of misleading newspaper advertising, the FTC was quick to pivot to radio, television, and internet fraud. The breadth and generality of its powers are also a source of strength. Much more than just data protection, modern consumer problems involve platforms, power, information asymmetries, and market competition. In theory, the FTC has a broad enough jurisdiction and charge to handle diverse issues often labeled as “privacy,” such as algorithmic manipulation and accountability.

In the information economy, privacy is among the most important values that law and norms should protect. Yet at the same time, privacy must also accommodate other important values, including the risks inherent in economic development. In our view, privacy is a means to the ends of freedom and autonomy in our personal lives and in our polity. It is a key component for human flourishing.

THE FTC HAS ACHIEVED MUCH WITH LIMITED RESOURCES AND WITHOUT CONSISTENT CONGRESSIONAL SUPPORT

Many privacy issues are thought to be new. But the FTC has decades of experience handling privacy problems, particularly in credit reporting and debt collection. The FTC’s earliest information privacy matters, in 1951 and then a series of cases in the 1970s, recognized the general consumer preference against commercialization of personal data. Using its enforcement powers, the FTC sued companies for deceptive data collection, and for the sale of data collected in preparing tax returns. The agency brought its first internet-related fraud case in 1994, long before most consumers shopped online. Since then, the FTC has pursued the biggest names in internet commerce. It has steadily broadened the duties for fair information handling, particularly in the information security domain.

The FTC’s broadest jurisdiction is its enforcement against unfair and deceptive practices under Section 5 of the FTC Act. Despite a wide reach, however, Section 5 has some significant limits in power. The FTC generally cannot issue a fine for Section 5 violations initially—fines can only be issued for violations of consent decrees, as happened in the Facebook case.

Resources are the FTC’s greatest constraint. It is a small agency charged with a broad mission in competition and consumer protection. It carries out this mission with a budget of just over $300 million and a total staff of about 1,100, of whom no more than 50 are tasked with privacy. In comparison, the U.K.’s Information Commissioner’s Office (ICO) has over 700 employees and a £38 million budget for a mission focused entirely on privacy and data protection. In addition, for much of modern history, Congress has kept the FTC on a short leash. In 1980, Congress punished the agency for being too aggressive, causing it to shut down twice. Congress has held authorization over the agency’s head and used oversight power to scrutinize what members of Congress perceive as the expansive use of FTC legal authority, including its interpretation of privacy harm.

Given these constraints, FTC attorneys make pragmatic choices in their case selection. At any given time, line attorneys are investigating many companies and weighing decisions on where to target limited enforcement resources. The FTC can only bring actions against a small fraction of infringers, and it has chosen cases wisely to make loud statements to industry about how to protect privacy.

Even with these severe limitations, it has managed to bolster important norms and send strong signals to industry that have influenced the practices of many companies. It has become a significant enforcement agency that industry pays attention to. It has an enforcement record that compares quite well to other agencies in the US as well as around the world.

Some critics of the Facebook settlement have focused only on its shortcomings. Despite flaws and limits in the consent order, the five-billion-dollar fine was the biggest privacy settlement worldwide by far. It is an order of magnitude greater than the highest fine under the EU’s General Data Protection Regulation so far (the UK ICO’s €183 million fine against British Airways) and roughly double the record fine under EU competition law, which privacy advocates have urged as the reference for privacy fines.

The settlement also contains significant and noteworthy measures, such as forcing Facebook to make privacy a board-level concern and requiring Mark Zuckerberg to verify compliance. As dissenting Commissioners Chopra and Slaughter note, the FTC’s settlement doesn’t solve every problem; Facebook’s structure and business model remain the same. But no existing enforcement agency has come close to matching the FTC’s impact in this case, and foreign data protection agencies similar to proposed in the U.S. as FTC alternatives have not demonstrated the power or political capital to do so. As privacy enforcers go, the FTC stacks up well to others in many regards.

#### Privacy regulation is key to the liberal order – US leadership resolves the current patchwork of rules.

Slaughter & McCormick ’21 [Matthew; Paul Danos Dean and Earl C. Daum 1924 Professor of International Business in the Tuck School of Business @ Dartmouth College, Former Member @ White House Council of Economic Advisers; and David; CEO @ Bridgewater Associates Former Senior Positions @ U.S. Commerce Department, the National Security Council, and U.S. Treasury Department; “Data Is Power: Washington Needs to Craft New Rules for the Digital Age,” *Foreign Affairs* 100(3), p. 54-63; AS]

A PATCHWORK OF RULES

Current international institutions are not equipped to handle the proliferation of data. Nor are they prepared to address the emerging fault lines in how to approach it. The institutional framework for international trade-that of the World Trade Organization and its predecessor, the General Agreement on Tariffs and Trade-was built at a time when mainly agricultural and manufactured goods crossed borders and data flows were in the realm of fiction. The wTO's framework depends on two key classifications: whether something is a good or a service and where it originated. Goods are governed by different trade rules than are services, and a product's origin defines what duties or trade restrictions apply.

Data defies this basic categorization for several reasons. One is that vast amounts of data-such as one's online browsing before ordering clothes-are unpriced consequences of the production and consumption of other goods and services. Another is that it is often hard to determine where data is created and kept. (From which country does data on an international flight's engineering performance originate? In which country does a multinational firm's cloud storage of its clients' data reside?) Moreover, there is no agreed-on taxonomy for valuing data. In the event of a trade dispute, WTO members may seek legal recourse and ask the organization to make a one-off correction, but such fixes do not address the fundamental inconsistencies between the WTO's framework and the nature of data.

The lack of an internationally accepted framework governing data leaves big questions about the global economy and national security unanswered. Should sovereign governments be able to limit the location and use of their citizens' data within national borders? What does this concept even mean when the cloud and its data are distributed across the Internet? Should governments be able to tax the arrival of data from other nations, just as they levy tariffs on the import of many goods and services? How would this work when the data flows themselves are often unpriced, at least within the firms that gather the data? What controls can sovereign governments impose on data entering their countries? Can they demand that data be stored locally or that they be given access to it?

The absence of an international framework also threatens people's privacy. Who will ensure that governments or other actors do not misuse people's data and violate their economic, political, and human rights? How can governments protect their citizens' privacy while allowing data to move across borders? Today, the United States and the EU do not agree on answers to these questions, causing friction that hurts cooperation on trade, investment, and national security. China, for its part, has shown little commitment to privacy. Without common and verifiable methods of anonymizing data to protect personal privacy, the innovative potential of personal data will be lost-or fundamental rights will be violated.

In the absence of coherent and collective answers to these questions, countries and trade blocs are improvising on their own. This has left the world today with a collection of inconsistent, vague, and piecemeal regulations. Recent regional trade deals have included several provisions regarding data and e-commerce. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which does not include the United States, prohibits requirements that data be stored within a given country and bans duties on cross-border flows of electronic content. It recognizes the growing importance of the digital services sector, and it forbids signatories from demanding access to the source codes of companies' software. The U.S.-Mexico-Canada Agreement (USMCA) has similar provisions. Both free-trade agreements aim to allow unencumbered flows of data, but they are largely untested and, by virtue of being regional, are limited.

The EU sharpened its data rules on privacy in the General Data Protection Regulation. The GDPR attempts to empower individuals to decide how companies can use their data, but many have voiced concerns that the GDPR has effectively established trade barriers for foreign firms operating in EU member countries by requiring expensive compliance measures and raising the European market's liability risks. Moreover, the EU's rules are the subject of continual dispute and litigation.

Of much greater concern to the United States is China's distinct digital ecosystem. Over a generation ago, China began building its "Great Firewall," a combination of laws and technologies that restrict the flow of data in and out of China, in part by blocking foreign websites. China has since adopted a techno-nationalist model that mandates government access to data generated in the country. The sheer quantity of that data fuels China's innovation but also enables the country's repressive system of control and surveillance-and at the expense of open, international flows of data.

Beijing now seeks to expand this model. It has clear plans to use its indigenous technology industry to dominate the digital platforms that manage data, most immediately 5G telecommunications networks. To that end, it has unveiled an audacious plan, China Standards 2035, to set global standards in emerging technologies. And through the so-called Digital Silk Road and the broader Belt and Road Initiative, it is working to spread its model of data governance and expand its access to data by building Internet infrastructure abroad and boosting digital trade.

And the United States? At the federal level, the country has not settled on any legal framework. Nor, beyond the USMCA, has it engaged in any meaningful cross-border agreements on data flows. So far, the United States has not answered China's efforts with a coherent plan to shape technology standards or ensure widespread privacy protections. The United States' ad hoc responses and targeted efforts to encourage other countries to reject the Chinese company Huawei's 5G technology may work in the near term. But they do not constitute an effective long-term plan for harnessing the power of data.

#### LIO prevents global great power war – the alternative is hostile competitive blocs that collapse weak states and undermine collective action on existential risks.

Beckley ’20 [Michael; Associate Professor of Political Science @ Tufts University; “Rogue Superpower Why This Could Be an Illiberal American Century”; *Foreign Affairs* 99(6), p. 73-87]

What would happen to the world if the United States fully embraced this kind of “America first” vision? Some analysts paint catastrophic pictures. Robert Kagan foresees a return to the despotism, protectionism, and strife of the 1930s, with China and Russia reprising the roles of imperial Japan and Nazi Germany. Peter Zeihan predicts a violent scramble for security and resources, in which Russia invades its neighbors and East Asia descends into naval warfare. These forecasts may be extreme, but they reflect an essential truth: the postwar order, although flawed and incomplete in many ways, has fostered the most peaceful and prosperous period in human history, and its absence would make the world a more dangerous place.

Thanks to the U.S.-led order, for decades, most countries have not had to fight for market access, guard their supply chains, or even seriously defend their borders. The U.S. Navy has kept international waterways open, the U.S. market has provided reliable consumer demand and capital for dozens of countries, and U.S. security guarantees have covered nearly 70 nations. Such assurances have benefited everyone: not just Washington’s allies and partners but also its adversaries. U.S. security guarantees had the effect of neutering Germany and Japan, the main regional rivals of Russia and China, respectively. In turn, Moscow and Beijing could focus on forging ties with the rest of the world rather than fighting their historical enemies. Without U.S. patronage and protection, countries would have to get back in the business of securing themselves and their economic lifelines.

Such a world would see the return of great-power mercantilism and new forms of imperialism. Powerful countries would once again try to reduce their economic insecurity by establishing exclusive economic zones, where their firms could enjoy cheap and secure access to raw materials and large captive consumer markets. Today, China is already starting to do this with its Belt and Road Initiative, a network of infrastructure projects around the world; its “Made in China 2025” policy, to stimulate domestic production and consumption; and its attempts to create a closed-off, parallel Internet. If the United States follows suit, other countries will have to attach themselves to an American or a Chinese bloc—or forge blocs of their own. France might seek to restore its grip on its former African colonies. Russia might accelerate its efforts to corral former Soviet states into a regional trade union. Germany increasingly would have to look beyond Europe’s shrinking populations to find buyers for its exports—and it would have to develop the military capacity to secure those new far-flung markets and supply lines, too.

As great powers competed for economic spheres, global governance would erode. Geopolitical conflict would paralyze the UN, as was the case during the Cold War. NATO might dissolve as the United States cherry-picked partners. And the unraveling of the U.S. security blanket over Europe could mean the end of the European Union, too, which already suffers from deep divisions. The few arms control treaties that remain in force today might fall by the wayside as countries militarized to defend themselves. Efforts to combat transnational problems—such as climate change, financial crises, or pandemics—would mimic the world’s shambolic response to COVID-19, when countries hoarded supplies, the World Health Organization parroted Chinese misinformation, and the United States withdrew into itself.

The resulting disorder would jeopardize the very survival of some states. Since 1945, the number of countries in the world has tripled, from 46 to nearly 200. Most of these new states, however, are weak and lack energy, resources, food, domestic markets, advanced technology, military power, or defensible borders. According to research by the political scientist Arjun Chowdhury, two-thirds of all countries today cannot provide basic services to their people without international help. In short, most countries depend critically on the postwar order, which has offered historically unprecedented access to international aid, markets, shipping, and protection. Without such support, some countries would collapse or be conquered. Fragile, aid-dependent states such as Afghanistan, Haiti, and Liberia are only some of the most obvious high-risk cases. Less obvious ones are capable but trade-dependent countries such as Saudi Arabia, Singapore, and South Korea, whose economic systems would struggle to function in a world of closed markets and militarized sea-lanes.

### 4

Politics DA

#### Budget passes now – PC is key.

BBC 10-28-2021

(“Biden announces revamped $1.75 trillion social spending plan,” https://www.bbc.com/news/world-us-canada-59081791)

US President Joe Biden unveiled a revamped $1.75tn (£1.27tn) spending plan on Thursday, calling it a historic investment in the country's future. "No one got everything they wanted, including me," he said, acknowledging the struggle within his party to reach consensus on a pair of landmark bills. Narrow margins in Congress require nearly unanimous support from the Democrats for the bills to pass. They include major investments in infrastructure, climate and childcare. Mr Biden's Democratic party suggested this week that an agreement was on the horizon, ahead of Mr Biden's trip to Europe later on Thursday. President Biden will travel to Rome, the Vatican and later to Glasgow, Scotland for the United Nations climate conference, COP26. But it remains to be seen whether Mr Biden has achieved the level of cooperation needed from within his party to move the spending plan forward. This new proposal is thought to be a stripped-down version of the roughly $3.5tn social spending plan favoured by progressives. Mr Biden was expected to use his Thursday morning meeting with House Democrats to convince progressives in the party that this new version is close enough to the original bill, and to persuade progressives in the House of Representative to pass a separate, $1tn infrastructure bill that has already passed in the Senate. It's a delicate balance for Mr Biden, as he tries to appeal to his party's progressives - who say they need action on the social spending bill before passing infrastructure - and some moderates, for whom the infrastructure bill is priority. Others had concerns over the price tag of the original social spending bill. So what's in the proposed new spending plan? $555bn aimed at fighting climate change, mainly through tax-incentives for renewable and low-emission sources of energy $400bn for free and universal preschool for all 3- and 4-year-olds $165bn to lower health care premiums for the nine million Americans covered through the Affordable Care Act - also known as Obamacare $150bn to build one million affordable housing units A 50-50 seat split in the Senate - and certain Republican resistance - means Mr Biden must bring his entire party on board if he hopes to pass the spending bill. Two moderate Democrats, Senators Kyrsten Sinema of Arizona and Joe Manchin of West Virginia, appeared to signal some support for the bill in separate statements on Thursday. "After months of productive, good-faith negotiations with President Biden and the White House, we have made significant progress," Ms Sinema said. "I look forward to getting this done." Both Ms Sinema and Mr Manchin are widely seen to have tanked the original bill by refusing to vote for it. For Mr Biden personally, a lot is riding on the fate of these two bills: his presidential legacy. "I don't think it's hyperbole to say that the House and Senate majorities and my presidency will be determined by what happens in the next week," he told Democrats on Thursday morning, according to US media.

#### Antitrust action saps finite political capital and imperils the agenda.

Karaim 21

(Reed, <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre2021050705>, 5-7)

Stucke, the former U.S. Justice Department antitrust official, says that despite Wu and Khan's credentials and reputation, changing antitrust policy will require a concerted effort. With Biden having an ambitious overall agenda and his Democratic Party holding the slimmest possible majority in the Senate, Stucke says, the question is “to what extent will the Biden administration want to expend political capital on this. They've got some bipartisan support for antitrust reform, but to what extent are they going to mobilize that?”

