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These seven statements, while simple, represent the complex notion of what it means to advance students’ understanding of the world around them, as is the purpose of educators.
Letter from the Editor

The National Speech and Debate Association’s National Tournament is one of the hardest but most rewarding tournaments in all of speech and debate. You’ll be challenged by an incredible diversity of styles, judging, and argumentation across the weeklong tournament this June. Nationals for many will also be their last tournament, making it an especially sentimental competition. With that in mind, I wish you the best of luck debating the resolution, “Resolved: The United States federal government should enforce antitrust regulations on technology giants.” This resolution is both timely and exciting given the role of tech regulation in the upcoming 2020 election cycle. I personally am a huge fan of this topic, and I’m sure all of you will have fun researching about the tech industry and antitrust laws on the last resolution of the year.

The tech industry has exploded in size in an incredibly short period of time. As a result, regulations have lagged behind as legislators have struggled to keep up with the incredible pace of innovation in technology. Today, companies like Apple, Amazon, and Alphabet are worth trillions of dollars yet they still have yet to face any penalties for interfering with the free market. Smaller firms have been driven out of the industry, and consumers are concerned that tech companies have far too much control over pricing and privacy. Virtually all consumers in 2019 are in the market for new technology, meaning that this resolution has the potential to affect every single American.

This topic will require you to compare and contrast the relative value of economic growth and freedom against the rights and interests of consumers and smaller businesses. Antitrust regulation requires intervention and often penalties against monopolistic companies, which many believe would undermine their ability to continue to grow and prosper. On the other hand, one must ask whether the costs of growth outweigh the risks of big tech. As always, I’ve truly enjoyed putting this brief together for you – for the last time in the 2018-2019 debate season, I will remind you to do your own research, and enjoy the last tournament of the year.

Michael Norton
Editor-in-Chief
Con Arguments with Pro Responses .................................................. 155

CON: Federal antitrust enforcement is inefficient .................................................. 156
  A/2: Federal antitrust enforcement is inefficient .................................................. 160
CON: Federal antitrust enforcement weakens AI .................................................. 163
  A/2: Federal antitrust enforcement weakens AI .................................................. 171
CON: Federal antitrust laws are out of date .................................................. 175
  A/2: Federal antitrust laws are out of date .................................................. 180
CON: Tech Giants are not violating antitrust laws .................................................. 184
  A/2: Tech Giants are not violating antitrust laws .................................................. 188
CON: Lobbying backlash ............................................................................. 192
  A/2: Lobbying backlash ............................................................................. 195
CON: Antitrust laws are costly ............................................................................. 197
  A/2: Antitrust laws are costly ............................................................................. 200
CON: Antitrust laws trade off with taxes on wealthy .................................................. 204
  A/2: Antitrust laws trade off with taxes on wealthy .................................................. 208
CON: Antitrust laws harm American jobs .................................................. 212
  A/2: Antitrust laws harm American jobs .................................................. 215
CON: Antitrust laws harm tech philanthropy efforts .................................................. 219
  A/2: Antitrust laws harm tech philanthropy efforts .................................................. 222
CON: Antitrust Laws harm tech innovation .................................................. 226
  A/2: Antitrust Laws harm tech innovation .................................................. 230
CON: US Tech Dominance ............................................................................. 234
  A/2: US Tech Dominance ............................................................................. 237
CON: Higher Wages ............................................................................. 240
  A/2: Higher Wages ............................................................................. 243
CON: Tech giants aren’t creating any barriers to entry .................................................. 245
  A/2: Tech giants aren’t creating any barriers to entry .................................................. 249
CON: The new FTC task force is ineffective .................................................. 253
  A/2: The new FTC task force is ineffective .................................................. 257
CON: Antitrust laws have been used for political ends .................................................. 261
  A/2: Antitrust laws have been used for political ends .................................................. 265
Champion Briefs
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Public Forum Brief

Topic Analyses
Resolved: The United States federal government should enforce antitrust regulations on technology giants.

Introduction

With the 2020 election season picking up steam, it is not surprising that the NSDA picked such a hot button political issue for the final topic of the year. Tech regulation is a major flashpoint in American politics, and represents a largely uncharted area of public policy creation. In many of the more technical policy topics of the past, there have been a series of well-defined advocacies which roughly map onto the camps that support or oppose the resolution. Tech regulation, by contrast, is still very much the wild west of policymaking. No one has a clear sense of what enforcement of antitrust regulations would look like. Would America break up big tech as we did big oil during the early 20th century? Would we levy fines against monopolistic behavior? Would we prevent mergers and acquisitions as we do with many industries? The possibilities are legion, which makes the ground of this debate so interesting and vast. Everything from economics to law to national security to social justice is fair game. We must think about what the role of government is and what the practical implications of realistic policy are. All in all, June is set to be a very interesting month for debates. As many presidential candidates struggle to figure out their personal stances on tech regulation, debaters will be forced to act as pathfinders in this new and emerging debate about the future of our economic organization.
June is the last month of the year, and the tournament which occupies everyone’s’ mind is NSDA nationals. Nationals is one of the most prestigious tournaments of the year, and functions as a capstone for the many different teams which aspire to be the best in the country. The stakes feel incredibly high, and for many graduating seniors it will be their last experience in competitive debate.

Nationals has an incredibly diverse pool of teams and judges, and debaters should prepare accordingly. One important fact is that all rounds have multiple judges. This dampens the variance associated with having single random judging, because each individual voice matters a little less for the overall ballot count.

The important thing to remember is that nationals deeply favor arguments which are broad-based and accessible. Two factors make it this way: First, having multiple judges places a premium on arguments which are appealing to a wide swatch of backgrounds. It is more difficult to tailor one’s points to a specific style when there are multiple judges in the room. The best bet is to craft arguments that are appealing to a wide swatch of the population and are unlikely to alienate people. The second reason broadly popular arguments are favored is the wide spread of judges at nationals. The way that Nationals draws its competitor pool ensures that there will be contestants and judges from all over the country, even places which are not ordinarily visible on the national circuit. This means that there will be far more judges with different attitudes about debate and different political and social sentiments than from your
home town. In effect, this places a strong premium on arguments which are not alien to any particular demographic. For example, there are many arguments on this topic which could be taken as anti-union or anti-working class. It is important to remember that even if one believes these opinions – and plenty of reasonable people do – they might not function well as arguments just because they have an appeal which is inherently constrained by geography and socioeconomic status. Try to focus on impacts which most judges will be able to get behind.

**Strategy Considerations**

There are two central questions in this debate topic which will control the outcomes of most rounds. The first is ‘what is the most likely manifestation of antitrust legislation’ and ‘what is the realistic impact of that antitrust legislation.’ These questions control the inherency of the debate (what actually happens when you vote for the pro or the con) and the impacts of the debate. A team needs to win both in order to win the round. The rest – arguments about why the status quo is bad, the role of the government in antitrust, etc. – can be important, but is largely window-dressing. Unless a team can prove that their case-situation is likely to manifest itself and that it produces favorable outcomes, they will almost certainly not win the round.

The first question that any debater should ask in a policy-prescriptive resolution is ‘what actual policy gets implemented when we affirm?’ After all, there are dozens of different potential ways to regulate tech. The EU has been active in tech regulation but takes a generally different approach towards antitrust than the US. More confusingly, there are different styles of antitrust based on the different interests which they protect. Some styles are designed to
protect consumers by focusing on pricing, while others value market competition and the ease of doing business. Even more complex, there are different tactics in each school of antitrust, different approaches to pursuing the different goals. Levying fines, blocking mergers, breaking up conglomerates, denying market access, subsidizing competition.

The judge needs to agree with one side’s interpretation of which policy will be enacted in order for them to evaluate subsequent questions in the round. This, therefore, is one of the most significant loci of conflict – because it determines what impacts are even on the table. Winning an entire debate about breaking up big tech is useless if the judge thinks that affirming will result only in fines.