#### Key to avert climate change.

Chow 10-28-21

(Denise, Denise Chow is a reporter for NBC News Science focused on general science and climate change, https://www.nbcnews.com/science/environment/bidens-scaled-spending-bill-big-upsides-climate-fight-rcna4061)

Many climate activists are applauding the $1.75 trillion spending bill unveiled Thursday by President Joe Biden, a move that experts say will be crucial to staving off the worst effects of global warming and building a more livable future. Biden’s proposed framework includes $555 billion in clean energy investments, incentives and tax credits that would help the country meet its goal of reducing greenhouse gas emissions by at least 50 percent by 2030. If passed, environmental experts said it’s the type of legislation that could create much-needed momentum to slash pollution levels and address the climate crisis in the United States and on the global stage. The proposal also backs up promises that Biden campaigned on, making climate change a sizable focus of his administration’s biggest spending bill. “This would be an absolutely historic investment in clean energy and environmental justice — both of which are essential for climate progress,” said Abigail Dillen, president of Earthjustice, a nonprofit environmental law group based in San Francisco. “A package that makes all those investments at a scale that will be transformative over the next eight years is incredible.” The new framework comes after prolonged negotiations between the White House and two moderate Democratic senators, Joe Manchin of West Virginia and Krysten Sinema of Arizona, who opposed key parts of Biden’s original “Build Back Better” plan. Some environmental advocates had hoped for an even larger climate package. “The Build Back Better Framework announced by the White House today doesn’t go far enough to address the economic and climate crises facing our generation,” Cristina Tzintzún Ramirez, president of NextGen America, a progressive advocacy nonprofit started by billionaire and former Democratic presidential candidate Tom Steyer, said in a news release. “A few moderate Democrats negotiated against the best interest of the American people, forcing the rest of their party to renege on essential promises.” Biden on Thursday urged Congress to pass the proposal, saying that the investments will “truly transform this nation.” Earlier this year, the Senate passed a nearly $1 trillion infrastructure bill with robust bipartisan support, but the House has yet to vote on that measure, citing the need for parallel action on the social safety net portion of Biden’s agenda. The bill’s timing is crucial as Biden is set to meet with other world leaders in Scotland next week for the United Nations Climate Change Conference, where countries are expected to negotiate and set forth targets to reduce emissions in line with the goals of the Paris Agreement. Stalled negotiations had generated concern among environmentalists around the world that Biden could show up to the conference empty-handed, leaving little incentive for other countries to offer their own aggressive plans to cut carbon emissions. Sam Ricketts, co-founder and co-director of the climate advocacy group Evergreen Action, said lawmakers should feel increased urgency to pass the revamped Build Back Better act, but added that the proposal itself should benefit Biden by demonstrating to other nations that the U.S. is actively working to achieve its emissions targets. “This will show the global community that America really is an ally and can be a leader in driving forward global climate efforts,” Ricketts said. “It shows that after four years of President Trump’s outright climate denial, the U.S. government is moving with leadership against this global crisis.” The proposed climate bill will also give the U.S. stronger footing in Scotland during negotiations with other top emitters, including China. “The Biden administration will have more leverage to push other countries to make strong commitments,” said Danielle Arostegui, a senior climate analyst at the Environmental Defense Fund. “We can show that we’re putting our money where our mouth is.” The bill would significantly boost investments in renewable energy, including for solar and wind power, and would provide clean energy tax credits and an electric vehicle tax credit that would lower the cost of an electric vehicle by up to $12,500 per middle-class family, according to the White House. The framework also prioritizes environmental justice by earmarking 40 percent of the overall benefits of investment for disadvantaged communities. The plan would fund the electrification of ports, in addition to electrifying bus and truck fleets, and would provide grants to communities that are disproportionately affected by climate change and economic injustice. “This marks a new beginning in the fight against injustice in this country, and a long-overdue boost to the communities that have struggled with the toxic legacy of environmental pollution and systemic racism,” officials with the Equitable and Just National Climate Platform, a consortium of climate change and environmental justice advocates, said in a statement. Dan Lashof, U.S. director of the World Resources Institute, a Washington-based research nonprofit group, said the legislation could bring the country significantly closer to meeting its emissions goals, but added that there is still ground to make up. The White House said the bill will reduce greenhouse gas emissions by 1 billion tons by 2030, but Lashof said a total of 2 billion tons of emissions need to be cut to reach Biden’s target by the end of the decade. Still, he said these types of investments could spur other developments in the private sector, or at the state and local level, which could make up the difference. “It’s important to recognize that this is a huge amount of progress,” Lashof said. “This bill together with the infrastructure bill really does lay the foundation for meeting the 2030 target. It’s all moving in the right direction.”

#### Warming causes extinction.

Michael Klare 20. The Nation’s defense correspondent, professor emeritus of peace and world-security studies at Hampshire College, senior visiting fellow at the Arms Control Association in Washington, DC. “How Rising Temperatures Increase the Likelihood of Nuclear War”. The Nation. Jan 13 2020. https://www.thenation.com/article/archive/nuclear-defense-climate-change/

President Donald Trump may not accept the scientific reality of climate change, but the nation’s senior military leaders recognize that climate disruption is already underway, and they are planning extraordinary measures to prevent it from spiraling into nuclear war. One particularly worrisome scenario is if extreme drought and abnormal monsoon rains devastate agriculture and unleash social chaos in Pakistan, potentially creating an opening for radical Islamists aligned with elements of the armed forces to seize some of the country’s 150 or so nuclear weapons. To avert such a potentially cataclysmic development, the US Joint Special Operations Command has conducted exercises for infiltrating Pakistan and locating the country’s nuclear munitions. Most of the necessary equipment for such raids is already in position at US bases in the region, according to a 2011 report from the nonprofit Nuclear Threat Initiative. “It’s safe to assume that planning for the worst-case scenario regarding Pakistan’s nukes has already taken place inside the US government,” said Roger Cressey, a former deputy director for counterterrorism in Bill Clinton’s and George W. Bush’s administrations in 2011.

Such an attack by the United States would be an act of war and would entail enormous risks of escalation, especially since the Pakistani military—the country’s most powerful institution—views the nation’s nuclear arsenal as its most prized possession and would fiercely resist any US attempt to disable it. “These are assets which are the pride of Pakistan, assets which are…guarded by a corps of 18,000 soldiers,” former Pakistani president Pervez Musharraf told NBC News in 2011. The Pakistani military “is not an army which doesn’t know how to fight. This is an army that has fought three wars. Please understand that.”

A potential US military incursion in nuclear-armed Pakistan is just one example of a crucial but little-​discussed aspect of international politics in the early 21st century: how the acceleration of climate change and nuclear war planning may make those threats to human survival harder to defuse. At present, the intersections between climate change and nuclear war might not seem obvious. But powerful forces are pushing both threats toward their most destructive outcomes.

In the case of climate change, the unbridled emission of carbon dioxide and other greenhouse gases is raising global temperatures to unmistakably dangerous levels. Despite growing worldwide reliance on wind and solar power for energy generation, the global demand for oil and natural gas continues to rise, and carbon emissions are projected to remain on an upward trajectory for the foreseeable future. It is highly unlikely, then, that the increase in average global temperature can be limited to 1.5 degrees Celsius, the aspirational goal adopted by the world’s governments under the Paris Agreement in 2015, or even to 2°C, the actual goal. After that threshold is crossed, scientists agree, it will prove almost impossible to avert catastrophic outcomes, such as the collapse of the Greenland and Antarctic ice sheets and a resulting sea level rise of 6 feet or more.

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

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

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

All things being equal, rising temperatures will increase the likelihood of nuclear war, largely because climate change will heighten the risk of social stress, the decay of nation-states, and armed violence in general, as I argue in my new book, All Hell Breaking Loose. As food and water supplies dwindle and governments come under ever-increasing pressure to meet the vital needs of their populations, disputes over critical resources are likely to become more heated and violent, whether the parties involved have nuclear arms or not. But this danger is compounded by the possibility that several nuclear-armed powers—notably India, Pakistan, and China—will break apart as a result of climate change and accompanying battles over disputed supplies of water.

Together, these three countries are projected by the UN Population Division to number approximately 3.4 billion people in 2050, or 34 percent of the world’s population. Yet they possess a much smaller share of the world’s freshwater supplies, and climate change is destined to reduce what they have even further. Warmer temperatures are also expected to diminish crop yields in these countries, adding to the desperation of farmers and very likely resulting in widespread ethnic strife and population displacement. Under these circumstances, climate-related internal turmoil would increase the risk of nuclear war in two ways: by enabling the capture of nuclear arms by rogue elements of the military and their possible use against perceived enemies and by inciting wars between these states over vital supplies

of water and other critical resources.

The risk to Pakistan from climate change is thought to be particularly acute. A large part of the population is still engaged in agriculture, and much of the best land—along with access to water—is controlled by wealthy landowners (who also dominate national politics). Water scarcity and mismanagement is a perennial challenge, and climate change is bound to make the problem worse. Climate and Social Stress: Implications for Security Analysis, a 2013 report by the National Research Council for the US intelligence community, highlights the danger of chaos and conflict in that country as global warming advances. Pakistan, the report notes, is expected to suffer from inadequate water supplies during the dry season and severe flooding during the monsoon—outcomes that will devastate its agriculture and amplify the poverty and unrest already afflicting much of the country. “The Pakistan case,” the report reads, “illustrates how a highly stressed environmental system on which a tense society depends can be a source of political instability and how that source can intensify when climate events put increased stress on the system.” Thus, as global temperatures rise and agriculture declines, Pakistan could shatter along ethnic, class, and religious lines, precisely the scenario that might trigger the sort of intervention anticipated by the US Joint Special Operations Command.

Assuming that Pakistan remains intact, another great danger arising from increasing world temperatures is a conflict between it and India or between China and India over access to shared river systems. Whatever their differences, Pakistan and western India are forced by geography to share a single river system, the Indus, for much of their water requirements. Likewise, western China and eastern India also share a river, the Brahmaputra, for their vital water needs. The Indus and the Brahmaputra obtain much of their flow from periods of heavy precipitation; they also depend on meltwater from Himalayan glaciers, and these are at risk of melting because of rising temperatures. According to the IPCC, the Himalayan glaciers could lose as much as 29 percent of their total mass by 2035 and 78 percent by 2100. This would produce periodic flooding as the ice melts but would eventually result in long periods of negligible flow, with calamitous consequences for downstream agriculture. The widespread starvation and chaos that could result would prove daunting to all the governments involved and make any water-related disputes between them a potential flash point for escalation.

As in Pakistan, water supply has always played a pivotal role in the social and economic life of China and India, with both countries highly dependent on a few major river systems for civic and agricultural purposes. Excessive rainfall can lead to catastrophic flooding, and prolonged drought has often led to widespread famine and mass starvation. In such a setting, water management has always been a prime responsibility of government—and a failure to fulfill this function effectively has often resulted in civil unrest. Climate change is bound to increase this danger by causing prolonged water shortages interspersed with severe flooding. This has prompted leaders of both countries to build ever more dams on all key rivers.

India, as the upstream power on several tributaries of the Indus, and China, as the upstream power on the Brahmaputra, have considered damming these rivers and diverting their waters for exclusive national use, thereby diminishing the flow to downstream users. Three of the Indus’s principal tributaries, the Jhelum, Chenab, and Ravi rivers, flow through Indian-controlled Kashmir (now in total lockdown, with government forces suppressing all public functions). It’s possible that India seeks full control of Kashmir in order to dam the tributaries there and divert their waters from Pakistan—a move that could easily trigger a war if it occurs at a time of severe food and water stress and one that would very likely invite the use of nuclear weapons, given Pakistan’s attitude toward them.

The situation regarding the Brahmaputra could prove equally precarious. China has already installed one dam on the river, the Zangmu Dam in Tibet, and has announced plans for several more. Some Chinese hydrologists have proposed the construction of canals linking the Brahmaputra to more northerly rivers in China, allowing the diversion of its waters to drought-stricken areas of the heavily populated northeast. These plans have yet to come to fruition, but as global warming increases water scarcity across northern China, Beijing might proceed with the idea. “If China was determined to move forward with such a scheme,” the US National Intelligence Council warned in 2009, “it could become a major element in pushing China and India towards an adversarial rather than simply a competitive relationship.”

Severe water scarcity in northern China could prompt yet another move with nuclear implications: an attempted annexation by China of largely uninhabited but water-rich areas of Russian Siberia. Thousands of Chinese farmers and merchants have already taken up residence in eastern Siberia, and some commentators have spoken of a time when climate change prompts a formal Chinese takeover of those areas—which would almost certainly prompt fierce Russian resistance and the possible use of nuclear weapons.

In the Arctic, global warming is producing a wholly different sort of peril: geopolitical competition and conflict made possible by the melting of the polar ice cap. Before long, the Arctic ice cap is expected to disappear in summertime and to shrink noticeably in the winter, making the region more attractive for resource extraction. According to the US Geological Survey, an estimated 30 percent of the world’s remaining undiscovered natural gas is above the Arctic Circle; vast reserves of iron ore, uranium, and rare earth minerals are also thought to be buried there. These resources, along with the appeal of faster commercial shipping routes linking Europe and Asia, have induced all the major powers, including China, to establish or expand operations in the region. Russia has rehabilitated numerous Arctic bases abandoned after the Cold War and built others; the United States has done likewise, modernizing its radar installation at Thule in Greenland, reoccupying an airfield at Keflavík in Iceland, and establishing bases in northern Norway.

Increased economic and military competition in the Arctic has significant nuclear implications, as numerous weapons are deployed there and geography lends it a key role in many nuclear scenarios. Most of Russia’s missile-carrying submarines are based near Murmansk, on the Barents Sea (an offshoot of the Arctic Ocean), and many of its nuclear-armed bombers are also at bases in the region to take advantage of the short polar route to North America. As a counterweight, the Pentagon has deployed additional subs and antisubmarine aircraft near the Barents Sea and interceptor aircraft in Alaska, followed by further measures by Moscow. “I do not want to stoke any fears here,” Russian President Vladimir Putin declared in June 2017, “but experts are aware that US nuclear submarines remain on duty in northern Norway…. We must protect [Russia’s] shore accordingly.”

On the other side of the equation, an intensifying arms race will block progress against climate change by siphoning resources needed for a global energy transition and by poisoning the relations among the great powers, impeding joint efforts to slow the warming.

With the signing of the Paris Agreement, it appeared that the great powers might unite in a global effort to slash greenhouse gas emissions quickly enough to avoid catastrophe, but those hopes have since receded. At the time, Obama emphasized that limiting global warming would require nations to work together in an environment of trust and peaceful cooperation. Instead of leading the global transition to a postcarbon energy system, however, the major powers are spending massively to enhance their military capabilities and engaging in conflict-provoking behaviors.

Since fiscal year 2016, the annual budget of the US Department of Defense has risen from $580 billion to $738 billion in fiscal year 2020. When the budget increases for each fiscal year since 2016 are combined, the United States will have spent an additional $380 billion on military programs by the end of this fiscal year—more than enough to jump-start the transition to a carbon-​free economy. If the Pentagon budget rises as planned to $747 billion in fiscal year 2024, a total of $989 billion in additional spending will have been devoted to military operations and procurement over this period, leaving precious little money for a Green New Deal or any other scheme for systemic decarbonization.

Meanwhile, policy-makers in Washington, Beijing, and Moscow increasingly regard one another as implacable and dangerous adversaries. “As China and Russia seek to expand their global influence,” then–Director of National Intelligence Dan Coats informed Congress in a January 2019 report, “they are eroding once well-established security norms and increasing the risk of regional conflicts.” Chinese and Russian officials have been making similar statements about the United States. Secondary powers like India, Pakistan, and Turkey are also assuming increasingly militaristic postures, facilitating the potential spread of nuclear weapons and exacerbating regional tensions. In this environment, it is almost impossible to imagine future climate negotiations at which the great powers agree on concrete measures for a rapid transition to a clean energy economy.

In a world constantly poised for nuclear war while facing widespread state decay from climate disruption, these twin threats would intermingle and intensify each other. Climate-​related resource stresses and disputes would increase the level of global discord and the risk of nuclear escalation; the nuclear arms race would poison relations between states and make a global energy transition impossible.

## CASE

### Innovation Advantage

#### [1] Breakups fail – doesn’t produce new companies and deters innovation.

Portuese ’20 [Aurelien; Director of Antitrust and Innovation Policy @ ITIF, Adjunct Professor of Law @ Global Antitrust Institute of George Mason University, Doctor in Law @ University of Paris II; “Beyond antitrust populism: Towards robust antitrust”; *Economic Affairs* 40(2), p. 237-258; AS]

3.3 | Break-ups: From big tech to big government

Because the consumer welfare standard is inappropriate, or because tech companies have gained too much corporate power, so the Neo-Brandeisians argue, such companies should be broken up. Idealising the break-ups in antitrust history, Neo-Brandeisians think that breaking up big tech is a legally clean, economically harmless and socially useful (structural) remedy available to antitrust agencies. Such calls for break-ups have achieved momentum in the media but have so far failed to win support in academic and regulatory circles, for two reasons: historic break-ups have been failures; and big tech break-ups would be failures.

Historically, structural remedies such as break-ups have done more harm than good. The US antitrust history of structural remedies forcing companies to break up is blatantly miserable:

[F]resh memories of the deconcentration experiences of the 1970s have convinced many that the divestiture suit is a hopelessly flawed instrument of antitrust policy. In many respects it is harder today than it was in the early 1930s to imagine a revival of the section two divestiture action as an important antitrust weapon. (Kovacic, 1989, p. 1149)

And yet, even in 1930s and before, break-ups of companies had appeared to fail to achieve their objectives and to do more harm than good. The break-up of the Standard Oil Trust19 and the “crusade against Aluminium Company of America” are attacks that “ended up with a ceremony of atonement, but few practical results”, and failed because “there were no new organizations growing up to take over the functions of those under attack” (Arnold, 1937, p. 220). Historically, the break-up of Standard Oil in 1911 and the restructuring of AT&T in the 1980s – the main prime instances of divestures in US antitrust policy – were assessed with “recurring criticism that the execution of admittedly sweeping relief was either counterproductive or essentially superfluous” (Kovacic, 1989, p. 1106).

Structural remedies imposed on big tech companies would harm consumers and deter innovation. Rather than being “clean”, the proposed “forced breakup of unlawful monopolists is much riskier because bad judicially imposed breakups can create weak firms and undermine innovation” (Bohannan & Hovenkamp, 2012, p. 11). Any break-up would ignore the fragile ecosystem within which big tech companies evolve: one set of activities may be revenue-generating only because another set of activities is not revenue-generating. In a zero-priced market, services funded by advertisements are provided to end-consumers on the basis of algorithm-driven data accumulation enabling revenue. For instance, Facebook Messenger may not be revenue generating whereas Facebook's advertisements are the core of Facebook's economic viability. Also, Google Shopping may not be revenue-generating whereas Google Search advertisements are the main source of income. Equally, Amazon as a platform provides a clearing house for price comparisons amongst widgets whereas Amazon as a retailer provides for more efficient competition on a limited set of products when efficiencies are possible. Separating one part of the ecosystem from another – that is, the platform from the commerce (Khan, 2019) – would lower the overall viability of the ecosystem without providing evidence for increased innovation and enhanced consumer welfare.20

Neo-Brandeisians vouching for break-ups of big tech companies should remember the words of Justice Brandeis himself, who, despite being a vigorous advocate of small firms, admitted that under US antitrust laws “there is nothing in our industrial history to indicate that there is any need whatever to limit the natural growth of a business in order to preserve competition” (Brandeis, 1913, p. 6). From Standard Oil to big tech companies (Lamoureux, 2019), break-ups have never seemed to be a straightforward regulatory tool at the disposal of antitrust agencies.

#### [2] Fear of Chinese tech leadership is hegemonic anxiety

Naughton 3-6-21

(John Naughton is professor of the public understanding of technology at the Open University. He is the author of From Gutenberg to Zuckerberg: What You Really Need to Know About the Internet, https://www.theguardian.com/commentisfree/2021/mar/06/fear-itself-is-the-real-threat-to-democracy-not-tall-tales-of-chinese-ai)

This week the American National Security Commission on artificial intelligence released its final report. Cursory inspection of its 756 pages suggests that it’s just another standard product of the military-industrial complex that so worried President Eisenhower at the end of his term of office. On closer examination, however, it turns out to be a set of case notes on a tragic case of what we psychologists call “hegemonic anxiety” – the fear of losing global dominance. The report is the work of 15 bigwigs, led by Dr Eric Schmidt, the former CEO of Alphabet (and before that the adult supervisor imposed by venture capitalists on the young co-founders of Google). Of the 15 members of the commission only four are female. Eight are from the tech industry (including Andy Jassy, Jeff Bezos’s anointed heir at Amazon); two are former senior Pentagon officials; and the tech sector of the national intelligence community is represented by at least three commissioners. Given these establishment credentials, the only surprising thing is that the inquiry seems to have been set up during Trump’s presidency, which suggests that it was organised by the “deep state” during the hours of one to four AM, when Trump was generally asleep. What have these luminaries concluded? Basically that there’s a “new era of competition” ahead, which “promises to change the world we live in and how we live within it”. The US “can either shape the change to come or be swept along by it”. There are “adversaries” out there (name begins with “C”) who “are determined to turn AI capabilities against us”, and one of them (see above) is “determined to surpass us in AI leadership”. Advances in AI confer significant first-mover advantages, so “now we must act – the United States should invest what it takes to maintain its innovation leadership, to responsibly use AI to defend free people and free societies, and to advance the frontiers of science for the benefit of all humanity. AI is going to reorganise the world. America must lead the charge.” Cue trumpet voluntary. Pathological anxiety about China runs through the entire document like the words in a stick of Blackpool rock. “On a level playing field,” it burbles, “the United States is capable of out-innovating any competitor.” But apparently there is “a fundamental difference in the US and China’s approaches to AI innovation that puts American AI leadership in peril”. The playing field, it seems, is not level because US tech companies “are not instruments of state power”. Since “China is organised, resourced, and determined to win the technology competition”, the US approach has to change. What’s needed, apparently, is “a hybrid approach meshing government and private-sector efforts to win the technology competition”. Pause, for a moment, to extract the signal from this message. First, the gobbledegook about “AI” is in fact almost entirely about machine learning, a flaky technology that has an insatiable demand for detailed data about humans and their activities. The Chinese are ahead because their tech companies have to turn all their data over to the authorities; Americans are hobbled because, while their state can always get the data from the tech companies that hoover it up, sometimes it has to jump through legal hoops to get it. The “hybrid approach” that is deemed necessary involves “meshing” the US government with the country’s tech companies. Now what might that imply? You only have to ask the question to know the answer. If American tech giants are finally recognised as strategic partners of the US government in the coming existential hegemonic struggle with China, then Washington’s enthusiasm for curbing said monopolies will rapidly decrease. Indeed, this may already be happening, if an inspection of the number of tech-company insiders who have been recruited by Biden is anything to go by. And the argument made to the US Congress by, among others, Mark Zuckerberg – that shackling US tech giants will guarantee Chinese hegemony – will once again find a ready audience in Washington. Reading the commission’s report brings with it a strange sense of deja vu. It reminds me of the moment in October 1957 when the Eisenhower administration discovered that the Soviet Union had successfully launched a satellite into orbit, thereby triggering a chronic outbreak of hegemonic anxiety in the US. That shock prompted the kind of massive reorientation and resource commitment that Eric Schmidt and his fellow commissioners are now calling for – and ultimately led to the creation of the Arpanet, the precursor of the internet we all use today. What’s worrying about that historical parallel is that the American response to the Sputnik challenge did not undermine its democracy – and in fact in the long run may have led to the eventual implosion of the Soviet regime. But if Schmidt and co have their way now, the US might be left as the hollowed-out shell of a republic facing a dominant and data-fuelled totalitarian China. The technological has been political for the past two decades; from now on it’ll be geopolitical. And either way democracy will be the loser.

#### [3] Tech leadership doesn’t enable Chinese expansionism

Emewu 20

(Ikenna, https://africachinapresscentre.org/2020/08/23/rise-of-chinese-ai-and-quantum-computing-threatens-american-military-tech-says-report-for-us-congress/)

“Superior military technology could make the PLA [People’s Liberation Army] an even more formidable foe for the US military. The current US strategy … is to rely on superior technological and qualitative advantage to compensate for quantitative inferiority. If China could achieve parity in the quality of its technology, this would make the PLA an even greater challenge to the US military,” Heath said. However, China’s advantages diminished the further from China’s shores the PLA operated, Heath said. “For most South China Sea scenarios, such as near the Spratly Islands, the PLA would probably be quickly and easily overwhelmed by an intervening US naval and air force if it operated from a carrier battle group or from the Philippines,” he said. Malcolm Davis, a senior analyst at the Australian Strategic Policy Institute, said the days of China lagging well behind the US in military technology were long gone. “In many areas they [China] are equivalent, and in some areas, they are surpassing the US, such as hypersonics, AI and quantum tech. They have established an extensive network of defence technology centres that feed the PLA’s capability development towards being an ‘informatised’ and ‘intelligentised’ military for the 21st century,” he said. While China might be in a disadvantageous position with conventional weapons, China could make up for this by out-producing items, especially in terms of naval capabilities, Davis said. “In quantitative terms, the PLA Navy is surging past the US Navy and fast closing the gap in many areas in qualitative terms,” said Davis, adding that given present circumstances, there was no guarantee that the US and its allies would emerge the winner in a conflict with China. Zhou Chenming, a Beijing based military expert, said technological advances in artificial intelligence and quantum computing did not necessarily need to be applied to the military sphere. “Research and development in these two areas can generate benefits to many other fields. AI can help process data in large amounts while quantum computing can make data safer. It’s narrow-minded to only focus on the benefits to military aspects,” said Zhou.

#### [4] Innovtion Turn---U.S. innovation preserves global leadership over China

Erbas 6/25 [Yunus Erbas, Research Assistant at Beyond the Horizon ISSG, GSI Consulting Newswatch Manager, Masters in Political Science – Comparative Politics, University of Bordeaux, Masters in Political Science – Diplomatic Negotiations Strategy. “China-U.S. Tech war: New Hegemony.” 6/25/21. https://behorizon.org/china-u-s-tech-war-new-hegemony/]

On 14 May 2021, China became the second country to have successfully landed a rover on Mars after its Zhurong spacecraft touched down on the surface of the red planet. Zhurong (祝融), carrying the name of the “god of fire” in ancient Chinese mythology, was the sixth rover to land on Mars, the first five managed by the American NASA Jet Propulsion Laboratory. Although registering as a great success for China, Zhurong received lesser global attention when compared to its American competitor, Perseverance. Yet, it heralds once again that China constantly gains more ground against competing with the U.S. even in cutting-edge technology alongside other sectors.

China is undisputedly becoming a technological superpower and is currently undergoing the fastest expansion in world history despite the recent pandemic crisis. One of the reasons behind the phenomenon is that innovation is at the top of the country’s priority list.

In the year 2017, Chinese President Xi Jinping set out clearly his vision at the 19th CPC National Congress for China to achieve global leadership in science and innovation by 2050. The government has been leading the way for years, and the country’s high-tech sectors are developing at a rapid pace. At the congress, President Xi envisioned China to become one of the world’s most innovative countries by 2020 and a leading global science and technology power by 2049. Surely, how much of those goals China can be achieved in prescribed time is a matter of debate. But in accordance with these objectives, it is evident that China prioritizes innovation in key generic technologies, cutting-edge frontier technologies, modern engineering technologies, and disruptive technologies.

In the terms of Sino-American relationship, the rigorous competition between two major powers has already expanded to numerous fields, from trade to the protection of cutting-edge technologies and the formation of regional strategies. Their development models are supported by different values and norms. The increased intertwining of geopolitics and technology reflects the underlying intensification of competition between China and the United States and exacerbates the direct competition between the two powers for control over the rules, norms, and institutions which will govern international relations of the new world order in the coming decades, including high-technological developments like artificial intelligence and 5G.

The political leaders of both countries are well aware that technological innovation is a strong source of national power. As a result, technology is now largely politicized and has become a more prominent element of great power rivalry.

There is no doubt that the U.S. is the technological superpower in the world. But China is trying hard to seize this title from it. It has grown very rapidly over the development and application of the critical high tech areas such as artificial intelligence, big data, robotics and 5G and likes and there are concerns about whether China would evolve into a new hegemonic superpower based on superiority in high-tech.

#### Tech antitrust cedes US leadership

Atkinson 7/5 [Robert D. Atkinson, president of the Information Technology and Innovation Foundation. "Antitrust Can Hurt U.S. Competitiveness." 7/5/21/. https://www.wsj.com/articles/antitrust-can-hurt-u-s-competitiveness-11625520340]

When it comes to technology and the economy, the U.S. is grappling with two contradictory goals: competing with China in advanced technology industries and ramping up antitrust enforcement against leading U.S. tech companies.

Antimonopoly advocates argue that we can have our cake and eat it too. Go ahead and break up big tech, they say; we can still compete with China. But there is a long history of U.S. antitrust actions against technology companies, and the results suggest regulators should exercise caution.

Consider the case of Western Electric, AT&T’s equipment subsidiary. By the early 1920s, it had factories in Austria, Belgium, Canada, China, Germany, France, Italy, Japan, the Netherlands, Russia and the U.K. But because AT&T relied on it exclusively for equipment, in 1925 the Justice Department threatened AT&T with breakup unless it divested Western Electric’s foreign assets, creating International Telephone & Telegraph and ultimately giving birth to robust foreign-owned competitors.

Antitrust regulators also pressured AT&T’s Bell Labs in the early 1950s to license its newly invented transistor technology. That spurred innovation because it helped emerging companies such as Texas Instruments and Fairchild. But because of government pressure, AT&T also licensed its technology, almost for free, to foreign companies. This eventually enabled Sony to take global leadership from the U.S. in consumer electronics, and it gave a major leg up to Europe’s Ericsson and Siemens.

The U.S. also used to be the global leader in television technology thanks to the Radio Corp. of America, the pathbreaker in color television. But in the 1950s the Justice Department required RCA to let other U.S. companies use its patents at no charge. RCA had long relied on licensing revenue, so it started making money where it could—in Japan. “RCA licenses made Japanese color television possible,” technology historian James Abegglen has written.

In 1972, the Federal Trade Commission brought a similar antitrust suit against Xerox, the world’s then-leading producer of copier technology thanks in part to its Silicon Valley-based innovation incubator Xerox PARC. Evidently unimpressed, the head of the FTC’s Bureau of Competition F.M. Scherer said he would be “dissatisfied if Xerox’s market share isn’t significantly diminished in several years.” To that end, the FTC forced Xerox to give up its blueprints and other discoveries, allowing an estimated 1,700 patents to make their way to Xerox competitors. Sure enough, Xerox lost half its market share—mostly to Japanese firms such as Canon, Toshiba and Sharp. Xerox’s only viable path to survival was to strengthen its alliance with Fuji, creating a new giant, Fuji Xerox.

Two years later in 1974, the Justice Department targeted AT&T again, forcing it to break up over the objections of Commerce Secretary Malcolm Baldridge that the suit jeopardized America’s leadership position. This was the death knell for Bell Labs, arguably the most innovative organization that has ever existed.

None of this is to say that antitrust authorities should be passive or turn a blind eye to anticompetitive behavior. But they should recognize that firms’ size can be an important factor in their ability to innovate. Rather than rely on market share as the alarm bell that signals the need for antitrust enforcement, regulators should focus more on firms’ conduct, and they should look first to behavioral remedies, not structural ones. Antitrust analysis should also consider that tech companies compete globally, not nationally, so cutting them down to size usually has significant economic consequences.

The Federal Communications Commission has provided a model for the behavioral approach by conducting a series of inquiries starting in 1970 to investigate the convergence of telephone and computing services and establish rules enabling competition among established and upstart players across sectors that are increasingly intertwined. U.S. courts also provided a model in judgments against Microsoft, which compelled it to let other companies more easily integrate their software into Windows.

As policy makers now consider competition issues related to today’s large technology firms, they would be well advised to learn from this history. With Chinese internet and tech companies waiting in the wings, aggressive antitrust actions against U.S. leaders run the risk of giving a new generation of foreign rivals the boost they need to dominate global markets, just as Japanese and European firms have benefited in the past.

#### Perceived shifts in balance of power escalate – miscalculation from both sides

Nye 21 [Joseph S. Nye, professor at Harvard University and author, most recently, of Do morals matter? Presidents and foreign policy from FDR to Trump. "The factors that could lead to war between the US and China." 3/3/21. https://www.aspistrategist.org.au/the-factors-that-could-lead-to-war-between-the-us-and-china/]

When China’s foreign minister, Wang Yi, recently called for a reset of bilateral relations with the United States, a White House spokesperson replied that the US saw the relationship as one of strong competition that required a position of strength. It’s clear that President Joe Biden’s administration is not simply reversing Donald Trump’s policies.

Some analysts, citing Thucydides’ attribution of the Peloponnesian War to Sparta’s fear of a rising Athens, believe the US–China relationship is entering a period of conflict pitting an established hegemon against an increasingly powerful challenger.

I am not that pessimistic. In my view, economic and ecological interdependence reduces the probability of a real cold war, much less a hot one, because both countries have an incentive to cooperate in a number of areas. At the same time, miscalculation is always possible and some see the danger of ‘sleepwalking’ into catastrophe, as happened with World War I.

History is replete with cases of misperception about changing power balances. For example, when US President Richard Nixon visited China in 1972, he wanted to balance what he saw as a growing Soviet threat to a declining America. But what Nixon interpreted as decline was really the return to normal of America’s artificially high share of global output after World War II.

Nixon proclaimed multipolarity, but what followed was the end of the Soviet Union and America’s unipolar moment two decades later. Today, some Chinese analysts underestimate America’s resilience and predict Chinese dominance but this, too, could turn out to be a dangerous miscalculation.

It is equally dangerous for Americans to over- or underestimate Chinese power, and the US contains groups with economic and political incentives to do both. Measured in dollars, China’s economy is about two-thirds the size of that of the US, but many economists expect China to surpass the US sometime in the 2030s, depending on what one assumes about Chinese and American growth rates.