There are two ways to win an inherency debate. First, teams can make arguments that their particular policy is the “most likely implementation” of the resolution. This means that the current political winds and regulatory climate, if forced to enforce antitrust against big tech today, would pick one particular policy over all the alternatives. This can be done by using polling data over popularity, analyzing legislation currently on the floor of the legislature, or discussing which proposals are favored by the Trump administration. The other way to win an inherency debate is to generate impacts off of non-policy specific arguments. That is to say, contentions which are general and link to the resolution regardless of which specific policy is adopted. For example, such an argument could be that regardless of which antitrust policy were enforced, markets would react adversely to the government signaling a tough line on big tech.
The other question is that about the realistic impacts of the policies being debated. This is the standard question of winning one’s links into their impacts. For this topic, it is important to think about the competing values associated with tech regulation. What are some of the important and salient ideas which come up in popular discourse on the topic?

There are three avenues that discussion over big tech often goes down: political power, workers compensation, and innovation. These are broadly the three ideas which are likely to dominate most rounds at nationals. There are other concerns such as privacy, but these three generate the highest magnitude impacts which are weighable in debate contexts. The first of these is political power. This is the idea that because of their sheer size and also control over essential services and information nodes, big tech has undue influence over our political process. From Amazon lobbying to Facebook echo chambers and Cambridge Analytica, big data affords tech giants unprecedented political power by allowing them to access the preferences and habits of millions of American users. The second, workers compensation, deals with how big tech companies such as Amazon, Google, and Uber, use their massive size to bully workers and cities into getting unfair economic concessions and paying artificially low wages. If these companies were forced to compete for employees, they would have to reign in unfair bargaining practices and raise wages. The last prong is innovation. This is a fairly common argument against big tech that big players use their status as market-operators to shut out startups and competitors. For instance, Amazon has been accused of shutting down rivals to low search spots while aggressively promoting its own generic-versions of the same items. This
makes the Amazon marketplace anticompetitive and creates a fundamental hostility towards newcomers in the space.

Try to think about these themes of argumentation when considering arguments. They will be on the minds of your competitors, as well as your judges.

**Affirmative Argumentation**

The affirmative side of this debate should instantly consider generating arguments about competition. This is because competition is the internal link into the largest impacts in the round. Even if a team were to win their arguments about worker compensation and/or politics, if the affirmative wins arguments about competition they still stand a very good chance at winning the round. This is because the question of squelching competition impacts the full spectrum of the American economy. Competitiveness impacts out to wages, poverty, innovation, and employment. It is hard to imagine that if an affirmative team won the argument that tech companies were fundamentally damaging the competitiveness of American industry that they could lose because the other impacts have less direct or salient impacts on the lives of every day Americans. This is the area of the topic that will be material for many judges, who are most familiar with tech company’s vis a vis how they affect prices, jobs, and the business climate. Linking into competition therefor provides an intuitive and substantial impact for debaters to appeal to a wide swath of judges.

One of the main arguments about big tech and competition is that these companies unfairly use their status as marketplace managers to discriminate against competing products,
thereby discouraging innovation. For instance, Amazon both maintains a major digital marketplace and produces its own products. The argument goes that Amazon uses its status as a marketplace to give its own products an unfair advantage and steal ideas from competitors. For instance, if there are a brand of headphones which are doing well, Amazon might copy the design and sell its own pair of competing headphones. It can decide which parts to copy because it has access to massive amounts of consumer data and purchasing preference information which come because of its status as a marketplace. Then, Amazon can shove the competing headphones into the third page of the marketplace, making sure that consumers can’t see an alternative to the Amazon brand produce. Advocates argue that this strategy damages startups and significantly decreases the quality of investments in new ventures when the expected profitability declines due to Amazon’s predatory practices.

**Negative Argumentation**

Negative arguments should center along the line that serious anti-trust action is generally counterproductive. Badly designed legislation has a history of backfiring, and congress’s historical inability to understand even basic issues pertaining to technology make it clear that antitrust would be an onerous process. While well intentioned, it is very possible that these laws backfire and have unintended secondary effects, which hurt consumers.

One argument could be about how tech giants need massive scale in order to remain economically viable. For instance, Amazon loses money on many of its operational branches. It subsidizes those losses with the very profitable ‘Amazon Web Services’, which is basically a
platform for hosting internet content. If Amazon were forced to break up its branches, it might be fundamentally unable to carry out its functions as a business. The result would be much higher prices charged on the Amazon marketplace in order to make up for the loss in revenue from Amazon Web Services, or perhaps even more aggressive predatory behavior. Another possible impact is that Amazon uses the decline in revenue from Web Services as an excuse to roll back its recent 15 dollar minimum wage pledge, which is only possible because Amazon is big enough to spread wealth from its more profitable branches to its profit losing branches.

This type of strategy is strong because it allows con teams to concede the sentential thrust of the pro advocacy. Yes, it can be true that tech is bad and that anti-trust is in theory good. But at the same time, the good intentions of regulation do not always produce good results. Using historical data and evidence from the current congress can provide an excellent baseline for an argument that regulation would simply backfire. This argument is persuasive to many judges, because while the majority of Americans are not totally happy with the way big tech works, they also would not want a dramatic disruption to the current economic equilibrium.

Good luck at the National Tournament!
About Jakob Urda

Jakob grew up in Brooklyn, New York. He attends the University of Chicago where he hopes to receive a BA in Political Science in 2019, and is interested in security studies and political economy. Jakob debate for Stuyvesant High School where he won Blake, GMU, Ridge, Scarsdale, Columbia, the NCFL national championship, and amassed 11 bids. He coached the winners of the NCFL national tournament, Harvard, and Blake.
Resolved: The United States federal government should enforce antitrust regulations on technology giants.

Introduction

For many of us, our phones are the first thing we check in the morning and the last thing we check at night. If we’re not checking in on our social media pages or texting a friend, then at the very least, we’re probably setting or snoozing our alarms to wake up. The implication of this is that from the moment we wake up to the moment we fall asleep, we are very likely engaging with one of a handful of technology giants.

This debate topic poses Resolved: The United States federal government should enforce antitrust regulations on technology giants. According to Investopedia, antitrust regulations “are statutes developed by the U.S. government to protect consumers from predatory business practices” with the goal of ensuring that “fair competition exists in an open-market economy.”

The question of whether and how the US government should respond to the actions of technology giants is a fascinating and increasingly important one, and debaters should be excited to dig in.

Microsoft has been accused of monopolistic practices with respect to the Internet Explorer browser; Amazon's standard business practice includes "copying and marketing of successful products with private labels"; Google has used algorithms to demote its rival websites in search results; Facebook has expanded massively by acquiring Instagram and WhatsApp, Google by acquiring DoubleClick, Nest and Waze, and Amazon by acquiring Whole Foods and Zappos.

The list goes on and on for the ways in which technology giants have become, well, giants, dominating over economic landscape. The following chart depicts the market share in major sectors of the technology industry and depicts the extent to which a single firm or handful of firms dominates the sector.

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On the one hand, these large companies are said to promote innovation. Furthermore, many of their services make sense under a contiguous platform. Social networking sites are only as relevant as the number of people on them, and there's a benefit to having "all your friends in one place"; by the same token, consumers have arguably experienced a benefit of a one-stop shop with two-day shipping in the form of Amazon.

On the other, the sheer size of these companies might pose a danger to innovation by stifling competition. Moreover, tech companies have begun to become entrenched in weighty social and political problems, and their size is a major factor contributing to the danger they pose. There is also the more traditional concern of higher prices for consumers under monopolistic conditions, though many of these tech companies (notably Google and Facebook) don't have a sticker price for consumers, making it harder to paint a clear case under the old models of antitrust regulation. Other aspects that make it challenging to deal with these companies are certain built-in characteristics; MIT economist John Van Reenen points out that...
as people search more on Google, "Google gets more information and that improves their algorithms," leading "even more people use it, and that kind of snowballs and they monetize that through advertising."³

Concern about the growing role of technology companies transcends party lines.