Will American leaders acknowledge this change in a way that permits a constructive relationship, or will they succumb to fear? Will Chinese leaders take more risks, or will Chinese and Americans learn to cooperate in producing global public goods under a changing distribution of power?

Recall that Thucydides attributed the war that ripped apart the ancient Greek world to two causes: the rise of a new power and the fear that this created in the established power. The second cause is as important as the first. The US and China must avoid exaggerated fears that could create a new cold or hot war.

Even if China surpasses the US to become the world’s largest economy, national income is not the only measure of geopolitical power. China ranks well behind the US in soft power and US military expenditure is nearly four times that of China. While Chinese military capabilities have been increasing in recent years, analysts who look carefully at the military balance conclude that China will not, say, be able to exclude the US from the Western Pacific.

On the other hand, the US was once the world’s largest trading economy and its largest bilateral lender. Today, nearly 100 countries count China as their largest trading partner, compared to 57 for the US. China plans to lend more than US$1 trillion for infrastructure projects with its Belt and Road Initiative over the next decade, while the US has cut back aid. China will gain economic power from the sheer size of its market as well as its overseas investments and development assistance. China’s overall power relative to the US is likely to increase.

Nonetheless, balances of power are hard to judge. The US will retain some long-term power advantages that contrast with areas of Chinese vulnerability.

One is geography. The US is surrounded by oceans and neighbours that are likely to remain friendly. China has borders with 14 countries, and territorial disputes with India, Japan and Vietnam set limits on its hard and soft power.

Energy is another area where America has an advantage. A decade ago, the US was dependent on imported energy, but the shale revolution transformed North America from energy importer to exporter. At the same time, China became more dependent on energy imports from the Middle East, which it must transport along sea routes that highlight its problematic relations with India and other countries.

The US also has demographic advantages. It is the only major developed country that is projected to hold its global ranking (third) in terms of population. While the rate of US population growth has slowed in recent years, it will not turn negative, as in Russia, Europe, and Japan. China, meanwhile, rightly fears ‘growing old before it grows rich.’ China’s labour force peaked in 2015 and India will soon overtake it as the world’s most populous country.

America also remains at the forefront in key technologies (bio, nano and information) that are central to 21st-century economic growth. China is investing heavily in research and development, and competes well in some fields. But 15 of the world’s top 20 research universities are in the US; none is in China.

Those who proclaim Pax Sinica and American decline fail to take account of the full range of power resources. American hubris is always a danger but so is exaggerated fear, which can lead to overreaction. Equally dangerous is rising Chinese nationalism, which, combined with a belief in American decline, leads China to take greater risks. Both sides must beware of miscalculation. After all, more often than not, the greatest risk we face is our own capacity for error.

### Democracy Advantage

#### [1] Bots arg is junk—made-up and self fulfilling

Elder 18 (Miriam Elder is a political reporter for BuzzFeed News and is based in New York. Charlie Warzel is a Senior Technology Writer for BuzzFeed News and is based in Missoula, Montana. 2-28-2018, accessed on 8-22-2021, BuzzFeed News, "Stop Blaming Russian Bots For Everything", https://www.buzzfeednews.com/article/miriamelder/stop-blaming-russian-bots-for-everything)

By now you know the drill: massive news event happens, journalists scramble to figure out what’s going on, and within a couple hours the culprit is found — Russian bots.

Russian bots were blamed for driving attention to the Nunes memo, a Republican-authored document on the Trump-Russia probe. They were blamed for pushing for Roy Moore to win in Alabama’s special election. And here they are wading into the gun debate following the Parkland shooting. “[T]he messages from these automated accounts, or bots, were designed to widen the divide and make compromise even more difficult,” wrote the New York Times in a story following the shooting, citing little more than “Twitter accounts suspected of having links to Russia.”

This is, not to mince words, total bullshit.

The thing is, nearly every time you see a story blaming Russian bots for something, you can be pretty sure that the story can be traced back to a single source: the Hamilton 68 dashboard, founded by a group of respected researchers, including Clint Watts and JM Berger, and currently run under the auspices of the German Marshall Fund.

But even some of the people who popularized that metric now acknowledge it’s become totally overblown.

“I’m not convinced on this bot thing,” said Watts, the cofounder of a project that is widely cited as the main, if not only, source of information on Russian bots. He also called the narrative “overdone.”

The dashboard monitors 600 Twitter accounts “linked to Russian influence efforts online,” according to its own description, which means the accounts are not all directly traced back to Kremlin efforts, or even necessarily to Russia. “They are not all in Russia,” Watts said during a phone interview last week. “We don’t even think they’re all commanded in Russia — at all. We think some of them are legitimately passionate people that are just really into promoting Russia.” So, not bots.

We’ll likely never know the contents of the list for sure — because the researchers decline to divulge the identity of who they are monitoring. (The reasons they give for secrecy include worries that the accounts would then change their behavior and concerns over identifying accounts that are not, in fact, linked to Russian influence efforts, aka making a mistake.)

So that’s strike one: In what other world would we rely on a single source tool of anonymous provenance?

And then there’s strike two. Let’s say, despite that, you still really want to put your faith in those conclusions about Russian influence. Why would you do that? Twitter is actually clogged with bots — and has been for years — so taking a major vulnerability of the platform and using it to tidily explain something murky and complicated is appealing. Add to that the fact that Russia really did run an operation to meddle in the US election, hacking the DNC, running real propaganda campaigns, and deploying trolls to mess with the discourse. The discourse at times seems like an attempt to keep the attention on Russia, more than anything else. Everyone seems to want to believe that Russian trolls are ruling the internet.

And here we get to strike three. One of the hardest things to do — either with the accounts “linked to Russian influence efforts online,” whatever that means, or with the Internet Research Agency trolls who spent many months boosting Donald Trump and denigrating Hillary Clinton — is to measure how effective they really were. Did Russian troll efforts influence any votes? How do we even qualify or quantify that? Did tweets from “influencers” actually affect the gun debate in the United States, already so toxic and partisan before “bot” was a household word?

Even Watts thinks the “blame the bots” shtick has gotten out of control. “It’s somewhat frustrating because sometimes we have people make claims about it or whatever — we’re like, that’s not what it says, go back and look at it,” Watts said. “There are certain times when it does give you great insights, but it’s not a one-time, I look at it for five seconds and write a newspaper article and then that’s it. That doesn’t give you any context about it.”

Jumping to blame the bots is something that’s not just happening in newsrooms around the country, but in government offices around the world. Watts recalled hearing from a couple of Senate staffers half a year ago “that were jumping off a cliff” because of something they saw on the dashboard. “It’s like — whoa, whoa, whoa,” he said, “do you understand what you’re looking at?” Apparently not.

#### [2] Social media not bad—not unique, increases diverse info, and news checks

Brandslet 21 (Steinar Brandslet is an author at Norwegian SciTech News, 6-3-2021, accessed on 8-22-2021, Norwegian SciTech News, "Social media's echo chambers not such a big problem", https://norwegianscitechnews.com/2021/06/social-media-less-impactful-than-feared/)

Social media gets most of the blame for the apparent flourishing of conspiracy theories and people with extreme attitudes. The way social media is structured can make it difficult for opposing perspectives to find their way to users, resulting in what are called “echo chambers.”

The theory is that you are more likely to hear like-minded narratives because other users in the same echo chamber agree with your opinions. These other users produce the so-called “echoes” in the chamber.

But it turns out that social media may not be as much to blame as many people think.

Contributes to diverse information, too

“The vast majority of people don’t live in echo chambers, but are exposed to pretty diverse information, including – and often especially – on social media. For example, it often happens that friends share surprising information that we wouldn’t otherwise have found. In those cases the information diversity on social media can be even greater than from other sources,” says Melanie Magin, an associate professor in NTNU’s Department of Sociology and Political Science.

It turns out that social media may not be as much to blame as many people think.

A new study was conducted by people from NTNU and Johannes Gutenberg-Universität Mainz in Germany and recently published in Digital Journalism.

The research group focused in particular on the large influx of refugees in Germany a few years ago and people’s attitudes to it. Over one million refugees entered the country in the years 2015-2016.

“We looked at who tended to showcase and share their views on the ‘refugee crisis.’ The individuals who most actively share their opinions are those who follow more political information. The engaging effect of social media doesn’t differ significantly from the effect of traditional news media, search engines or personal conversations,” says Stefan Geiß at NTNU’s Department of Sociology and Political Science.

News media still important

Both truth and lies spread much faster than before, due in part to social media. Sometimes telling the difference between real and fake news can be difficult. That’s why it’s a good idea to get information from several sources.

Traditional media are still important for obtaining information.

“The news media are really important in offering most people access to credible and diverse information,” Magin says.

Previous research may have exaggerated the influence of echo chambers, perhaps because it didn’t adequately take into account that people don’t only seek out social media but also other more traditional media, such as television, radio and serious online news media.

“Just like with social media content, most people use traditional media selectively to match their political views: which media they prefer, what news they read and the information they remember. This general pattern may be stronger and more visible in social media. But what we see are more graduated differences, not a completely different world,” says Geiß.

How echo chambers work

Echo chambers in social media arise due to the way the media are often structured. What you the user are interested in affects what you see more of later. The social media algorithms learn from users’ behaviour what they are interested in.

If you like posts that say no to vaccines or surf the web for that kind of information, you’ll get a more of those posts. The same with people who believe that the earth is flat, that the moon landings never took place or that the Democrats stole the election in the United States.

“Everyone’s exposed to this to a certain extent. But what we signal to the social media algorithms with our behaviour is the most important. A lot of people are actually interested becoming informed on lots of different topics and about opposing perspectives. They click on a wide range of content on social media. Then the algorithms learn that those users are interested in diversity, so users subsequently receive even more diverse information on social media. This approach can bring about the opposite of an echo chamber,” says Magin.

This often applies especially to people who are interested in politics.

Few people use only social media

“Our data show that only a few people exclusively use social media to become informed about politics: The more a person uses social media for political information, the greater the chance that the same person uses other news media too,” says Geiß.

Most of the news media in Germany were positive about the refugees who arrived. This dominance was not necessarily reflected in the debates and posts on social media, but the information from the traditional media could contribute to a balance.

#### [3] Antitrust doesn’t solve inequality

Crane 16 – Daniel Crane, Associate Dean for Faculty and Research and Frederick Paul Furth, Sr. Professor of Law, University of Michigan, “Antitrust and Wealth Inequality,” *Cornell Law Review*, Volume 101, Number 5, 2016, pp. 1171-1228

Amid this broad debate, a particular claim has emerged regarding the relationship between market competition and inequality. A wide array of scholars and public intellectuals, including such notable figures as Nobel Laureates Joseph Stiglitz4 and Paul Krugman5 and former Labor Secretary Robert Reich,6 among others, have claimed that monopoly and anticompetitive market conditions are among the root causes of wealth inequality.7 Some of these commentators blame the rising tide of wealth inequality on a weak record of antitrust enforcement in the United States.8 All seem to propose that enhancing antitrust enforcement against mergers, monopolies, and anticompetitive agreements could contribute to creating a more equal society.

This Article challenges this emerging monopoly regressivity claim in two ways. First, it shows that the relationship between enforcement of the antitrust laws and wealth inequality is far more complex than monopoly regressivity critics recognize. The relationship between market power (the subject of antitrust law) and income distribution is subtle, circumstantially contingent, and, at least for a developed economy, extremely difficult to generalize. Whatever their other faults, it is far from certain that antitrust violations (including cartels, anticompetitive mergers, and abuses of dominance) systematically redirect wealth from the poor to the rich. To sustain a showing that they do, one would need information about a large number of factors, including the relative wealth of producers and consumers, overcharge pass-on rates, the effects of market power on employees of the firm, the distribution of rents between managers and shareholders, the progressive or regressive effects of antitrust violations where government entities are the purchasers, and the distribution of rents among classes of managers. Although there are undoubtedly cases where antitrust violations have regressive effects, there are also undoubtedly many cases where their effects are progressive or distributively neutral. It is virtually impossible to calculate the net effect on wealth distribution from general increases or decreases in overall antitrust enforcement.

The second response this Article makes to the monopoly regressivity claim is that a significant set of antitrust interventions actually impede voluntary efforts to secure a more equitable and just society.

In a set of important cases, application of conventional antitrust principles frustrated private actors seeking to promote social justice by diverting market forces from their ordinary paths.9 Hence, an undifferentiated increase in antitrust enforcement could, in many instances, exacerbate rather than diminish inequality and related forms of social justice.

To motivate this angle, consider some glimpses of the kinds of cases in which antitrust has posed an obstacle to private actors pursuing wealth redistribution goals. Examples include an antitrust challenge to an agreement by the Ivy League universities on a financial aid system designed to increase educational diversity;10 antitrust concerns preventing garment manufacturers in the United States from joining forces to pressure foreign suppliers to conform to minimal labor and employment standards;11 and antitrust challenges to National Collegiate Athletic Association (NCAA) rules prohibiting its members from paying student athletes, which could disrupt the cross subsidization of women’s athletic programs and other less popular sporting programs.12 In each of these cases, discussed in greater detail below, there is a plausible argument that application of unqualified antitrust principles would increase the welfare of consumers but also impair the ability of private actors to pursue solutions to serious equality problems.

In tandem, these twin objections throw a wrench into the growing progressive claim that more antitrust enforcement would lead to a more just distribution of wealth. Not only could an undifferentiated increase in antitrust enforcement exacerbate wealth inequality in various ways but it could also impede private, voluntary pursuit of related social justice objectives.

Thus far, this introduction has considered the effect of an undifferentiated increase in antitrust enforcement—actions to augment and strengthen enforcement as a general matter, such as by providing more funding to the antitrust agencies, liberalizing rules for private enforcement, increasing fines and penalties, or adopting rules making antitrust claims easier to win. Changes in the level of antitrust enforcement have no clear effect on the regressivity or progressivity of wealth distribution and social justice more generally, but one could try to tailor antitrust policy to maximize wealth redistribution and social justice in particular cases. Although it might sometimes be prudent as a matter of prosecutorial discretion to prioritize resource allocation in the direction of fighting antitrust violations with highly regressive effects, it would be a mistake to recalibrate antitrust doctrine in an effort to combat wealth inequality. Even putting aside the likely deleterious effects on productive and allocative efficiency such doctrinal shifts might entail, it is impossible to craft a distributively-oriented body of antitrust law that would reliably increase wealth equality by clamping down on regressive forms of market power exploitation.

#### [4] Monopolies decrease inequality – they provide a monopoly wage premium

Crane 16 – Daniel Crane, Associate Dean for Faculty and Research and Frederick Paul Furth, Sr. Professor of Law, University of Michigan, “Antitrust and Wealth Inequality,” *Cornell Law Review*, Volume 101, Number 5, 2016, pp. 1171-1228

Contrary to the assumption that shareholders and senior managers are capturing virtually all of the monopoly rents obtained by corporations, the evidence suggests that a significant amount of rent sharing occurs within the firm. As Mark Roe has noted, “[e]mployees of monopoly firms can, and do, ally with capital to split the rents, to facilitate constricting production and raising price, and to seek barriers to competitive entry.” 84 Empirical evidence shows that nonunion employees see higher wages as the market concentration of their industry increases and also that higher seller concentration leads to stronger unionization, which in turn leads to higher wages.85 The monopoly labor wage premium has been observed across a variety of industries.86 For present purposes, the monopoly labor wage premium is important because it suggests the ability of blue-collar workers to extract significant monopoly rents from their employers, thus counterbalancing any regressive effects from shareholder or senior management rent extraction.87

Consistent with the evidence that increases in market power yield higher wages for blue-collar employees, there is evidence of labor union support for large corporate mergers that raise serious competitive issues. For example, the Communication Workers of America came out in favor of the AT&T and T-Mobile merger that the Federal Communications Commission and the Justice Department both opposed, and that AT&T and Deutsche Telekom, T-Mobile’s parent corporation, ultimately withdrew from.88 An editorial published in the Huffington Post explained that progressives should support the proposed merger “[b]ecause AT&T is the ONLY unionized wireless company in the country and the merger would ensure that 20,000+ T-Mobile workers would have the chance to join the 43,000 currently unionized AT&T Mobility employees with decent wages and legal protections on the job.”89 Similarly, the three airline employee unions supported American Airlines’ questionable merger with US Airways, believing that employees would fare better in the combined company.90

A related point concerns the differentiating effects among different classes of workers from increases in product market competition. Such competition may increase wage inequality by shifting demand in favor of skilled labor at the expense of unskilled labor, with the effect that a wage gap grows between skilled and unskilled labor.91 Such instances of income stratification have ambiguous effects on the overall distribution of wealth but would likely be regressive on net since they would shift down the average salaries of workers at the lowest end of the income distribution.

The progressive effects of market power–enhancing mergers may go beyond the financially quantifiable and spill outside the boundaries of the firm. Civil rights organizations have supported controversial mergers, arguing that the combined firm would cater better to the needs of minorities. For example, the Reverend Al Sharpton played a leading role in supporting the Comcast and NBC Universal merger, arguing that the deal would enhance racial diversity in broadcasting.92 The NAACP supported the AT&T and T-Mobile merger, arguing that AT&T had been a progressive corporate citizen that would bring a better culture to T-Mobile’s employment conditions and contracting practices.93 It also supported the Sirius and XM merger, which resulted in a monopoly in satellite radio.94 Other civil rights organizations have similarly weighed in favor of mergers ultimately challenged on antitrust grounds.95

At a minimum, the monopoly labor wage premium and evidence of union and civil rights organization support for competitively controversial corporate mergers should call into question the progressive argument that stronger merger enforcement would advance progressive wealth redistribution. Many interests within and without the firm have an opportunity to extract monopoly rents or otherwise benefit from business reorganizations that contribute to the creation of market power.

# 2NC---Dartmouth LV---Harvard Round 3

## States CP

### 2NC---AT: 50 State Fiats

#### Literature – states vs. the fed is the core controversy.

Arteaga & Ludwig ’21 [Juan; 1/28/21; Partner @ Crowell & Moring LLP, JD @ Columbia; and Jordan; Partner @ Crowell & Moring LLP, JD @ Loyola Law School, Los Angeles; “The Role of US State Antitrust Enforcement,” *Global Competition Review*; https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement; AS]

Given that companies will increasingly have to engage with state attorneys general in a meaningful manner with respect to antitrust matters, this chapter discusses key issues related to state antitrust enforcement in the United States. Specifically, this chapter discusses:

* the federal and state antitrust laws under which state enforcers operate;
* the processes through which state enforcers coordinate with each other and their federal counterparts;
* the opportunity for coordination and conflict between state enforcers and private counsel during litigation;
* strategic and practical considerations when engaging with state attorneys general; and
* certain noteworthy enforcement actions that state enforcers have recently prosecuted.

### 2NC---AT: Corporations Circumvention

#### Companies can’t circumvent – laws target economic activity and apply across state borders.

Rauch ’20 [Daniel; JD @ Yale Law School; “Sherman's Missing Supplement: Prosecutorial Capacity, Agency Incentives, and the False Dawn of Antitrust Federalism”; *Cleveland State Law Review* 68(2), p. 172-216; AS]

B. Practical Efficacy of State Prosecutions?

Shifting away from doctrine, a second set of arguments is even if state antitrust litigation would have been legally viable, it would not, as a practical matter, be effective in breaking up the trusts. This argument takes several forms.

First, following early state successes using common-law quo warranto theories, various companies restructured their forms to immunize themselves from such litigation.98 On this logic, some argue that state prosecutions would simply not be effective, since corporations could simply shift their form to avoid state jurisdiction.

Of course, the original form of quo warranto suits brought against entities like New York's Sugar Trust affiliate 99 were probably rendered non-viable by changes in corporate structure."oo Yet, the new forms of antitrust enforcement embodied by the state statutes, enforcement that looked not to corporate form but to economic activity, proved effective against even the most complex and sophisticated trusts of the age,101 often yielding substantial penalties. 1 02

A variant on this argument is the claim that even if states did have power to regulate their internal economies, this power would not be efficacious given the interstate nature of the major trusts. As noted previously, however, state economic regulatory power during this time was generally given a wide berth, extending even to entities that were based well outside the state. And, notwithstanding the expansion in the size and scope of businesses, a substantial amount of economic activity unfolded within state borders, and so would be well within the state's reach even under this theory. Indeed, as late as the 1960's, most antitrust violations the Department of Justice prosecuted unfolded within a single state's jurisdiction.1 0 3 Seventy years before, in an era of "relatively insignificant commercial intercourse between the states,"10 4 this concentration would only have been more pronounced.

A final efficacy argument concerns the fear that antitrust enforcement, far from being too weak, was in fact too strong, and so risked scaring away businesses from the state. According to this argument, state antitrust enforcement failed because prosecutors were chary of driving large economic entities out of business or out of the community.'os

While initially intuitive, this argument from business concerns faces several serious flaws. As a matter of political economy, much of the agitation for antitrust law, and many of the most potent political interest groups in states, were incumbent local business owners who feared national entrants. 1 0 6 Given this influence, it seems odd to assert that a prosecutor or governor's incentives would be to avoid antitrust enforcement to keep big businesses in-state. If anything, one would expect the opposite: that causing the exit of large out-of-state competitors would be viewed as a political victory. 107

Moreover, as a matter of economics, vigorous antitrust enforcement, far from driving businesses away, would actually create superior competitive and economic conditions, and would arguably create more economic activity in the long run.10 s Last, the argument that state enforcement lagged due to fears of driving away business seems to presuppose that, if found liable, companies would be either ousted from the state or would leave voluntarily. Yet it is far from clear that this happened. To the contrary (and to the dismay of some prosecutors) courts seldom ordered complete ousters, but instead ordered massive fines against companies, suggesting that, at least in large measure, states that vigorously enforced antitrust could "have their cake and eat it too." 1 09

### 2NC---AT: Overdeterrence

#### No impact to overdeterrence.

HLR ’20 [Harvard Law Review; “Antitrust Federalism, Preemption, and Judge-Made Law,” *Harvard Law Review* 133(8), p. 2557-2578; AS]

Like the patchwork regime critique, the overdeterrence critique is weakened if the federal regime has failed to achieve proper balancing. Many antitrust regimes around the globe adopt different balances than the United States does. The European Union, for example, differs from the United States on remedial structure, the standard for illegal unilateral conduct, and market definition, among other issues. 68 Moreover, many scholars argue that the U.S. antitrust balance is off and that more enforcement is needed.6 9 Even if U.S. antitrust policies are getting the balance generally right, it is unlikely that the federal regime is so finely tuned that any added deterrence will destroy the balance.

#### Overdeterrence is good – weak federal enforcement emboldens companies now

HLR 20 [Harvard Law Review, "Antitrust Federalism, Preemption, and Judge-Made Law", 6/10/20, https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/]

Third, critics argue that a multilevel antitrust regime threatens to overdeter procompetitive conduct. The policy behind much of preemption is to prevent state law from interfering with detailed, well-balanced federal regulation: obstacle preemption exists to prevent states from “stand[ing] as . . . obstacle[s] to the accomplishment and execution of the full purposes and objectives of Congress,” and field preemption exists to prevent state interference where Congress “left no room for lower-level regulation.” Although it is not field or obstacle preempted, antitrust law exhibits the type of detailed regulatory balance that the preemption doctrines attempt to prevent states from damaging. Much of antitrust law is built on finding the perfect balance of standards and remedies: the law must properly deter anticompetitive acts without deterring healthy competition. A state law that shifts remedies or standards can upset this careful balancing, thus overdeterring desirable private action.

Critics can point directly to ARC America as evidence of this overdeterrence threat. The Court’s decision in Illinois Brick, which limited suits by indirect purchasers, relied in large part on a belief that concentrating suits in direct purchasers would avoid overdeterrence. By allowing for additional suits, ARC America created extra deterrence not envisioned by the federal antitrust scheme.

Like the patchwork regime critique, the overdeterrence critique is weakened if the federal regime has failed to achieve proper balancing. Many antitrust regimes around the globe adopt different balances than the United States does. The European Union, for example, differs from the United States on remedial structure, the standard for illegal unilateral conduct, and market definition, among other issues. Moreover, many scholars argue that the U.S. antitrust balance is off and that more enforcement is needed. Even if U.S. antitrust policies are getting the balance generally right, it is unlikely that the federal regime is so finely tuned that any added deterrence will destroy the balance.

### 2NC---AT: Uniformity

#### No uniformity deficits – multistate task forces solve.

Arteaga & Ludwig ’21 [Juan; 1/28/21; Partner @ Crowell & Moring LLP, JD @ Columbia; and Jordan; Partner @ Crowell & Moring LLP, JD @ Loyola Law School, Los Angeles; “The Role of US State Antitrust Enforcement,” *Global Competition Review*; https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement; AS]

Coordination among state antitrust enforcers

State attorneys general often coordinate their investigation and prosecution of antitrust matters with their counterparts in other states. To help ensure that these coordinated efforts are conducted in an efficient and effective manner, the NAAG has created an Antitrust Committee, which ‘is responsible for all matters relating to antitrust policy’. This committee is comprised of five state attorneys general and is responsible for promoting effective state antitrust enforcement by developing the NAAG’s antitrust policy positions and by facilitating communications among state enforcers regarding investigations, litigation, legislative matters and competition advocacy initiatives, among other things.

In 1983, the NAAG established a Multistate Antitrust Task Force that is ‘comprised of state staff attorneys responsible for antitrust enforcement in their states’. This task force ‘recommends policy and other matters for consideration by the Antitrust Committee, organizes training seminars and conferences, and coordinates multistate investigations and litigation’. The task force is chaired by a person appointed by the head of the NAAG’s Antitrust Committee and has a representative from each NAAG member state. The chair of the task force serves as ‘the principal spokesperson for the states on antitrust enforcement’.

The NAAG’s Multistate Antitrust Task Force does not handle actual investigations or litigation. Instead, such coordination usually occurs through working groups established by the states involved in an investigation or litigation. In most multistate investigations, the working group will designate a state responsible for leading the investigation. The lead state is often a state that has the most relevant experience and can dedicate the appropriate level of resources to the investigation, and has a sufficient interest in ensuring that the investigation is handled in an effective and efficient manner (i.e., the transaction or business practice in question could potentially impact a significant number of consumers or commerce within its state). (If an investigation is sufficiently large or complex, such as a mega-merger involving numerous markets, the states may create an executive committee that oversees the working group as well as designate multiple lead states.)

#### Collective action solves uniformity issues.

Grosso ’21 [Jacob; JD Candidate @ University of Richmond School of Law; “The Preemption of Collective State Antitrust Enforcement in Telecommunications,” *University of Richmond Law Review* 55(2), p. 615-656; AS]

II. PRIOR DIVERGENCES BETWEEN STATE AND FEDERAL ENFORCERS

Despite the recent significant overlap between state and federal enforcement actions, the two levels of government generally have different areas of expertise for antitrust. The current antitrust system is multilayered with different domains, enforcement abilities, and motives. The degree of federal enforcement has risen and fallen based upon different executive administrative goals. 144 Recent state action reflects the established trend of state involvement increasing in times of more lax federal enforcement.145

State and federal enforcers vary in organization and purpose. The primary federal antitrust enforcers, the DOJ and FTC, generally divide sectors of the economy based on their enforcement history. The DOJ is a federal law enforcement agency with a greater range of remedies than is enjoyed by the FTC, including criminal prosecution. 146 The FTC is a bipartisan group with the dual missions of promoting competition and protecting consumers, and may target more extensive ranges of behavior by enforcing the Federal Trade Commission Act against "unfair competition." 14 7 The states' domain is consumer protection of their citizens. States are not limited to suing under federal law and may bring actions available to them under their respective state's law. 148 Even with application of the same law, there are many different logistical considerations, such as limited staff and resources devoted to antitrust. These logistical difficulties cause most multistate actions to be led by larger states, with smaller states only contributing their limited sized antitrust sections as support.149 Another significant difference between the enforcers is that state enforcers are generally elected officials while federal enforcers are appointed officials. 150 As elected officials, States' Attorneys General are representing their constituents and will enforce antitrust in a manner that best benefits those constituents.

State action is continuing to rise, with collective action becoming a cemented enforcement strategy. 151 The National Association of Attorneys General ("NAAG") serves to help organize disparate state enforcers and gives them a forum to discuss enforcement policies and cooperation. 15 2 The NAAG emulates a federal agency in geographic breadth of enforcement but is comprised of individual states and their elected officials (the States' Attorneys General).1 53 It achieves its influence through standing committees and task forces, including its Multistate Antitrust Task Force. 154

## CASE

### Innovation Advantage

#### Breakups don’t increase competition.

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

Proponents of breaking up Big Tech view a breakup as a panacea that would solve the ills of competition and data privacy on the internet. But even if these companies were broken up, there are no certainties that it would level the playing field of the market. In a study conducted by scholars Robert Crandall and Clifford Winston, the authors found no evidence that antitrust policy in the areas of monopolization, collusion, and mergers has provided much benefit to consumers. 1 30 In some cases, the authors found evidence that it may have lowered consumer welfare." 1 3 1 Further, the authors observed that breaking up large corporations, may be politically popular, but "neither policymakers nor economists have yet to offer compelling evidence of marked consumer gains from antitrust policy toward monopolization." 132 Splitting up these companies into smaller pieces may lower the amount of research and development, and thus delay innovations from occurring. There is also the possibility that breaking up Big Tech will lead one of remnants to become even larger. Southwestern Bell emerged from the AT&T breakup to buy out the regional Bells and the post-breakup AT&T. The "new" AT&T has become a telecommunications behemoth and some commentators believe the "new" AT&T is even more powerful than its previous iteration.1 3 3 Punishing those in a hypercompetitive market that is constantly in flux, may not have the effect of leveling the playing field that antitrust proponents expect.

Breaking up these companies into smaller corporations would create businesses with less capital than the current internet companies. It is unquestionable that these large companies have the necessary capital to fund research in ways that smaller internet companies do not.134 Breaking up the tech giants would create smaller companies with smaller capital that would not have enough capital to commit to research that benefits consumers. Research and development in fields like cloud computing and data security will create benefits to consumers and society at large. Only through their large size and profits are these companies able to fund the innovations that will rewrite the future and benefit consumers.

#### Platforms compete with each other and privileging their own commerce increases innovation, small firms cant catch up

Portuese ’20 [Aurelien; Director of Antitrust and Innovation Policy @ ITIF, Adjunct Professor of Law @ Global Antitrust Institute of George Mason University, Doctor in Law @ University of Paris II; “Beyond antitrust populism: Towards robust antitrust”; *Economic Affairs* 40(2), p. 237-258; AS]

The prevailing idea behind break-ups of big tech companies, beyond sheer diminution of size, is the perceived need for big tech companies to behave ‘neutrally’ towards downstream actors and competitors (Khan, 2017, p. 28). Digital platforms should remain platforms – an unprecedented way to minimise transaction costs with greater match of demand and supply – without entering the realm of selling products or providing other services otherwise provided by competitors. The European Commission notably illustrates this implicit requirement of neutrality, embedded within the legal requirement of absence of any discrimination, with the Google Shopping decision (European Commission, 2017).

In Google Shopping, the remedy was not so much a break-up (although some commentators hinted at it) but the surreptitious concept of “search neutrality” (Portuese, 2017; 2018). After network neutrality and after net neutrality, the rising notion of search neutrality implies that search results should be listed in a non-discriminatory manner by Google's algorithms. Updated on a weekly basis, Google's algorithms should nevertheless ensure that Google Shopping results and third-party results are listed without discrimination in a fair and equitable manner. Ignoring the competition exerted by Amazon, and not requiring equally neutral search results on Amazon's platform, the European Commission has erred in assessing the driving force of the development of Google Shopping, which is to compete with Amazon on an equal footing with the understandable bias each algorithm displays towards the firm's own products and against competitors' products. Equivalent to prominent placements in end-aisles of supermarkets by the supermarkets' own brands, prominent placements in search results enable Google to innovate in both the products displayed and the display itself. The prohibition of such biased algorithmic ordering of search results means that the regulator has the duty to oversee the neutrality of algorithmic orderings, thereby overseeing the neutrality of the algorithmic design. Given the regular updates of Google's algorithms, and given the pace of innovation and change in such disruptive markets, compliance with the Google Shopping decision would require intense scrutiny by the European Commission into the weekly working of Google's core asset, namely its algorithms.

As illustrative as it can be, the Google Shopping decision and the compliance with it demonstrate both the war the Neo-Brandeisians are conducting on big tech companies and the associated increase in the role of government in regulating these companies. It is conducive to a shift from big tech companies towards big government whereby algorithmic governability, algorithmic governance, and algorithmic transparency are new regulatory concepts enabling governments to regulate these companies as public utilities. Antitrust populists argue that they should be regulated as public utilities because of their size. But, quite apart from the risks of regulatory capture and induced entrenchment of these firms as dominant companies, where is the notion of the indispensability of these companies?