President Donald Trump claimed on Twitter that “Google, Twitter, and other platforms were biased against conservative viewpoints, and said later that they ‘may be in a very antitrust situation.’” This was not the first time his administration gave indications of potential action on antitrust, with both the former Attorney General Jeff Sessions and the Federal Trade Commission chairman Joseph Simons commenting on the matter.⁴

Meanwhile, a major player for the 2020 Democratic presidential candidate Elizabeth Warren has outlined specific policy ideas for breaking up the major technology companies. This includes that “giants such as Amazon, Facebook or Google to be broken up into their respective divisions and be prevented from acquiring or copying competitors who could threaten their model.”⁵ Furthermore, she proposes that firms with more than $25 billion in turnover be prevented from “creating platforms of any kind that connect to third parties and participate in addition in them.”⁶

⁶Ibid.
These would be major courses of action. Debaters should be familiar with the political climate surrounding these proposals and engage with the literature on their benefits and disadvantages. However, they should also remember that the resolution asks a different question, asking whether the United States federal government should enforce antitrust regulations, not necessarily whether they should create new regulations. Some authors that are critical of plans to increase regulations, like Enrique Dans writing for Forbes, still maintain that it “would seem more appropriate to ensure adequate compliance with existing legislation and to block the growing influence of powerful lobbies rather than creating even more rules,” which is not too distant from the affirmative position.⁷

However, there is a lot of gray array as to whether companies are in "compliance with existing legislation"; this is often determined on a case by case basis, and would require an active move from the government to scrutinize and potentially penalize. Furthermore, existing regulations might not be well fit the circumstances that characterize modern tech giants. For example, Tom Relihan writes in the MIT Sloan Management Review that most of the firms acquired by major tech giants in mergers are relatively small so they don't trigger "scrutiny by antitrust authorities." For example, "Facebook's 2012 purchase of Instagram for $1 billion in

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cash and stock stands as the classic example of the sort of forward-looking strategies regulators would need to detect and address."\(^8\)

Debaters should also familiarize themselves with the courses of action taken in other parts of the world. Even though many of these firms are American, they operate internationally and are thus subject to international antitrust efforts. According to Relihan, "five of the most valuable companies in the U.S. economy—Alphabet, Facebook, Amazon, Apple, and Microsoft—have all faced regulatory action in Europe," with Google having to pay a $5 billion fine "for unfairly favoring its own search services" on Android and Microsoft a $1.3 billion settlement for "abusing the dominance of its Windows operating system.\(^9\) The fact that Europe has taken action can service either the Pro or Con teams; Pro teams will look to European arguments to justify the need for enforcement, while Con teams may argue that action by Europe is enough to curtail these companies (though, notably, some European policies only need to apply to these company’s services within Europe). Con teams will also point to Europe’s technology sector which is comparatively weaker than the United States’, though this is due to a variety of factors.

Pro teams will emphasize the enormous and sometimes egregious actions taken by these firms. According to David McLaughlin at the Washington Post, “data compiled by Bloomberg show the big five -- Alphabet, Amazon, Apple, Facebook, and Microsoft -- have

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made 431 acquisitions worth $155.7 billion over the last decade."¹⁰ These acquisitions are important not only because of the erosion of competition but also because they vastly multiply the amounts of data that the companies have access to, a major concern when data is both so economically valuable and so dangerous from the perspective of privacy infringements. Pro teams can also make arguments about innovation, arguing that some enforcement “could actually stimulate more innovation by giving small firms a chance to sink or swim instead of being immediately bought up by their larger competitors.”¹¹

Con teams will likely take an anti-regulatory stance. They might point out that Yahoo!, MySpace AOL used to dominate, but market forces and competition forced them out, not antitrust.¹² They will also take the stance that anti-trust regulations are bad for innovation and competition. Recall that the actor in the resolution is the US federal government. This body has competing interests, and while promoting competition among its domestic firms is important, competing as a nation also matters. Enrique points out that “the biggest competition for these players comes from a country, China, whose government is dedicated to supporting its technology companies and that has never imposed restrictions on their growth and expansion

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into new markets,” suggesting that restrictions to US companies would jeopardize their ability to compete.\(^{13}\) As far as innovation, Relihan points out that “Amazon invested more than $16 billion—the highest of any major company in the world—in research and development in 2017, while Alphabet, Inc., Google’s parent company, reinvested nearly $14 billion.”\(^{14}\) Their large size enables these companies to invest heavily in research and development, which in turn spurs innovation.

**Conclusion**

Debaters will have to engage with tremendous breadth and depth of arguments on this topic. Successful teams will understand warrants at a deep level, combining the insights of economics with political science and even ethics to weigh complicated issues. As far as breadth, debaters can argue about anything from the consequences of the resolution for economic growth to the very notion that technology advancements are good for us. As more and more people question the damaging environmental, psychological, and social impacts of technology companies, this latter point might not seem so far fetched. Whatever you choose to argue, rest assured that debates will be interesting. Wherever you may be competing, good luck and have fun!


Resolved: The United States federal government should enforce antitrust regulations on technology giants.

Introduction

On August 2nd, 2018, Apple became America’s first trillion-dollar company. The company, founded in a California garage in 1976, soared past its contemporaries to become one of the most influential corporations in the world. While other companies that grabbed such a gratuitous share of a specific market throughout American history have been targeted by anti-trust laws, the nature of the tech industry makes it tough to regulate at a federal level. Today, many of America’s biggest companies either reside within the balmy confines of Silicon Valley or dabble in hardware or software from another corner of the country. Several of these companies, much like Apple, have made attempts to either drive their opponents out of the market or simply acquire them to avoid a confrontation altogether. As these companies have continued to balloon in size, many have been left wondering whether the time has come to apply the same anti-trust regulations to American tech companies that were successfully applied to the oil, steel, and railroad industries around the turn of the 20th century. This month’s resolution therefore will serve as an excellent chance for you as a debater to learn about one of the most pressing issues within the tech industry, and possibly one of the most important issues for the 2020 presidential election cycle.
Tournament Considerations

The NSDA National Tournament is, in my opinion, a seemingly endless gauntlet. The tournament is more an ultramarathon than a sprint. It takes place over the course of an entire week, with more than three or four normal-sized local tournaments worth of debate rounds. I encourage you to use the time you have during the tournament to make adjustments, as there is a lot to be learned about the topic and the arguments you’re likely to face over the course of an entire week. Be careful not to sacrifice sleep in process, as the tournament can be quite difficult while sleep deprived. The judging pool at the tournament is quite strong, as it features many of the most involved public forum coaches and judges from around the country. Given that the judges all come from different regions and have different worldviews, there will still be a wide array of paradigms and opinions. Unlike the NCFL Grand National Tournament, where there are three judges on each panel in preliminary rounds, the NSDA National Tournament only has two judges per panel, which makes it easier to adapt given that there are fewer judges to appeal to. Most of the judges I’ve encountered at the NSDA National Tournament have not been so-called ‘circuit judges’, but they are typically very aware of the format and the expectations of judging the event. Overall, nationals has always been one of my favorite tournaments, and regardless of your placement at the end of the week, I’m sure you’ll have a wonderful last tournament of the year.
Strategic Considerations

The resolution is somewhat vague in that it doesn’t specify what sort of regulations would be imposed, nor does it clarify what the penalties would be. Perhaps this was intentional on behalf of the framers to force debaters to frame the policies on their own. For debaters, this means you’ll need to research several different instances where the government levied penalties on companies who violated antitrust laws. On the affirmative, this means debaters will be able to clarify how they believe antitrust regulations should be enforced, so long as they can demonstrate that their solutions are realistic and probable. However, the affirmative can’t simply choose any random antitrust regulation, as they’re still prohibited from running what would essentially amount to a plan. This means that negative debaters need to be prepared to deal with everything ranging from fines to breaking up tech companies into separate smaller entities. Furthermore, the phrase ‘technology giants’ is open to interpretation, meaning that the debate is not limited solely to companies like Apple. Obviously, the other big tech companies, like Samsung, Oracle, and Microsoft, are to be included, but it’s unclear whether slightly smaller tech companies might be included as well. Overall, the resolution is somewhat vague with regards to implementation, which means that debaters will have access to a wide range of different strategies when affirming and negating. It’s important to be prepared for every possible advocacy, from the predictable to the unpredictable, to succeed on this month’s resolution.
Broadly, there are two angles to consider on the affirmative – how will regulation affect the consumer, and how will regulation affect the tech industry. Given the types of impacts that the affirmative has access to, it’s likely strategic to argue that impacts to the average American consumer are more important than impacts to corporations. This framework is both intuitive and flatters most of the arguments you’re likely to find in your research. When companies become too large and undermine the competitive nature of the free market, it often allows them to engage in unfair pricing. When a company is large enough to control a disproportionate share of a specific industry, it essentially decides the price-point at which a good or service can be sold. Unfortunately for the consumer, this typically means companies can increase prices to prohibitively high levels. The consumer ends up paying higher prices for commodities like phones and computers, even if the product hasn’t increased in quality. Along the same lines, this also means that companies don’t have to consider the quality of their products given that there aren’t enough competitors. Companies are guided by profit, and once they can control a market by weeding out their competition, the quality of their product is no longer a consideration in their bottom line.

Consumers have also been exposed to several predatory practices online. Companies have been subject to leaks of customer information, like the infamous Target credit card leak around the holiday season, which led to millions in losses for average Americans. More maliciously, these companies have even sold off information about consumers to the highest bidder. Facebook and other social networks collect thousands of data points about each of their
users, and then market that information to companies hoping to market their products through targeted advertising. This often occurs without the user knowing that their information has been sold to a third party. Beyond merely taking an individual’s data, these companies have engaged in spying and other practices to obtain this data. Clearly, when customers don’t have another option to turn to, they’re forced to accept the privacy violations imposed by modern tech giants. As a result, the average American has less privacy than ever, and tech companies deserve an enormous share of the blame.

From a corporate standpoint, tech companies acting as monopolies have forced several small-businesses out of the market. Silicon Valley is known for the hub of startups, but it isn’t nearly as friendly as it once was because tech giants are able to act predatorily by pricing out smaller companies. Firms like Apple and Microsoft will do anything, from patent trolling to marketing campaigns, to run their challengers out of business before they even stand a chance. This means that small-business owners can’t successfully gain traction, and big companies can retain their massive share of their respective market. As a result, there’s little incentive for these companies to improve through innovation. Once companies have reached a position where they control a market, they don’t have to continually update and modify their product to retain customers. This means that the tech industry, known for its recent innovations, is unable to advances due to the incentives of the most powerful executives in the bay area.
Negative Arguments

Negative debaters may not be thrilled with the prospects of defending big companies accused of monopolizing a given market, but there are several strong arguments that can tilt any debate in your favor. The first thing to consider is the relative effectiveness of antitrust regulation as a whole. While noble in nature, American antitrust regulations throughout history have done little to diminish corporate power. Companies are almost always able to find a way, through the law or otherwise, to wriggle their way around regulations. Moreover, the tech industry spends a tremendous amount of money regulating the decisionmakers in Washington. Even if antitrust regulations were to occur, they aren’t likely to be harsh, industry-shaking punishments. Realistically, if congress were to attempt to regulate technology giants, they’d be very unlikely to succeed.

Independent of the relative effectiveness of federal regulation, the impacts would certainly be negative were regulations to be imposed. Millions of Americans are employed, either directly or indirectly, by companies that operate in the tech sector. If congress were to impose harsh penalties, or even break these companies up, there would undoubtedly be large layoffs and restructuring which would adversely affect the average worker. From software engineers at Google making hundreds of thousands to warehouse workers for Amazon making minimum wage, many Americans would be affected – not just the San Francisco elites. In addition, it’s become easier than ever for companies to relocate in order to avoid regulations. If targeted by the federal government, it would be easier and more convenient for some tech companies to simply move their operations to a place with a friendlier approach to antitrust.
law. This would displace thousands of workers and reduce greatly the amount of tax revenue that the company pays to the federal government. If the United States hopes to retain its most valuable firms, it can’t regulate them to the point of failure.

Conclusion

The NSDA National Tournament is an excellent way to end the debate season, and for some of you, your debate careers. I encourage you to cherish these moments you spend with your team, your coaches, and your debate partner. Attending nationals was one of the most positive experiences I had in high school, and I’m truly envious of those of you who get to compete this month on this excellent topic.

As always, I wish you the best of luck, but more importantly, I hope that you have fun at the last tournament of the 2019 season.

About Michael Norton

Michael Norton is the Director of Forensics at Coral Springs High School in Broward County Florida. He is also the Editor in Chief of the Public Forum Brief at Champion Briefs. He has been involved with Public Forum since 2009, making this his 10th year in the activity. He has worked with thousands of students across many sessions of summer camp and many semesters of class. As a competitor, Michael won the Sunvitational, Manchester Essex Invitational, Blake Invitational, Harvard Invitational, and the Harvard Round Robin. He also had a successful
collegiate debate career, finishing among the top four teams at the American Parliamentary Debate Association’s national tournament and semifinaling at the North American Universities Debating Championship. While Michael places a premium on success, he has stayed in the debate community because he knows that debate can change anybody’s life if they give it a real shot.
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General Information
Resolved: The United States federal government should enforce antitrust regulations on technology giants.

Foreword: We, at Champion Briefs, feel that having deep knowledge about a topic is just as valuable as formulating the right arguments. Having general background knowledge about the topic area helps debaters form more coherent arguments from their breadth of knowledge. As such, we have compiled general information on the key concepts and general areas that we feel will best suit you for in- and out-of-round use. Any strong strategy or argument must be built from a strong foundation of information; we hope that you will utilize this section to help build that foundation.
History of Antitrust Laws

In the 1800s, several giant businesses arose in the American economy, controlling large sectors of the economy. Industries such as railroads, oil, steel and sugar were dominated by very few competitors, leading to a monopoly in the sector.\(^\text{15}\) Perhaps the most famous was US Steel and Standard Oil; US Steel and Standard Oil controlled the entire industry, allowing them to control the supply of their product as well as the price of their goods.

The formation of monopolies in the American economy destroyed the very idea of *laissez-faire* that Americans adamantly stood for so long: the lack of competition in the market allows prices to soar through the roof and the quality of the goods to be poor. As these industries became richer and richer, the government was forced to “bust” many of these large businesses, known as trusts, with a set of laws that became known as the “antitrust” laws.\(^\text{16}\) The ultimate goal of these laws were to protect consumers and stop businesses from gaining too much power over their competition.


The Sherman Act was the first antitrust law to be passed in 1890; it prevent collusion, which is when competitors make agreements with each other that would limit competition, such as price fixing.\(^{17}\) Moreover, it prevent businesses from being a monopoly if the company was cheating or not competing fairly.\(^{18}\) Of course, these terms are vague, but nonetheless outlined the need for the government to step in and regulate the economy.

The Clayton Act was passed in 1914, which prevents businesses from merging and forming a single company in order to control prices and productions. Thus, the Act prevent mergers and acquisitions that would stifle competition from occurring.\(^{19}\)

Finally, the Federal Trade Commission Act, passed in 1914, Congress created a federal agency to monitor and track unfair business practices.\(^{20}\) The FTC has the authority to investigate and stop practices that might harm competition or is seen as deceptive.


The Role of Technology Giants

Technology companies have become some of the most valuable companies in America and is one of the faster growing sectors in our economy. Companies such as Amazon, Facebook, Google, Microsoft, and Apple are dominating the internet, collecting data from users and selling it along the way. Apple is estimating to end its fiscal year with a revenue of 273.3 billion dollars, with the new iPhone X generating 44 billion dollars alone. Amazon is expected to hit 228.7 billions in sales this year, a 51.5 billion dollar increase from 2017. Facebook saw sales jump by

21 “140 Years of Antitrust: How the Basic Paradigms of Competition, Regulation, and Antitrust Have Changed Since WWII.” - ProMarket.org - The Blog of the Stigler Center at the University of Chicago Booth School of Business, 10 Nov. 2016, promarket.org/140-years-antitrust-basic-paradigms-competition-regulation-antitrust-changed-since-wwii/.
35%, Amazon 29%, Microsoft 10%, and Apple 19%.

As technology giants become more and more dominant in the United States’ economic sphere, the public has turned to question if these companies have, indeed, garnered a monopoly in their respective markets, creating a violation in antitrust laws.