Big tech companies may be regulated as public utilities21 only if they are to be considered as natural monopolies. But, as big tech companies are neither natural nor monopolies, governments unnecessarily run the risk of creating regulatory costs (regulatory capture and transaction costs) without demonstrating the benefits of such actions. In other words, based on historical failures to break up companies and on unproven benefits of breaking up tech companies, the structural remedies suggested by Neo-Brandeisians are inappropriate both in their strong version (break-ups) and in their light version (public utilities management). Such potential micromanagement of firms by governments would induce intrusions in dynamic sectors of our economy at the expense of innovation, market incentives, and market performance.

The basic tenets of antitrust populism can and should be debunked not only because of the absence of clear benefits flowing from the proposed reforms, but also because of the flawed conceptual analysis these reforms rest on. In an age of digital disruption, where the quest for innovation should be at the forefront of the minds not only of entrepreneurs but also of regulators, there is no need for a revived antitrust populism; on the contrary, there is a need for an innovation-based antitrust grounded in economic analysis using the consumer welfare standard (Kerber, 2017). We need to move beyond antitrust populism. We need to embrace a robust antitrust enforcement.

#### Rulemaking is more uncertain than adjudication.

Miller & Mitchell ’21 [Tracy; Senior Policy Research Editor @ Mercatus Center, Former Professor of Economics @ Grove City College, PhD in Economics @ UChicago; and Trace; Research Associate @ Mercatus Center, JD @ George Mason University; 1/27/21; “Dynamic Competition in Digital Markets: A Critical Analysis of the House Judiciary Committee’s Antitrust Report”; https://www.mercatus.org/publications/antitrust-and-competition-policy/dynamic-competition-digital-markets-critical-analysis; AS]

Problems with the Report’s Call for a Broader Antitrust Standard

Although the welfare standard provides antitrust law with a coherent interpretation, reverting to the pursuit of several vague normative goals risks making antitrust enforcement convoluted and problematic. Antitrust proceedings are costly, often lasting for years, requiring firms to produce millions of documents, and compounding attorney’s fees. Remedies imposed for violating the law impair a defendant’s ability to adapt to changing market conditions. By creating a “vague and malleable regulatory regime” with few if any limiting principles to constrain the power of the US Department of Justice and the Federal Trade Commission (FTC), the door would be opened for antitrust to be used to benefit special interests rather than consumers. Before the late 1970s, when courts placed few constraints on how antitrust laws could be applied, antitrust agencies pursued “vaguely articulated socio-political goals,” particularly protecting small firms from competition by larger rivals. Regulators and enforcers often demonized wide categories of behavior without analyzing their actual impact on the competitive process. Pursuing broader goals has the potential to chill a wide range of business practices that actually benefit consumers.

By completely prohibiting broad categories of behavior, bright-line rules greatly inhibit the dynamic private initiative that has brought about innovation and improvements to consumer welfare.

#### Platforms won’t abuse dominance because it drives away parties on both sides

Friso Bostoen 19, Ph.D. researcher, Institute for Consumer, Competition & Market, KU Leuven (University of Leuven); Fellow of the Research Foundation – Flanders, 2019, “REGULATING ONLINE PLATFORMS: LESSONS FROM 100 YEARS OF TELECOMMUNICATIONS REGULATION,” https://www.ptc.org/PTC20/Proceedings/Paper\_YS\_1\_21\_Bostoen\_Friso.pdf

The (news) stories about how a platform enters a downstream market that its platform serves and subsequently uses its digital infrastructure to push out competitors are numerous enough to cause legitimate concern.[[1]](#footnote-1) The empirical literature on this issue is, however, limited and ambiguous (see supra, section 3.2.). The reason for this may, once more, be found in the incentives. An online marketplace—such as Amazon’s—cannot discriminate against too many of its sellers, as this could negatively affect the health of its ecosystem: a platform with a reputation for exclusion may not attract or retain enough participants to give it the necessary volume and diversity.198 It is difficult to say which incentives will dominate: those to capture more of the value in the ecosystem through vertical exclusion, or those to preserve the overall health of the ecosystem. The on-going investigations into the potentially exclusionary conduct by Amazon199 and Apple may bring us closer to the answer. Until then, the focus should be on speeding up these investigations, which can already be done through the broader use of interim measures while anticipating more fundamental institutional changes. However, the balance of the evidence does not currently favor structural separation, and it is difficult to see how this would change in the future given the various procompetitive efficiencies of vertical integration. While such efficiencies exist, however, there is no guarantee whatsoever that they in every case outweigh the anticompetitive effects, which are particularly pronounced in platform markets. Therefore, there appears to be room for a behavioral measure that preserves those efficiencies while also providing a basis for intervention whenever the anticompetitive effects take the upper hand. However, a number of antitrust precedents (e.g. potential decisions on Amazon and Apple, in addition to the Google Search decision) could—through increased deterrence—have the same effect as a behavioral ex ante rule. Moreover, as anticompetitive effects are difficult to assess in discrimination scenarios (given that they involve innovation, quality and choice rather than price), mitigating the burden of proof on the complainant is advised. Again, however, this can be done through an evolving interpretation of ex post antitrust law as well as the adoption of an ex ante behavioral rule.

#### China’s antitrust crackdown means they lose the tech race now

Frederick Kempe 21, CEO and President of the Atlantic Council, 7/10/21, “Op-ed: The crackdown on Didi and companies like it could cost China as much as $45 trillion in new capital flows by 2030,” https://www.cnbc.com/2021/07/10/op-ed-crackdown-on-didi-and-companies-like-it-could-cost-china-as-much-as-45-trillion-by-2030.html

This was a clarifying week for global investors — or for anyone concerned about authoritarian capitalism — of just how much the Chinese Communist Party (CCP) would be willing to pay to ensure its dominance.

The answer, according to a rough calculation from a new partnership formed by the Rhodium Group and the Atlantic Council, is as much as $45 trillion in new capital flows into and out of China by 2030, if the party were willing to pursue serious reform. It’s an immeasurable loss of economic dynamism.

What is clear is that Chinese President Xi Jinping, during this month’s celebration of the one hundredth anniversary of the CCP, has sent an unmistakable message at home and abroad of who is in charge.

Chinese domestic companies, particularly of the tech and data-rich variety, will be more likely to shun Western capital markets and adhere to party preferences. Foreign investors, only too happy to accept risk for the long-proven upside of Chinese stocks, now must factor in a growing risk premium as Xi tightens the screws.

“Wall Street must now acknowledge that the risk of investing in these companies can’t be known, much less disclosed,” writes Josh Rogin in the Washington Post. “Therefore, U.S. investors shouldn’t be trusting their futures to China Inc.”

The story that triggered this week’s stir was the $4.4 billion U.S. initial public offering (IPO) of the world’s largest ride-hailing and food delivery service, Didi. The ripples could be long-lasting and far-reaching for the lucrative relations between China and Wall Street. Dealogic shows that Chinese companies have raised $26 billion from new U.S. listings in 2020 and 2021.

Until this week, the greatest concern for investors was that new US accounting rules would stymie that flow. It is now more likely to be Chinese regulators themselves who plug the spigot.

The facts are that Didi Global began trading on the New York Stock Exchange on June 30, auspiciously one day ahead of the CCP centennial celebration.

One early hint of trouble was that the company played down the blockbuster listing. Not only did company officials resist the usual routine of ringing the opening bell. They went further by instructing their employees not to call attention to the event on social networks.

Still, Didi’s shares rose 16% on the second day of trading, setting the company’s market value at nearly $80 billion.

But by July 2, Chinese regulators put Didi under cybersecurity review, banned it from accepting new users, and then, in the next days, went even further by instructing app stores to stop offering Didi’s app.

Credit all of that to a mixture of increasingly authoritarian politics, regulatory concerns over data privacy and U.S. markets, and the continual expanding of fronts in the U.S.-Chinese contest.

The cost to investors by Friday was a drop to only 67% of the stock’s original value. If that’s as far as the downside goes and if the regulatory retaliation against Didi stops where it is, this week could still be dubbed a win by Didi executives.

The more serious matter is the wider chilling effect, coming in the context of a series of stalled or reversed Chinese economic and marketization reforms.

The latest came on Thursday, when The Wall Street Journal reported that the Cyberspace Administration of China, which reports to Xi, would police all overseas market listings.

On that same day, Chinese medical data firm LinkDoc became the first Chinese company to ditch its IPO after the Didi news. Expect more Chinese companies to shelve planned listings and for many others to remove them from consideration.

For all the billions of lost investment capital this could bring over the short term, the larger cost is one that could be measured in trillions of dollars of endangered potential as Xi consistently backs away from the market liberalizations he once appeared to champion.

The story could not be more clearly written than through the accompanying chart from Rhodium and the Atlantic Council’s GeoEconomics Center. From 2000 to 2018, China’s economic growth shook the world as it expanded its share of the global gross domestic product (GDP) from 4% to 16%. China enjoyed similar growth in goods exports and imports.

At the same time, however, China’s inward portfolio investment grew from near zero to just 2% of the global total while its outward portfolio investment grew from near zero to only 1%. This is not just unachieved potential from the past — it is now also the deeply endangered potential for the future that could equal the estimate $45 trillion through 2030.

In a must-read analysis of the Chinese economy in Foreign Affairs, Atlantic Council nonresident senior fellow Daniel Rosen, who is also a Rhodium Group founding partner, argues that China under Xi has repeatedly attempted to reform the Chinese economy, only to pull back. The accompanying chart provides a useful overview of what has become habit.

“The consequences of that failure are clear,” Rosen writes. Since Xi took control, total debt has risen to at least 276% of GDP from 225%. It now takes 10 yuan of new credit, up from six, to create one yuan of growth. GDP growth fell to 6% in the year ahead of the pandemic from 9.6%.

Writes Rosen: “At some point, China’s leaders must confront this tradeoff: [S]ustainable economic efficiency and political omnipotence do not go hand in hand.”

Conventional wisdom has it that the West was naïve to think that China’s economic growth and modernization, which the West so enthusiastically supported, would eventually bring with it political liberalization. Now the conventional wisdom is that China has shown it can be brutally authoritarian and economically dynamic simultaneously.

What’s probably more true is that Xi may soon face the contradictions between his simultaneous desire for economic dynamism and increased authoritarian control. History shows he cannot have both, but for the moment, Xi appears willing to risk the dynamism in favor of the control.

#### Best data confirms big tech increases innovation.

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

Breaking up the tech giants would be contrary to the longstanding jurisprudence and current tradition expounded by the consumer benefit standard. Besides ignoring the longstanding principle of consumer welfare, breaking up the big four would have harmful effects on consumers and the American economy.

The internet is a source of great innovation and consumers do not pay for much of the benefits they receive. At consumers' fingertips are a great amount of information that provides a benefit to consumers. Search engines like Google and social media sites like Facebook "generally create the enormous social benefit of connecting content providers with users in a mutually beneficial manner." 118 Professor James Grimmelman argues that "[search engines] allow willing users and content providers to find each other, reducing transaction costs and enabling mutually beneficial exchanges. These benefits depend on the contributions of users, providers, and search engines in the form of queries, content, and ranking algorithms, respectively." 119 Grimmelman further argued that restrictions on search engines may "squander the innovative potential of search engines." 1 20 Although these arguments were aimed at search engines, they also aptly apply to other tech companies. Consumers receive substantial benefits by receiving free or nominally free services. Because of the proliferation of search services like Google, consumers have more access to information at their fingertips than any point in human history. Likewise, because of the advances pioneered by Amazon, consumers have almost an unlimited array of choices when purchasing goods. Even if these corporations have monopolistic power, a monopoly by efficiency in producing and marketing better and cheaper product than other companies does not fall within the scope of the antitrust acts. 121 Breaking up the big tech giants would lessen innovation and is counter to the current approach of antitrust law, which considers the benefit to consumers.

Proponents of breaking up Big Tech contend the consumer welfare standard should apply because the tech giants present a future threat to consumers and small businesses. However, the consumer benefit standard looks at what is benefitting or not benefitting consumers at the time of the analysis. 12 2 Declaring a company a threat to consumers in the future is not sufficient to bring an antitrust action. 123 A reduction of competition does not invoke the Sherman Act until it harms consumer welfare. 124 By breaking up internet companies because of their sheer size, the U.S. would be limiting the amount of innovation that could be produced. Goldman Sachs keeps an index tracking tech industry spending and the June 2018 spending levels are the third highest since Goldman Sachs created the index in 2002.125 This investment is primarily targeted at security software, software as a service applications, analytics, and private and public clouds.1 2 6 Apple, Amazon, and Google have spent a combined $80 billion on physical assets alone such as real estate, powerful computers, and undersea internet cables. 127 These investments benefit the economy and help drive the pace of innovation. Because of these innovations and investment, the tech giants added more market capitalization than the GDP of India since 2008.128 Even the U.S. government is dependent on the benefits of these industries. For example, the Department of Defense relies on Big Tech's cloud computing to meet its needs. 129 Untangling the interwoven nature of Big Tech would be an incredibly difficult task that would likely curb innovation and, in turn, economic growth.

#### Tech companies attain dominance because of superior products, not market power.

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

III. ANALYSIS

A. Monopoly

Monopoly power is defined as "power to control prices or exclude competition; existence of monopoly power may be inferred from predominate share of relevant market." 66 A monopoly has two elements, "the (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident." 67 However, size itself does not make a corporation a monopoly. 68 Size may be considered in "connection with other evidence bearing upon alleged monopolistic practices." 69 Simply earning massive profits or commanding a large portion of the market share is not enough to sustain an antitrust action. Although the existence of monopoly power may be inferred from predominant share of market, monopoly from market does not have to follow automatically, and only careful factual analysis of market in question will reveal whether monopoly power exists. 70 Only an overwhelming market share can qualify a corporation as a monopoly that requires breaking up. Even then, a careful analysis of the market must be done to determine if the corporation constitutes a monopoly.

Generally, courts look to examine whether a company controls more than half the market. United States v. Grinnell states that a company controlling more than 87 percent of relevant market justifies the finding of a monopoly.7 1 Other courts require that a 75 to 80 percent market share is required to successfully prove monopolization under the Sherman Anti-Trust Act.7 2 Thus, an overwhelming share of the market is required to sustain an antitrust action. However, each tech company does not control enough of the market to be considered a monopoly. Facebook and Google combined to account for 70 percent of internet traffic.73 Amazon may account for 49.1 percent of all online sales7 4 , but 90 percent of sales occur offline.7 5

A court may consider other factors tending to show monopoly power, "including the strength of competition, probable development of industry, barriers to entry, nature of anti-competitive conduct, and elasticity of consumer demand." 76 However, a corporation does not violate antitrust laws when its dominant position is secured by offering a better product and customer service.7 7 The tech giants' position in the market is the result of superior products. It is undeniable that Amazon's or Google's positions are not the result of superior products and business acumen. Amazon has surged past other e-commerce sites for its breadth of products that it offers and its convenient services, like Amazon Prime. Likewise, Google usurped Yahoo to become the world's largest search engine because of its refined and improved search algorithms. Google did not become and has not maintained its position as the world's largest search engine by buying up other search engines. Facebook did not become the dominant social network by fixing prices or controlling the supply. Facebook cannot control the supply because much of the supply is manufactured and sold by competing businesses.

It also cannot be said that the tech giants have become dominant because of price fixing or other predatory conduct. The FTC investigated whether Google's search results were unfairly biased toward favoring its own products.7 8 In 2013, the FTC closed its investigation unanimously concluding that Google's conduct did not violate antitrust laws.79 Rather, the big four tech companies have poured money into research and development and have benefitted from it. Without a superior product and demand for that product, these companies would not hold the dominant position they do. Thus, the result of their dominant market position is the result of a superior product.

#### Concerns about size and profits are not an antitrust issue

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

Proponents' arguments in favor of breaking up the big four are counter to the jurisprudence of antitrust law. Much of the arguments against these tech giants are because these companies have record profits. As stated by the Supreme Court in Spectrum Sports, the purpose of antitrust laws is to protect the public from market failure, not to punish businesses because of their size and influence. 82 Arguments focusing on these elements miss the mark of the intent of antitrust legislation. Both possession of monopoly power and willful misuse are necessary to sustain a charge of illegal monopolization under the Sherman Anti-Trust Act. 83 Antitrust law is designed to protect consumers and prevent a market failure from companies fixing prices or controlling the supply chain, not to break up a business because of its size or profits. At this point, there is no reason to conclude that the market is failing consumers. There are no legitimate grounds with which to sustain charges of illegal monopolization. Granted, if Google bought major internet competitors like Facebook and Netflix, there might be legitimate grounds to bring an antitrust action to break up Google. In this hypothetical scenario, an antitrust action would be warranted because it controls such an outsized share of the market and would likely prevent competition. However, at this present stage in the internet, there is no reason to do so.

#### The plan is only one piece of the puzzle.

Steinbaum & Stucke ’20 [Marshall; Assistant Professor of Economics @ University of Utah; and Maurice; Douglas A. Blaze Distinguished Professor of Law @ University of Tennessee College of Law; “The Effective Competition Standard,” *The University of Chicago Law Review* 87(2), p. 595-623; AS]

Antitrust does not operate at the margins. In reality, antitrust has been enormously important for structuring the economy now and in the past, either in favor of concentrating economic power or against it. Although this Essay articulates antitrust policies aimed at deconcentrating power, we recognize that antitrust alone cannot accomplish this urgent objective. Progressive taxation, labor reforms, effective (not captured) sector-specific regulation, corporate governance, and social welfare policies are only some of the other policy tools necessary. Thus, while strong antitrust enforcement is often an important condition for preserving a competitive market structure, policymakers should not confine themselves to that tool.

### Democracy Advantage

#### Concerns about size and profits are not an antitrust issue

Beaupre ’20 [Jacob; Associate @ Nicolaides Fink Thorpe Michaelides Sullivan LLP, JD @ DePaul University College of Law; “Big Is Not Always Bad: The Misuse of Antitrust Law to Break up Big Tech Companies,” *DePaul Business & Commercial Law Journal* 18(1), p. 25-48; AS]

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# 1NR---Dartmouth LV---Harvard Round 3

## Politics

#### New budget deal will pass with Biden push. That’s key to climate change and restoring US leadership.

Mascaro 10-28-21

(Lisa, https://www.wusa9.com/article/news/nation-world/paid-leave-billionaire-tax-biden-plan-manchin-sinema/507-0cac52b0-0a31-4eae-bb21-7d7d2d5f4194)

WASHINGTON — President Joe Biden declared Thursday he had reached a “historic economic framework” with Democrats in Congress on his sweeping domestic policy package, a hard-fought yet dramatically scaled-back deal announced just before he departed for overseas summits. Biden's remarks at the White House came after he traveled to Capitol Hill to make the case to House Democrats for the still-robust domestic package — $1.75 trillion of social services and climate change programs — that the White House believes can pass the 50-50 Senate. “It will fundamentally change the lives of millions of people for the better,” Biden said of the agreement, which he badly wanted before the summits to show the world American democracy still works. “Let's get this done.” Together with a nearly $1 trillion bipartisan infrastructure bill heading for final votes possibly as soon as Thursday, Biden claimed it would be a domestic achievement modeled on those of Franklin Roosevelt and Lyndon Johnson. “I need your votes,” Biden told the lawmakers earlier, according to a person who requested anonymity to discuss the private remarks. Biden was eager to have a deal in hand before departing for the global summits. But final votes are still a ways off. At best, he left with a revised package that has lost some top priorities, frustrating many Democrats still pressing to include them as the president’s ambitions make way for the political realities of the narrowly divided Congress. Paid family leave and efforts to lower prescription drug pricing are now gone entirely from the package, drawing outrage from some lawmakers and advocates. Still in the mix, a long list of other priorities: Free prekindergarten for all youngsters, expanded health care programs — including the launch of a new $35 billion hearing aid benefit for people with Medicare — and $555 billion to tackle climate change. There's also a one-year extension of a child care tax credit that was put in place during the COVID-19 rescue and new child care subsidies. An additional $100 billion to bolster the immigration and border processing system could boost the overall package to $1.85 trillion if it clears Senate rules. One pivotal Democratic holdout, Sen. Kyrsten Sinema of Arizona, said, “I look forward to getting this done.” However, another, Joe Manchin of West Virginia, was less committal: “This is all in the hands of the House right now." The two Democrats have almost single-handedly reduced the size and scope of their party’s big vision. Republicans remain overwhelmingly opposed. Taking form after months of negotiations, Biden's emerging bill would still be among the most sweeping of its kind in a generation, modeled on New Deal and Great Society programs. The White House calls it the largest-ever investment in climate change and the biggest improvement to the nation’s healthcare system in more than a decade. In his meeting with lawmakers at the Capitol, Biden made clear how important it was to show progress as he headed to the summits. “We are at an inflection point,” he said. “The rest of the world wonders whether we can function.”

#### The newest reconciliation proposal overcomes Dem holdouts and passes now.

McPherson ‘10/28 [Lindsey; 10/28/21; “Biden makes $1.75T sales pitch to House Democrats”; <https://www.rollcall.com/2021/10/28/white-house-releases-1-75t-framework-for-budget-package/>; Roll Call; accessed 10/29/21; TV]

President Joe Biden presented House Democrats with a $1.75 trillion reconciliation framework Thursday morning, which senior administration officials said he'll ask them to support when it’s written and ready for a vote, along with a separate Senate-passed bipartisan infrastructure bill.

The reconciliation bill would be fully paid for and potentially reduce the deficit, based on $2 trillion worth of offsets the president has identified. The revenue total is the administration’s estimate and has not yet been scored.

Biden’s framework, which provides proposals for scaling back climate change and social spending proposals in the original $3.5 trillion-plus House reconciliation package, will need the support of virtually every Democrat to pass the House and Senate.

It’s based on the president’s weekslong negotiations with key Democratic lawmakers, including centrist Sens. Joe Manchin III of West Virginia and Kyrsten Sinema of Arizona. They opposed the original $3.5 trillion price tag and many policies in the bill that have been cut in Biden’s framework, including paid leave and prescription drug price negotiation.

The senior administration officials wouldn’t speak to whether specific lawmakers had signed off on the framework, but said: “We are confident that this will earn the support of every Democratic senator and that it will pass the House.”

House Democratic leaders have been hoping to get a bicameral “framework” deal on reconciliation this week in hopes of getting the votes of progressives who’ve been holding up passage of the bipartisan infrastructure bill until the reconciliation bill is done.

Progressives have said they wouldn’t feel comfortable voting for the infrastructure bill based solely on a framework, however, and want a vote on both bills at the same time. Democratic leaders are preparing for potentially quick passage of the reconciliation package by beginning the House Rules Committee process Thursday in order to amend the House bill with the text of the scaled-back package before it comes to the floor.

#### Passes now and revitalizes momentum against climate change.

AFP ‘10/28 [Agence France-Presse; 10/28/21; “Joe Biden Announces $1.7 Trillion US Spending Deal Ahead Of Europe Trip”; <https://www.ndtv.com/world-news/us-president-joe-biden-announces-1-7-trillion-dollars-us-spending-deal-ahead-of-europe-trip-2591285>; NDTV; accessed 10/29/21; TV]

Washington: US President Joe Biden announced Thursday a revised $1.75 trillion social spending plan that he is confident Democrats will support, ending weeks of wrangling and delivering a political victory hours before he departs for twin summits in Europe.

Biden failed in his original goal of securing a vote in Congress, where Democrats hold a razor-thin majority, before going to Rome for meetings with Pope Francis and G20 leaders, then a UN climate summit in Glasgow.

Instead, his dramatic last-minute intervention will present Democrats with a deal too good to refuse, senior aides believe.

Putting the full prestige of his presidency on the line, Biden will unveil the framework agreement to Democratic leaders, then address the American people from the White House, before heading to the airport to board Air Force One.

The White House said Biden will lay out a compromise outline of legislation pouring $1.75 trillion into education, childcare, clean energy and other social services.

This is much less than the original $3.5 trillion price tag Biden and left-leaning Democrats wanted. However, this would still represent a major win a year after Biden, 78, defeated Donald Trump with a promise to heal America's "soul."

Weeks of Democratic feuding over both the details and costs have threatened to sink the bill, along with a second initiative meant to invest an additional $1.2 trillion in America's crumbling infrastructure.

Biden is now sure he has Congress ready to accept his deal, although the timing of a vote remains up to the Democratic speaker, Nancy Pelosi.

"The president believes this framework will earn the support of all 50 Democratic senators and pass the House," a senior White House official said, speaking on condition of anonymity.

Seeking to make history

An official said the two bills Biden wants will "make historic investments" and that the White House is "confident" in getting Democrats to unite.

Biden was set to meet with Democratic leaders in the House of Representatives in private, before returning to the White House for a speech at 11:30 am (1530 GMT). He will depart for Rome shortly after.

Biden will "speak to the American people about the path forward for his economic agenda and the next steps to getting it done," another White House official said.

The Democrats enjoy a rare period of controlling both houses of Congress and the presidency. However, the margins are so tight -- with only a one vote advantage in the Senate and a handful in the House -- that enacting major legislation has proved far harder than supporters hoped.

Biden has been repeatedly frustrated as just two moderate Democrats in the Senate held up his social spending ambitions, while left-leaning Democrats in the House blocked the infrastructure bill.

Responding to criticism that the pending deal has been watered down too far, a White House official said Biden's framework will still "make historic investments in the United States."

This will be "the most transformative investment in children and caregiving in generations, the largest effort to combat climate change in history, and historic tax cut for tens of millions of middle class families, and the biggest expansion of affordable health care in a decade," an official said.

#### No compartmentalization— PC is finite for Biden.

Sensiba ’20 [Jennifer; Author @ CleanTechnica; “Don’t Encourage Biden To Waste Political Capital”; 11/6/20; https://cleantechnica.com/2020/11/06/dont-encourage-biden-to-waste-political-capital/; AS]

If we want clean energy to succeed in the upcoming Biden administration, we have to (a) be realistic, and (b) fight like hell to keep him focused on it as much as possible. Political capital is scarce, and the threats to our future from climate change are real, so allowing the various Democratic lobbies to suck all of the oxygen out of the room is not an option.

Here’s a quick rundown of the problem and some ideas on what we can do to help clean energy win.

It’s All About Political Capital

In short, political capital is a way to think about political power in democratic countries. Yes, winning elections does give some political power, but you can’t effectively use it unless you have coalitions, alliances, trust, goodwill, and influence. Your earned trust and connections are like money (capital). You can work hard to earn it and build it up, but it’s easy to spend it and even waste it, just like money.

If you get power from an election and then quickly spend all of the political capital impressing loyalists, you’ll get to the point where you can’t win future elections (Trump is a great example of this), can’t get votes together for legislation, and can’t get people to help you in a variety of other ways. At worst, a political leader who has run completely out of political capital might not even be able to get normal citizens to follow laws. As the consent of the governed is withdrawn, you see protests, riots, violence, terrorism, and even war.

For better or worse, Biden won’t start out with much political capital to begin with. After a narrowly won election, not taking the Senate (because many voters rejected Trump but voted for Republicans further down the ballot), and then extended accusations of cheating, it’s not going to be easy to get things done.

#### Floortime link---Plan crowds it out – Centrist Dems drag it on forever.

Rebecca Klar 6/22/21. Staff writer. “Tech industry pushes for delay in antitrust legislation”. The Hill. June 22 2021. https://thehill.com/policy/technology/559693-tech-industry-pushes-for-delay-in-antitrust-legislation

But in addition to the tech industry, centrist Democrats are also saying the subcommittee should move slowly with its consideration of the legislation.

Members of the New Democrat Coalition wrote last week to Speaker Nancy Pelosi (D-Calif.), House Majority Leader Steny Hoyer (D-Md.) and Nadler urging a delay of Wednesday’s markup, saying full legislative hearings on these proposals are needed instead.

“We agree it is long overdue for Congress to enact laws that protect consumer’s rights and personal information in our ever increasingly digital world. However, these are complex issues with far reaching implications,” wrote Reps. Suzan DelBene (Wash.), Scott Peters (Calif.), Sharice Davids (Kan.), Ann Kuster (N.H.), Chrissy Houlahan (Pa.) and Kathy Manning (N.C.).

“Legislation on topics as multifaceted and important as this one should be given the appropriate time and consideration,” they added.

#### PC must be spent wisely — GOP can block initiatives with slim majorities.

Economist ‘1/23 [The Economist; “After the chaos of the Trump era, what can Joe Biden hope to achieve?”; 1/23/21; https://www.economist.com/briefing/2021/01/23/after-the-chaos-of-the-trump-era-what-can-joe-biden-hope-to-achieve; AS]

Can they work this out?

Even with such caution and concerted whipping from party leaders, Mr Biden will have to work hard. He has two routes to success. The first would be to attract enough Republican support—ten senators under the current configuration—to neuter the threat of a filibuster. Some who remember the obstinacy of Mitch McConnell, the Republican leader in the Senate under Mr Obama, think it is foolish to expect any differently of him or his caucus. But Mr Biden and his allies maintain a starry-eyed optimism for bipartisan dealmaking. “If the Republicans will recognise this as a watershed moment for them, their party and our country, I think there’s nothing we can’t do together,” says Chris Coons, a Democratic senator from Delaware.

Mr Trump’s debasement of his party might be the deciding factor. A few moderate Republican senators most disaffected with Trumpism—such as Susan Collins, Lisa Murkowski and Mitt Romney—could band with conservative Democrats to become the crucial negotiating bloc for all major legislation.

#### PC is real and presidential involvement works but policy blitz fails – Policy blitz fails---Clinton proves

Siewert 17 (Markus B. Siewert “"It’s Never Easy for the President to Get Exactly What He Wants.” : Presidential Activism and Success in the Legislative Arena During the Presidencies of Clinton, Bush, and Obama” Inaugural dissertation to obtain the degree of Doctor of Philosophy in the Faculty of Social Sciences of the Johann Wolfgang Goethe University to Frankfurt am Main, Submitted: April 2017, Released: June 2018, https://d-nb.info/1164077325/34 , date accessed 1/19/21)

One of the most important presidential strategies in the legislative arena is (trying) to set the agenda of Congress (see Wood 2009 for an extensive overview; Cohen 2012; Edwards and Wood 1999; Light 1999). The reasoning behind this is straightforward: Since presidents have only few tools at hand to sway lawmakers on how they cast their ballot, the focus of the White House is set at an earlier stage: by already influencing what is considered in the first place. Compared with the legislative prevalence of executives in parliamentarian democracies, presidents in the United States are clearly less able to dominate the agenda space. Yet based on his constitutional right to recommend legislation deemed necessary and appropriate (Art. II, Sec 3, U.S. Constitution), it is primarily the resources of the executive branch - i.e., the departmental bureaucracies, and the Executive Office of the President - which put the president into the position to exert policy leadership via drafting legislative proposals.

Unmatched by any other single legislators or even Congress as a whole, John W. Kingdon is right to argue that “[…] no other single actor in the political system has quite the capability of the president to set agendas.“ (Kingdon 2003, 24). Previous research has shown that defining the agenda is a promising strategy for the White House. Presidential initiatives, both major and minor ones, almost always find their way into the legislative hopper (Cameron and Park 2008, 51f; Cohen 2012, 24ff; Edwards and Barrett 2000, 116ff). Accordingly, legislation proposed by the administration makes up between 30% and 50% of the congressional calendar, while the remaining proportion is initiated by members of Congress, is based on recurring pieces of legislation, and are reaction to external events or imminent crises (Edwards and Barrett 2000, 112ff; Taylor 1998, 377ff; Theriault 2002). While this indeed makes the president the single most important agenda-setter, it also demonstrates that he does not dominate the legislative agenda of Congress (Sinclair 2006, 255–63).

We can mainly identify three mechanisms how presidential agenda-setting affects the lawmaking process in Congress. First, it enables the president to define the boundaries of policies under consideration, and in this way to structure the following deliberation. In this sense, agenda setting is first and foremost about obtaining the Deutungshoheit - i.e., the prerogative of interpretation - over the policy debate through setting the terms of the debate, moving first on certain policy aspects, and via framing and priming of core arguments (Edwards and Wood 1999; Eshbaugh-Soha and Peake 2005). George W. Bush, for instance, during his 2000 presidential campaign advertised his plans for massive across the board tax breaks which, at that time, were perceived as a mere “pipe dream” on both sides of the political spectrum (Milbank 2001). Cutting taxes, and especially to this extent, did not rank high among the priorities of lawmakers nor the American public. The arrival of Bush in the White House, however, completely changed the dynamics of debate. It put the tax cut proposal upfront of the legislative agenda during his first half year as president, and Democrats in the end had to accept an amount of tax breaks which came up to more than double of what they called reasonable six months before during the election campaign. Bill Clinton, on the other hand, was largely rolled by the issue dynamics in the debates regarding the overhaul of the Internal Revenue Service in 1997. Favoring only minor reforms, he had to concede early on to pressures from the public and Congress who, fueled by several major scandals, thirsted for a largescale reorganization of the IRS instead of a fine-tuning approach preferred by Clinton (Broder 1997). Of course, these are only two illustrations highlighting how presidents can succeed but also fail in setting the tone of the debate from early stages and through this pre-structure the outcome of the lawmaking process.