But when looking at the impacts of technology giants dominating, let’s say, the social media industry, the laws listed above seem irrelevant. Sure, it is necessary for there to be competition in order to keep prices low, which is how these laws affect consumers, but the social media industry is mostly free. Thus, when Facebook bought Instagram, it clearly decreased the competition for social media usage and ad sales, but besides a perhaps slight increase in advertisement, where does the problem reach consumers that still get to use both Facebook and Instagram for free?

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It is indeed true that the antitrust laws described earlier were old-fashioned and focused mostly on preventing prices from sky-rocketing in the American economy. However, when it comes to deliberating antitrust regulations and the technology giants, big tech companies have generated a lot of non-price complaints.\textsuperscript{24} For example, let’s look at Amazon’s business model and how it has become such a force in the online shopping market today. When Amazon first came out, there were multiple competitors on the market, such as Quidsi, who partnered with Diapers.com and Soaps.com in order to break into the e-commerce market.\textsuperscript{25} Amazon immediately tried to convince Quidsi to sell, an offer in which Quidsi refused. Shortly after this, Amazon began to drop their prices on diapers and baby products by up to 30 percent, tracking the prices on Diapers.com and adjusting their own in order to undercut them. As demand shifted to Amazon, who was willing to run a huge deficit in order to undercut their competition, investors began to pull out their investments into Quidsi, and by November 2010, Quidsi agreed to sell to Amazon.\textsuperscript{26} Amazon was able to decrease competition and gain dominance in the e-commerce market; what the antitrust laws never accounted for was a situation where this


behavior could result in cheaper prices for goods (at least in the short term) rather than sky-rocketing prices.

**Antitrust and Technology, Modernized**

The Reagan administration kicked off the modern-era antitrust enforcement, limiting regulations on businesses, which continued through Bill Clinton’s term in the White House. During this term, the philosophy of the Democratic Party, who is more regulation friendly, showed itself in an antitrust case again Microsoft, which ended with commitment to disentangle Internet Explorer web browser from Windows. George Bush loosened enforcement further, with many mergers such as Sirius and XM in satellite radio sliding through the administration. When Obama became president, the reigns tightened on the industry once more, blocking takeovers of T-Mobile by AT&T and Sprint.

However, many argue that enforcement on the tech sector has often been too timid. The Microsoft lawsuit was the last major monopolization case. From 1970 to 1999, there was on

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average 15.7 monopoly cases per year brought by the US, and that number has dropped sharply to less than three between 2000 to 2014.\textsuperscript{31} Towards the end of Obama’s administration, the congressional Democrats committed themselves to a new antitrust agenda. This agenda contained two major changes that affect technology giants. First, rather than only regulating mergers that increase prices, the FTC will also regulate mergers that unfairly reduce competition. The reasoning behind this is because even if prices are lower in the short term, a merger could be reduce wages, job cuts, lower product quality, stifling innovation, or preventing small businesses from competing in the market.\textsuperscript{32} This directly addresses the discussion about Amazon, where they clearly reduced competition in the market, but they decreased prices for consumers in the short-term.

The current Democrats would contend that even if the prices are lower, the amount of control Amazon has over how much to pay their workers (since they don’t have as many options to leave), or how good their product is (since there is nowhere else to turn), and how it will stifle innovation (because no one else will want to produce a better product since they can’t enter the market on a competitive level) will end up costing consumers in the long term.


Elizabeth Warren and Breaking Up Tech Giants

Elizabeth Warren has proposed a plan that states that a company with an annual global revenue of over 25 billion dollars and offers the public an online marketplace, exchange or a platform cannot own any part of the participation in the platform. For example, Amazon is allowed to sell batteries from Duracell or blankets from Bed Bath and Beyond, but not batteries or blankets from AmazonBasics, a brand that they produce and supply. This plan is fairly

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33 140 Years of Antitrust: How the Basic Paradigms of Competition, Regulation, and Antitrust Have Changed Since WWII.” - Promarket.org - The Blog of the Stigler Center at the University of Chicago Booth School of Business, 10 Nov. 2016, promarket.org/140-years-antitrust-basic-paradigms-competition-regulation-antitrust-changed-since-wwii/.
unlikely to pass, given the amount of money tech giants donate into DC and the low priority of this bill in the government.\textsuperscript{34}

Critics claim that this plan will only serve to harm the industry further. Indeed, the monopolization of Google and Facebook is probably hardly noticed by consumers: after all, they get access to these services for free. The monetary benefit of running these platforms is to profit off selling data and doing large amounts of advertising. If Warren’s plan goes through, advertising revenue will be a separate business, giving Google no incentive to devote engineers to improve the website.\textsuperscript{35} Currently the top five spenders in research and development in 2017 were all tech companies, and decreasing the incentive for them to invest would appear to only harm technological advancement.\textsuperscript{36}

But have the tech giants abused their power despite the innovation they are producing? These tech giants have access to large amounts of data provided by their consumers and also collected by the company themselves. Amazon has the ability to block merchandise from


getting on their market if they are having a dispute.\textsuperscript{37} Google has the information to sell many individuals’ data for profit, raising privacy concerns.\textsuperscript{38} Surely, all those things will affect consumers one way or another in the long run, making them worth discussion now? One way or another, tech giants are facing threats of breaking up and regulations from the government and regulators, and it’ll definitely leave a mark on the United States’ economy.


PRO: Current Laws are Not Enforced

Argument: Antitrust regulations are not enforced despite growing consolidation of the tech industry, which is reducing competition and hurting the economy.

Warrant: Tech companies already control significant shares of their respective markets.


“They’re powerful, for sure. Google and Facebook Inc. together control almost 60 percent of digital ad revenue in the U.S. and 64 percent of mobile ad revenue, according to eMarketer. Apple Inc. has about 45 percent of the U.S. smartphone market. About 47 percent of all U.S. e-commerce sales go through Amazon.com Inc. But under modern antitrust enforcement, those percentages alone aren’t enough to alarm regulators in the U.S., which long ago stopped equating big with bad. (For comparison’s sake, Standard Oil’s market share got as high as 88 percent late in the 19th century.) What’s illegal is for a monopoly to abuse its market power to prevent rivals from threatening its dominance. Federal courts ruled Microsoft Corp. did so in the 1990s.”

Warrant: As time goes on, consolidation of tech markets will increase.

“The pure technology industry will consolidate predictably. It will continue to coalesce around hardware, software, communications and services, which it’s already done: there are 9 software companies that control the world, 15 information technology companies, 26 Internet companies, 10 hardware companies and 10 services companies. These companies have been moving in the traditional consolidation direction. They’ve been trying to own larger and larger pieces of, for example, the laptop, tablet or ERP markets, when the real action lies with the combination and integration of laptops, smartphones, entertainment, banking and transactions – especially since many of the most active type 2 consolidators are also on the traditional consolidator lists! The number of “technology companies” will shrink from 70 to 30 by 2030 and possibly 10 by 2050, as the role of technology becomes integrative, ubiquitous and pervasive across multiple vertical industries. Companies will no longer compete around the best hardware, software or communications technology. They will compete around their ability to leverage technology across markets and functions, like e-retailing, sports, entertainment, education and travel, among many other markets, activities and functions.”

Warrant: Despite tech industry consolidation, antitrust regulations have not been aggressively enforced.


“There’s evidence that having more industries controlled by fewer companies is bad for both consumers and workers. Wessel points out that if a few big employers dominate an industry, wages tend to go down, while prices tend to go up. So, why is
this happening now? One reason is that there are a lot of mergers, and the
government isn’t being particularly aggressive in stopping them. Ever since the Reagan
administration, antitrust policies haven’t been strongly enforced. Another reason is
that new technology makes it much more efficient to be a large corporation, allowing
them to easily exploit economies of scale.”

Impact: Uncontrolled market consolidation by tech companies hurts the economy.

Guardian, Guardian News and Media, 3 Apr. 2019,

“The chapter from the WEO noted that the big-picture economic implications of the
trend had so far been “rather modest” and that the impact of rising market power on
innovation had so far been positive. But the IMF said impact would become
“increasingly negative if the market power of high mark-up firms, in particular, were
to continue to rise in the future.” It added that “investment would weaken,
innovation could slow, labour income shares would fall further, and monetary
policymakers find it even more difficult to stabilise output in the event of major
downturns.” The tech giants have been accused of using takeovers and mergers as a
way of removing competitors, and the IMF said its evidence showed that these had
led to significantly higher mark ups.”

Analysis: This argument helps frame the current trends and potential harmful impacts of the
lack of regulation on tech giants. As the pro team, establishing that the current trend is going to
be detrimental in the future allows for you to weigh this arguments over your opponent’s on
urgency and time frame, as the only way to stop the next economic meltdown is affirming.
A/2: Current Laws are Not Enforced

**Answer:** Consolidation in tech has been good for consumers, so there is no need to enforce antitrust regulations.

**Warrant:** The large size of tech giants allows more efficient production and more benefits to consumers.


“This is the right standard. Another standard that could be used in antitrust enforcement is essentially "big is bad" -- the presumption that large and powerful companies should be suspect because of the political and economic influence they wield. **This vague, fuzzier standard is inferior. It ignores the good things that come from size, including the ability to produce output at lower cost. It also invites regulatory mischief. And it weakens the focus on the benefits competitive markets offer to consumers. By the standard of consumer welfare, big tech is a blessing.** I have been using Gmail every day for over a decade. It operates flawlessly. And its search feature is so good that it acts as a virtual diary, allowing me to revisit correspondence from years ago with just a few keystrokes. Google, the creator and operator of Gmail, has charged me exactly zero dollars for this fantastic product. Amazon is pushing prices so low that some believe it is reducing the rate of price inflation for the overall economy. Apple put a sleek computer -- and the ability to access previously unimaginable quantities of knowledge -- in our pockets. **In short, by the standards of consumer welfare -- providing a variety of high-quality products, innovation, low prices -- big tech is one of the best things to happen in the economy in decades.**
Warrant: Big companies operate efficiently because of economies of scale, which allow them to innovate and compete globally.


“In addition, large companies often have advantages over small companies. As Ohlhausen pointed out, “…sometimes companies are big because there are big economies of scale, economies of scope, there’s a lot of efficiencies in a big company.” Sometimes companies can produce products more efficiently when operating at scale. Moreover, their size sometimes enables them to design higher quality products and to improve them faster and more efficiently. In these cases, products and services get better and cheaper when provided by large companies, to the benefit of their consumers. In today’s integrated global economy, moreover, these benefits of bigness cannot be ignored. U.S. companies compete against large companies from around the world. To be effective, they need the scale to manage geographically dispersed supply chains, to integrate networks of customers and suppliers and to customize products and services for local markets.”

Analysis: This response demonstrates that tech giants are not harmful to the economy, and may actually be beneficial to consumers. This short-circuits your opponent’s impact as it means that even though there is consolidation in the status quo, this is a beneficial trend.

Answer: Enforcing antitrust regulation would hurt the economy.
**Warrant:** Breaking up and restricting big companies reduces the incentive to innovate.


“The proposal to dismantle large technology companies by unwinding already completed mergers and to prohibit platform owners from participating on their own platforms is flawed. A respect for property rights and the freedom of contract are fundamental tenets of a free-market economy. So is competition policy that enables long-term economic growth benefiting businesses and consumers alike. Expropriating the property rights of a successful company is a veritable “nuclear option” in antitrust law, especially when less intrusive remedies exist. The more dramatic approach would cause significant damage to the economy if it were to use antitrust law to break up large companies in an effort to remedy broad public-interest concerns. Restricting successful companies reduces incentives to innovate, invest, and compete. Competition-enforcement agencies must be empowered to make evidence-based decisions using economic analysis to deal with antitrust issues.”

**Warrant:** Without big tech platforms, small businesses are harmed.


“Regardless of the mechanism used against big businesses, we must also recognize the harm to small businesses from antitrust actions against large online platforms. Anti-tech advocates claim that “big is bad,” but for America’s small and midsize businesses, the bigger the platform the better for small businesses trying to reach a big audience. Consider the local greeting-card and stationery store. A decade ago this business could
barely afford to place an ad in a local newspaper, let alone on TV or radio. But for less than $10 spent with online platforms, this small business can reach thousands of potential customers, and target them more accurately than ever too.”

**Analysis:** This response turns your opponent’s argument, proving that enforcing antitrust regulation would actively harm the economy as there would be higher costs and less efficiency. If enforcing antitrust regulation is harmful, then it seems that affirming is counterproductive in helping the economy.
PRO: Mergers and Acquisitions

Warrant: The FTC is looking into anticompetitive activity in tech, including reviewing mergers.


The Federal Trade Commission announced yesterday that it will launch a task force to monitor the tech industry for anticompetitive activity.
Part of that responsibility includes reviewing industry mergers -- both those slated to take place, as well as those that have already been completed.
But as a task force forms that's designed to get answers -- especially those pertaining to the practices and potential monopolistic activity -- many are left with even more questions.

Warrant: Tech giants are acquiring firms at a dizzying pace.

Henry, Zoe. “Amazon has acquired or invested in more companies than you think – at least 128 of them” Inc. 05/17. https://www.inc.com/magazine/201705/zoe-henry/will-amazon-buy-you.html

When Jeff Bezos isn't plotting how to blast himself into outer space or test-driving a 13-foot Transformer-esque robot, he's hunting for the next startup that will bolster his Amazon arsenal. Over nearly two decades, the retailer has gobbled up or invested in at least 128 companies from Paris to Dubai.
What's driven the Seattle behemoth to sink its tentacles into such a broad range of upstarts? "When Amazon decides it wants to win something and the market's
important to it, it will try to compete. If it can't, it will ultimately buy the leader," says Jeremy Levine, a partner at venture capital firm Bessemer Venture Partners, a shareholder in Quidsi, which Amazon purchased in 2011 (and shuttered in March). Common themes among the companies Amazon has brought into its inner circle: startups that adopted the retailer's technology early on; that help put it in direct orbit of Apple, Google, and Netflix; or that vault it into a new geography or category, as it's doing with its more recent Alexa Fund, which is funnelling $100 million into artificial intelligence startups. While Amazon has had its share of winning bets like Zappos and Evi, if you ever get the chance to pitch Bezos, you might not want to remind him of LivingSocial.

**Warrant:** Tech companies have exceeded trillions in market cap by scooping up smaller businesses.


Tech companies have a lot of money. Two—Apple and Amazon—have eclipsed a trillion-dollar market cap, while others, like Alphabet and Microsoft, aren't far behind. And one thing tech giants love to do with their money is scoop up other companies in massive merger and acquisition (M&A) deals.

Every year, billions upon billions of dollars change hands in service of corporate consolidation. New blockbuster tech deals reshape the landscape so often that we decided to start keeping track of the most lucrative ones. The list starts with deals of only a couple billion and works its way up to the biggest tech mergers and acquisitions we've seen to date.

However, you won't find futile efforts like Broadcom's blocked $121 billion deal to buy Qualcomm or Qualcomm's failed $47 billion bid for NXP Semiconductors here.
Qualcomm has had a rough go in the M&A world lately, but its struggles exemplify one very important rule: the deal isn't closed until it clears government and regulatory approval. If a deal has been announced but hasn't yet closed, you'll see an asterisk next to its entry on the list.

We're also not including stock buybacks, public companies going private via buyout, or the massive consolidation in the telecommunications space, because we have to draw the line somewhere. We'll update this list as new tech mergers and acquisitions emerge. Thanks to capitalism and the tech industry's outsized influence on the economy, you can be sure that eventually, there will always be a bigger deal.

**Analysis:** Tech companies are swelling in size in ways you may not have noticed. Companies like Amazon may specialize in online retail, but they're investing in a number of tangential markets with a goal of shutting out their competitors. By doing so, these tech giants have ballooned in size to a scale never seen before.
Answer: Regulation of M&A will fail.

Warrant: Legislation would be more effective.


This does not mean that our privacy laws are fully adequate as they are. In fact, the time is ripe for Congress to step up to the plate and pass a broad privacy law that establishes strong consumer protections to insulate people from consumer harms associated with the unreasonable collection, dissemination or use of personal information.