Second, presidential leadership at the agenda-setting stage helps to overcome collective action problems within Congress and among its 535 legislators by providing a focal point around which other political actors’ policy positions can crystalize (Cameron and Park 2008; Cohen 2012; Neustadt 1991, 8f). The USA PATRIOT Act can serve as a prime example in this regard, on which the New York Times stressed that “[b]y and large, the House and Senate bills both use as a starting point a proposal sent to Capitol Hill nearly two weeks ago by the White House.” (Lewis and Pear 2001). Since lawmakers in Congress today only have scarce resources to draft their own bills, presidential input from the beginning is often highly appreciated. Yet, a proposal from the White House furthermore fulfills the role of first mover draft upon which the subsequent debate can be structured. In this sense, it both offers a distinct policy outline upfront and provides guiding posts for the further deliberation process.

Third, agenda-setting offers the White House the opportunity to highlight its priorities, how they are distributed across various policy issues, and in which way policies should be packaged (Rudalevige 2005, 437ff; Wayne 2009b, 317ff). Because the resources of any administration to lobby Congress are not infinite and the multiple political arenas are usually heavily crowded with myriad policy items and problems striving to be solved, the White House needs to prioritize its policy agenda. This involves, among other things, to select some issues over others, decide about their sequencing, how to pursue them, and how much political capital it wants or needs to spend on any given item. Therefore, the administration will focus on certain policies with more attention, on others with less, depending on the prioritization by the president but also upon other considerations, such as the overall density of the policy agenda or imminent pressures of the time. The trick is to not overwhelm Congress with the president’s initiatives. As Lyndon B. Johnson famously quipped, “Congress is like a Whiskey drinker. You can put an awful lot of whiskey into a man if you just let him sip it. But if you try to force the whole bottle down his throat at one time, he’ll throw it up.” (cited in Rudalevige 2002, 113). Thus, the failure to prioritize easily leads to overload of Pennsylvania Avenue with Congress at the one end, and to excessive demands and exhaustion for the White House at the other end. The rocky start of the Clinton administration underlines this argument: since the White House did not pursue a ‘rifle-approach’ to define clear policy priorities for its initial months and then execute them, it got lost in numerous legislative battles and mine-fields early on in its first year. Instead it followed a ‘shotgun-approach’ by addressing as many issues as possible at once leading to an overkill and chaos (Rockman 1996; Sinclair 2000b).

#### PC true and key

Bannon 11-11-2020, not Steve, Democratic pollster and CEO of Bannon Communications Research. He is also the host of a radio podcast “Dateline D.C. With Brad Bannon” that airs on the Progressive Voices Network (Brad, “Biden has his work cut out for him,” *The Hill*, https://thehill.com/opinion/campaign/525399-biden-has-his-work-cut-out-for-him)

The pandemic isn’t going anywhere soon despite frequent Trump’s assurances that the nation has turned the corner on the deadly outbreak. The number of new pandemic cases spiked to a record high last week. The fight against COVID-19 will require the expenditure of time, energy and political capital that the new president will require to solve other problems. The recession was a direct consequence of Trump’s failure to effectively fight COVID-19. Even if the pandemic dissipates, the new president will still have to aggressively tackle the economic problems that confront the nation. Millions of people lost their jobs during the pandemic and many of them won’t have jobs to return to when and if the pandemic finally subsides. Biden outlined his priorities recently in an interview with the podcast Pod Save America, “Get control of the coronavirus. Without that nothing else will work well. Number one. Number two, invest in the community, in real infrastructure.” Biden’s priorities in the first chapter of his presidency are key because history has demonstrated that the major energy in a presidency comes early and dwindles as time goes on. But other urgent problems face Trump’s successor. The concern about the pandemic and the subsequent economic downturn has driven dangers of climate change off the stage. The threat of climate change won’t disappear just because politicians didn’t discuss it as much during the campaign. If a President Biden doesn’t put the fight against climate change on top of his to-do list, he will run into trouble with progressive members of his own party like Sen. Ed Markey (D-Mass.) and Rep. Alexandria Ocasio Cortez (D-N.Y.), who have championed the Green New Deal. The death and disease created by COVID-19 have intensified the need for a complete overhaul of the nation’s health care system. The pandemic and the subsequent economic carnage have crowded other issues like the toxic racial climate, a broken health care system and the violent gun culture off the stage but the new president must deal with them anyway. Biden will need to actively confront several major problems when most presidents are lucky to mount one serious initiative during the first year of his presidency. There will be big institutional obstacles that could tie Biden’s hands even as the United States faces crises of epic proportions. Currently, Republicans have a two-seat advantage in the U.S. Senate. All eyes turn to Georgia where there will be two runoff elections for the upper chamber in January. Unless Democrats sweep the double header in the Peach Tree State, Biden will have to grapple with a Senate controlled by Senate Majority Leader Mitch McConnell (R-Ky.). If Biden is successful pushing significant legislation through Congress, the Supreme Court conservative majority, aided by the elevation of Justice Amy Coney Barrett, could wipe out significant legislative victories. Biden could win a fight to extend the reach of the Affordable Care Act to millions of more Americans only to see the high court abolish the whole program. Any attempt by the high court to curtail a women’s right to choose by nullifying Roe v. Wade would put abortion on top of Biden’s crowded issue agenda and place pressure from him to increase the number of justices. Biden will have his work cut out for him. He has major problems to solve immediately and several other problems that he needs to address quickly. Biden can reverse some of the damage easily with executive orders. But if he wants to move the country forward, he will need to engage with Congress in long and drawn out legislative battles.

#### Magnitude – comes first b/c of irreversibility and incalculable value based on future lives

McDonald 19, writer and geography PhD student at University of Oxford studying the intersection of grassroots movements and energy transition. (Samuel Miller, 1-4-2019, “Deathly Salvation”, *The Trouble*, https://www.the-trouble.com/content/2019/1/4/deathly-salvation)

A devastating fact of climate collapse is that there may be a silver lining to the mushroom cloud. First, it should be noted that a nuclear exchange does not inevitably result in apocalyptic loss of life. Nuclear winter—the idea that firestorms would make the earth uninhabitable—is based on shaky science. There’s no reliable model that can determine how many megatons would decimate agriculture or make humans extinct. Nations have already detonated 2,476 nuclear devices. An exchange that shuts down the global economy but stops short of human extinction may be the only blade realistically likely to cut the carbon knot we’re trapped within. It would decimate existing infrastructures, providing an opportunity to build new energy infrastructure and intervene in the current investments and subsidies keeping fossil fuels alive. In the near term, emissions would almost certainly rise as militaries are some of the world’s largest emitters. Given what we know of human history, though, conflict may be the only way to build the mass social cohesion necessary for undertaking the kind of huge, collective action needed for global sequestration and energy transition. Like the 20th century’s world wars, a nuclear exchange could serve as an economic leveler. It could provide justification for nationalizing energy industries with the interest of shuttering fossil fuel plants and transitioning to renewables and, uh, nuclear energy. It could shock us into reimagining a less ~~suicidal~~ civilization, one that dethrones the death-cult zealots who are currently in power. And it may toss particulates into the atmosphere sufficient to block out some of the solar heat helping to drive global warming. Or it may have the opposite effects. Who knows? What we do know is that humans can survive and recover from war, probably even a nuclear one. Humans cannot recover from runaway climate change. Nuclear war is not an inevitable extinction event; six degrees of warming is.

#### Warming turns China war---specifically maritime disputes

VornDick 15 (Wilson, Lt. Commander in the U.S. Navy, where he is assigned to the Pentagon. Previously, he was assigned to the Chinese Maritime Studies Institute at the U.S. Naval War College, “Why Climate Change Could be China’s Biggest Security Threat” http://thediplomat.com/2015/08/why-climate-change-could-be-chinas-biggest-security-threat/)

Zheng Haibin, a professor at Peking University and a leading researcher on climate change securitization in China, believes China should do more because its security is at stake. His research indicates that climate change-induced impacts will endanger China’s national defense, strategic projects, and critical, defense-related infrastructure. Zheng’s identified several security vulnerabilities in each of China’s biomes and varied environments:

Desertification in the dry north and west will stretch already thin water supplies and wilt the ambitious and decades-old Three-North Shelter Forest Program (三北防护林) or “Green Great Wall.” As temperatures increase in the west, thawing permafrost will buckle hundreds of miles of the newly constructed, multi-billion dollar Qinghai-Tibet Railway jeopardizing the safety and the continuity of this strategic link to Tibet.

The increasing frequency of extreme weather conditions, such as flooding, drought, and cyclones, will degrade or compromise a variety of critical and security-related infrastructure across China. Heavy rainfall in the mountainous areas could trigger mudslides and landslides that would render useless numerous fixed missile launch sites utilized by the Second Artillery Corps (第二炮兵部队), China’s strategic missile force. Large swings in water levels and river runoff could substantially reduce the effectiveness of Three Gorges Dam, while farming capacity could fall 5 to 10% by 2030. The uptick in cyclone activity over the last decade along the Chinese coastline has caused extensive damage, restricted PLA training, and degraded combat effectiveness. Even the new Chinese-Russian oil pipelines stretching across China’s vast interior could be in jeopardy from extreme weather patterns.

With more than 11,185 miles of coastline, 6,700 islands, and China’s largest economic and population centers in littoral and maritime areas, climate change-induced sea-level rise may be China’s principal threat. Specifically, sea-level rise will cause significant coastline retreat, large-scale ecological damage, salinization of freshwater sources, and reset maritime boundaries. This will directly impact strategic energy corridors, maritime rights, and fisheries.

In response, Zheng proposed a holistic approach for climate change securitization in 2009 to include forming a national leading group to address climate change and strengthening coordination between the army, national security agencies, and local decision-making bodies.

A few Chinese military analysts share Zheng’s concerns and sounded the alarm on climate change in a 2011 study. Internally, the study determined that climate change will exacerbate current Chinese socioeconomic issues by lowering China’s quality of life, stretching limited resources, and increasing internal migrations. Externally, the study found climate change will increase geopolitical pressure and regional instability with China’s neighbors. It concluded that the cumulative effects from climate change will threaten the Chinese Communist Party (CCP) and impair Chinese sovereignty.

#### Nuclear war and ecological breakdown---no adaptation

Spratt ‘18 (\*David Spratt; Research Director, Breakthrough National Centre for Climate Restoration; \*\*Ian T. Dunlop; Chairman of Safe Climate Australia, Director of Australia 21, Deputy Convener of the Australian Association for the Study of Peak Oil and Gas, a Fellow of the Centre for Policy Development, and a member of Mikhail Gorbachev’s Climate Change Task Force; 2018; “What Lies Beneath: The Understatement of Existential Climate Risk”; Accessible at: https://docs.wixstatic.com/ugd/148cb0\_a0d7c18a1bf64e698a9c8c8f18a42889.pdf)

In 2016, the World Economic Forum survey of the most impactful risks for the years ahead elevated the failure of climate change mitigation and adaptation to the top of the list, ahead of weapons of mass destruction, ranking second, and water crises, ranking third. By 2018, following a year characterised by high-impact hurricanes and extreme temperatures, extreme-weather events were seen as the single most prominent risk. As the survey noted: “We have been pushing our planet to the brink and the damage is becoming increasingly clear.”29 Climate change is an existential risk to human civilisation: that is, an adverse outcome that would either annihilate intelligent life or permanently and drastically curtail its potential. Temperature rises that are now in prospect, after the Paris Agreement, are in the range of 3–5°C. At present, the Paris Agreement voluntary emission reduction commitments, if implemented, would result in planetary warming of 3.4°C by 2100,30 without taking into account “long-term” carbon cycle feedbacks. With a higher climate sensitivity figure of 4.5°C, for example, which would account for such feedbacks, the Paris path would result in around 5°C of warming, according to a MIT study.31 A study by Schroder Investment Management published in June 2017 found – after taking into account indicators across a wide range of the political, financial, energy and regulatory sectors – the average temperature increase implied for the Paris Agreement across all sectors was 4.1°C.32 Yet 3°C of warming already constitutes an existential risk. A 2007 study by two US national security think-tanks concluded that 3°C of warming and a 0.5 metre sea-level rise would likely lead to “outright chaos” and “nuclear war is possible”, emphasising how “massive non-linear events in the global environment give rise to massive nonlinear societal events”.33 The Global Challenges Foundation (GCF) explains what could happen: “If climate change was to reach 3°C, most of Bangladesh and Florida would drown, while major coastal cities – Shanghai, Lagos, Mumbai – would be swamped, likely creating large flows of climate refugees. Most regions in the world would see a significant drop in food production and increasing numbers of extreme weather events, whether heat waves, floods or storms. This likely scenario for a 3°C rise does not take into account the considerable risk that self-reinforcing feedback loops set in when a certain threshold is reached, leading to an ever increasing rise in temperature. Potential thresholds include the melting of the Arctic permafrost releasing methane into the atmosphere, forest dieback releasing the carbon currently stored in the Amazon and boreal forests, or the melting of polar ice caps that would no longer reflect away light and heat from the sun.”34 Warming of 4°C or more could reduce the global human population by 80% or 90%,35 and the World Bank reports “there is no certainty that adaptation to a 4°C world is possible”.36 Prof. Kevin Anderson says a 4°C future “is incompatible with an organized global community, is likely to be beyond ‘adaptation’, is devastating to the majority of ecosystems, and has a high probability of not being stable”.37 This is a commonly-held sentiment amongst climate scientists. A recent study by the European Commission’s Joint Research Centre found that if the global temperature rose 4°C, then extreme heatwaves with “apparent temperatures” peaking at over 55°C will begin to regularly affect many densely populated parts of the world, forcing much activity in the modern industrial world to stop.38 (“Apparent temperatures” refers to the Heat Index, which quantifies the combined effect of heat and humidity to provide people with a means of avoiding dangerous conditions.) In 2017, one of the first research papers to focus explicitly on existential climate risks proposed that “mitigation goals be set in terms of climate risk category instead of a temperature threshold”, and established a “dangerous” risk category of warming greater than 1.5°C, and a “catastrophic” category for warming of 3°C or more. The authors focussed on the impacts on the world’s poorest three billion people, on health and heat stress, and the impacts of climate extremes on such people with limited adaptation resources. They found that a 2°C warming “would double the land area subject to deadly heat and expose 48% of the population (to deadly heat). A 4°C warming by 2100 would subject 47% of the land area and almost 74% of the world population to deadly heat, which could pose existential risks to humans and mammals alike unless massive adaptation measures are implemented.”39 A 2017 survey of global catastrophic risks by the Global Challenges Foundation found that: “In high-end [climate] scenarios, the scale of destruction is beyond our capacity to model, with a high likelihood of human civilization coming to an end. ”40 84% of 8000 people in eight countries surveyed for the Foundation considered climate change a “global catastrophic risk”.41 Existential risk may arise from a fast rate of system change, since the capacity to adapt, in both the natural and human worlds, is inversely proportional to the pace of change, amongst other factors. In 2004, researchers reported on the rate of warming as a driver of extinction.42 Given we are now on a 3–5°C warming path this century, their findings are instructive: If the rate of change is 0.3°C per decade (3°C per century), 15% of ecosystems will not be able to adapt. If the rate should exceed 0.4°C per decade, all ecosystems will be quickly destroyed, opportunistic species will dominate, and the breakdown of biological material will lead to even greater emissions of CO2 At 4°C of warming “the limits for adaptation for natural systems would largely be exceeded throughout the world”.43 Ecological breakdown of this scale would ensure an existential human crisis. By slow degrees, these existential risks are being recognised. In May 2018, an inquiry by the Australian Senate into national security and global warming recognised “climate change as a current and existential national security risk… defined as ‘one that threatens the premature extinction of Earth-originating intelligent life or the permanent and drastic destruction of its potential for desirable future development’”.44 In April 2018, the Intelligence on European Pensions and Institutional Investment think-tank warned business leaders that “climate change is an existential risk whose elimination must become a corporate objective”.45 However the most recent IPCC Assessment Report did not consider the issue. Whilst the term “risk management” appears in the 2014 IPCC Synthesis Report fourteen times, the terms “existential” and “catastrophic” do not appear.

1. Only in relation to Amazon, *see e.g.* Jennifer Rankin, ‘Third-party sellers and Amazon – a double- edged sword in e-commerce’ (*The Guardian*, 23 June 2015) <https://www.theguardian.com/technology/2015/jun/23/amazon marketplace-third-party-seller-faustian-pact>; Spencer Soper, ‘Got a Hot Seller on Amazon? Prepare for E-Tailer to Make One Too’ (*Bloomberg*, 20 April 2016) <https://www.bloomberg.com/news/articles/2016-04-20/got-a-hot - [↑](#footnote-ref-1)