There is an irony that the agency best positioned to implement and enforce such a new privacy law is the Federal Trade Commission, which also has authority to enforce the antitrust laws. Under Section 5 of the FTC Act, the Commission is empowered to prohibit ‘unfair or deceptive acts or practices.’ They have already exercised this authority in numerous cases to protect consumers whose privacy has been invaded.

Warrant: The FTC will not be able to regulate by itself.

Beginning last fall and continuing into the new year, the Federal Trade Commission has embarked on a series of Hearings on Competition and Consumer Protection in the 21st Century. To date, there've been nine hearings, each spanning two or three days. The harms technology presents to consumers have taken center stage during the hearings, with much debate centering on issues like consumer privacy, data security, and the risks platforms pose to competition. Indeed, the hearings stem from a problem that's been brewing for years: Companies have repeatedly shown that they're not up to the task of self-regulation.

And yet, while it's certainly good that the FTC wants to be more accountable and transparent, convening a series of public hearings won't be enough—at least, not if they don't get at the deeper question of whether, and how, to regulate today's towering tech companies.

**Analysis:** Mergers occur across the entire economy and are not specific to tech. The FTC and other agencies responsible for regulating these things will not be able to handle the sheer size and scale of the tech industry. Legislation would be a far more effective way to reign in the ballooning size of a few tech superpowers like Amazon, Google, etc.
**PRO: Small Business**

**Argument:** Small businesses aren’t able to compete in the tech industry.

**Warrant:** Tech giants are pushing out smaller firms.


Yet applying antitrust laws in the usual ways is already a bit confounding when dealing with tech companies. The Sherman Antitrust Act is supposed to protect consumers from monopolies that corner a market and raise prices, yet the tech giants give consumers outstanding products for free (Google Maps and Facebook Messenger, for instance), or force prices down, as Amazon has done by under-pricing traditional retailers. The Sherman Antitrust Act forgives “innocent monopolies” that win just by being great at what they do. Admirably, our tech giants seem to have won their monopolies by playing by existing rules better than anyone, and that’s not a crime. In fact, it’s what our capitalist rules say they’re supposed to do. However, the arguments about innocent monopolies and consumer benefits ignore a mushrooming danger to small businesses—and U.S. job growth. Tech startups, corner shops, new restaurants—these are significant engines of the U.S. economy. Small firms accounted for 64% of all new jobs generated from 1993 to 2011, according to the Small Business Administration.

**Warrant:** Tech giants get away with things that smaller businesses would be heavily penalized for.
It’s safe to say that 2018 was rife with controversy for some US tech giants. And it’s also safe to say that if a small business encountered any of the same contentious situations that some tech monopolies experienced last year, they’d almost certainly find their doors closed for good.

But for the reigning tech monopolies like Google, Amazon, and Facebook, the scales are tipped disproportionately in their favor. Most of us don’t think twice before using one of those platforms, not even when scandals pop up that signal significant (and unsettling) security breaches.

Just look at Facebook’s tumultuous last year, which saw an overload of controversy following the Cambridge Analytica scandal. And while there were numerous reports that users were leaving Facebook in droves, its monthly active users actually grew by almost 10% in the past year.

**Warrant:** The collapse of small businesses is directly related to the growing size of tech firms.

Tepper, Jonathan. “American corporations are winning their war on capitalism.”

The collapse of startups should be no surprise. Ever since antitrust enforcement was changed under President Ronald Reagan in the early 1980s, small was bad and big was considered beautiful. Murray Weidenbaum, the first chair of Reagan’s Council of Economic Advisers, said, “It is not the small businesses that created the jobs, but the economic growth.” **Small businesses were sacrificed for the sake of bigger businesses.**
In a comprehensive study, Professor Gustavo Grullon showed that the disappearance of small firms is directly related to increasing industrial concentration. In real terms, the average firm in the economy has become three times larger over the past 20 years. Grullon concluded that the evidence points “to a structural change in the U.S. labor market, where most jobs are being created by large and established firms, rather than by entrepreneurial activity.”

**Impact:** Small businesses are a crucial part of the economy.


If business creation is falling, and small businesses drive job growth, the likely outcome is that jobs will dwindle away. If tech startups get suppressed, the U.S. economy sees less innovation come to market, which could leave us falling behind other nations in critical areas like artificial intelligence and health care technology. The big problem is that these tech giants don’t just sell products—they are platforms that other businesses rely on. Amazon is an enormous retailer, but it’s also a retail platform for thousands of small sellers. So Amazon is competing against small sellers and has an unfair advantage: It can see all their partners’ online activity and learn how to beat them on price or product offerings. Amazon also owns Amazon Web Services (AWS), the dominant cloud-computing platform. Amazon can spot threats or opportunities early on AWS, giving it the power to either buy or crush a potentially successful newcomer before that startup gets much traction.

**Analysis:** Small businesses simply can’t compete when tech giants control such a massive amount of the market. The result is less innovation on behalf of small businesses, and fewer jobs for average Americans. The economy also grows slower when industry is concentrated in the hands of just a few firms.
A/2: Small Business

**Answer:** Tech giants are friendly to small business.

**Warrant:** Tech giants provide essential services that help small businesses grow.


These days, what can founders do but hope? Starting a business now invariably means going through one or more of the biggest tech companies: Amazon, Apple, Facebook, Google. Those giants say they give startups what they crave--instant access to vast markets, efficient ads, cheap and reliable infrastructure.

This isn't a fiction. Tech startups once bought servers; now they rent Amazon's and Google's cloud-computing power. Facebook is the most cost-effective marketing tool in history. Apple's and Google's app stores let developers reach hundreds of millions of customers overnight; Amazon Marketplace does the same for makers of physical products. "You can get wind in the sails for an early-stage idea much faster, and at lower cost, than ever before," says Justin Hendrix, executive director of NYC Media Lab.

**Warrant:** Tech giants have a financial incentive to see small businesses succeed.

The platform players want to see companies take wing, because they impose a tax on everything those companies do. Apple, the world's most profitable company, takes 30 percent of every sale in the App Store; merchants pay Amazon $40 per month or more to sell there—and don't forget those Facebook and Google ads and AWS fees. The tech giants plow those profits into ever more new businesses, where they compete with their own customers.

Like Edberg, more and more entrepreneurs now understand what that means: the leviathans using market power to favor their own offerings. A 2016 investigation by ProPublica found Amazon's search algorithm steers users away from bargains, often to Amazon's white-label offerings, which yield fatter margins. Google saw Yelp building a nice business around restaurant reviews. So it created its own listings and privileged them in searches; Yelp's stock price was halved.

**Analysis:** Tech companies have financial incentives to see small businesses succeed. As others innovate, larger companies are inevitably able to profit off of that innovation. Furthermore, by offering services to smaller businesses to help them in their infancy, tech companies also profit off their growth, meaning that they have a reason to want them to succeed.
PRO: Competition Leads to Innovation

**Argument:** The sheer size of these large technology companies is killing competition. The fact that competition does not exist in this industry is problematic because competition is the main driver for key advancements and innovation.

**Warrant:** There is a clear lack of competition in the technology market


“But big tech platforms, particularly Facebook, Google and Amazon, do indeed raise a worry about fair competition. That is partly because they often benefit from legal exemptions. Unlike publishers, Facebook and Google are rarely held responsible for what users do on them; and for years most American buyers on Amazon did not pay sales tax. Nor do the titans simply compete in a market. Increasingly, they are the market itself, providing the infrastructure (or “platforms”) for much of the digital economy. Many of their services appear to be free, but users “pay” for them by giving away their data. Powerful though they already are, their huge stockmarket valuations suggest that investors are counting on them to double or even triple in size in the next decade.

**Warrant:** Innovation in America is declining rapidly

“Juicero is hilarious. But it also reflects a deeply unfunny truth about Silicon Valley, and our economy more broadly. Juicero is not, as its apologists at Vox claim, an anomaly in an otherwise innovative investment climate. On the contrary: it’s yet another example of how profoundly anti-innovation America has become. And the consequences couldn’t be more serious: the economy that produced Juicero is the same one that’s creating opioid addicts in Ohio, maiming auto workers in Alabama, and evicting families in Los Angeles.”

**Warrant:** Competition breeds innovation


“Competition in industries is important so that it initiates positive change. If businesses are competing against each other, it means that they are aiming to produce the latest innovation to hit the market. A survey by PwC said that 80% of CEOs believed innovation drives efficiencies and leads to a competitive advantage. “Competition is a key driver of innovation. In open and competitive markets, firms are driven to adopt more efficient production processes, and to offer new and improved products and services to customers,” said John Pecman, Commissioner of Competition at the Workshop on Emerging Competition Issues.

**Impact:** Innovation is good for the consumers

“Business is a source of inequality—but in a good way—when innovators bring great progress in improved products and lower cost, even when they keep a portion of the gains for themselves. The masses of people benefit from cool technology, like smartphones, while also enjoying low prices by shopping at innovative stores. Sam Walton brought retail prices down across America, benefiting millions of consumers while getting extremely rich in the process. Inequality increased because of Walton’s wealth, but people were better off. In my earlier article, "Business Is One Reason For Economic Inequality—And Also For Equality," I made this argument without statistics. It turns out that new Nobel laureate William Nordhaus ran the numbers and found that innovators keep a very tiny fraction of the benefits they generate: I estimate that innovators are able to capture about 2.2% of the total social surplus from innovation.”

Analysis: This argument shows the importance of innovation in the technology industry. It also proves how by not affirming, any chance for competition and innovation will not occur. By enforcing antitrust regulations, it can breed competition in the market which provides an incentive to innovate and create better products. Weighing the long term benefits of innovation on consumers will be a very strategic route to take on this topic.
A/2: Competition Leads to Innovation

Answer: Too much competition can be a bad thing

Warrant: Too much competition can cause oversaturation of a market.


“A rise in competition can be a strong sign that one’s market is over saturated. Given the fundamentals of supply and demand in any market, you’re bound to find competitors chipping away at any economic benefits they can over time. Because of this, real estate markets get hot. Real estate markets cool off. And, over time, the cycle starts over again. A sharp rise in competition can signal an over-saturation in your market. While no one can truly predict how any specific market is going to perform in the future, this point highlights the importance of being as knowledgeable as possible about your chosen market. The most astute real estate professionals tend to sense when their market isn’t behaving as it should—signaling a likely over-saturation of competition. When this happens, a shift in strategy could be a wise decision.

Warrant: Too much competition can also cause the anchoring of businesses


“Competition offers an excellent way to benchmark your marketing strategies, pricing, quality of product, etc. But it can also stifle the growth and develop of your business. There’s a saying that states we are a conglomeration of the five people we interact with
the most on a daily basis. In your business, your five closest competitors likely influence your business decisions far greater than anyone else. Our competitors often show us new and innovative ways of doing business—which is fantastic! But they can also limit our potential by forcing us to anchor and limit our creativity, strategies, and business growth. If you think this is the case; easy, just find new competition and strive to perform at or above their level.”

Analysis: This response shows that while most people believe that competition is usually a good thing and can spur innovation, it could potentially cause some adverse effects for consumers and producers.

Answer: Despite having a positive connotation, innovation may be harmful.

Warrant: Too much innovation can lead to disruption overload which kills potentially beneficial products

“There are no end to the new ideas and ways of doing business that may appear seemingly out of the blue. Proponents of these innovations believe that they will have a positive impact on their business. In reality, this impact may be negative—thereby limiting potential growth and prosperity for the company.”


“He explains that disruption overload occurs when the innovation is too ahead of its time – meaning that the mass market is unable to access it. “While the makers of the original Macintosh computer knew that the world would one day become attached to their personal computers – they had to wait many years before the market could understand their product.” Engelbrecht says that for entrepreneurs with limited capital, it is not always possible to survive the wait. Engelbrecht says that sometimes it is not that the market is not yet prepared for the new technology, but that the product itself is far too complicated and consequently, not user friendly. “Innovators, in their enthusiasm for advanced product making, sometimes forget that the mass market is
not as tech-savvy as they are.” Engelbrecht says that it is important for the new product development process to involve input purely focused on the user accessibility of the product. From a South African perspective, Engelbrecht adds that while the emerging market has embraced many sophisticated tech products, it is important for entrepreneurs to recognise the needs of the entire mass market and understand that their business and product may not be appropriate for every sector. “In developing your business’ product or service, you need to be clear on the exact audience you are targeting, and ensure that your product is easily accessible, understandable, and attainable for that specific market.”

**Warrant:** Too much competition and innovation disrupts the economy.


“There are dangers to prioritizing innovation above all else, and it’s important to point them out. We’ve trained multiple generations of people to believe that their best bet for a career is to invent something new, to create an idea, or to start their own business. Yet this can be destructive, considering the high failure rate of startups. Entrepreneurs and idea generators who don’t have much experience may spend their whole lives trying to come up with a billion-dollar idea, only to fail in the process (since billion-dollar or even million-dollar ideas are so rare). As if that weren’t enough, we also have generations of people who look down on jobs that don’t require creativity or innovation. As a result, we have a **massive shortage of employees in skilled trades**, and a lack of people available to handle some very necessary tasks. On a related note, *our obsession with innovation leads us to devalue or deprioritize maintenance, which is necessary to keep our world running.* It’s far more appealing to invest money in a new tech startup that has the potential to change the world than it is to invest in repairing a bridge, or making upgrades to a highway system. Of course, there are many reasons
why our infrastructure is in poor shape, but our prioritization of innovation rather than maintenance of existing infrastructure plays a significant role in it.

Analysis: These responses show that despite having a generally positive connotation, innovation can lead to products that are too advanced for their time, making them inaccessible to their target audiences. Furthermore, society’s constant strive for innovation has led to a devaluation of infrastructure maintenance, so current technology can’t reap the whole benefits it has to offer.
**PRO: Technology giants are violating the Clayton Act**

**Argument:** By consolidating their markets through mergers and acquisitions, tech giants are violating the Clayton Antitrust act. Since companies are violating the law, antitrust regulation should be enforced to stop them.

**Warrant:** The Clayton Act prohibits mergers and acquisitions that substantially reduce competition.


“The Clayton Antitrust Act, for example, is more than 100 years old and its predecessor the Sherman Act is even older. Both arose in an era when increasingly financial sophistication was allowing the creation of large industrial organizations — often with classic Gilded Age generic names like US Steel, Standard Oil, and the American Sugar Refining Company — that dominated their respective industries. Rather than specifying any particular analysis to address worries about monopolization, the Clayton Act simply bars one company from acquiring another when “the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly” and does not offer much in the way of further definition or elaboration of what that means.”

**Warrant:** Tech giants are engaging in anti-competitive acquisitions of smaller companies.

“As the middlemen for today’s essential products and services, platforms like Amazon and Facebook have leverage over both producers and consumers. Amazon used its power over the book market in 2014 to block pre-orders for some Hachette Book titles during a dispute with the publisher over pricing. **The tech giants are also growing by snapping up potential rivals that might threaten market share.** Data compiled by Bloomberg show the big five — Alphabet, Amazon, Apple, Facebook and Microsoft — have made 431 acquisitions worth $155.7 billion over the last decade, according to **data compiled by Bloomberg.** The companies also have control over vast amounts of data about their customers, raising concerns about threats to privacy.”

**Warrant:** The Federal Trade Commission has not enforced antitrust laws and it has the power to police anti-competitive conduct.


“As a result, the FTC has ceded leadership on cracking down on the tech giants to Europe, where new data privacy rules scheduled for implementation in May have the potential to upend Facebook and Google’s business model. U.S. antitrust has been completely left behind because of its reliance on outdated models and unwillingness to disrupt Silicon Valley’s preferred path. If it chose to use its own power, the FTC could really make a difference. “The FTC really hasn’t used its authority in decades and has tried to rein in its own authority,” said Sandeep Vaheesan, a regulatory counsel for the Consumer Financial Protection Bureau. **Section 5 of the FTC Act gives the agency open-ended authority to police mergers and prevent anti-competitive conduct,** but a 2015 “statement of principles” claimed it would interpret that section narrowly. “Its preferred approach has been to say, ‘Stop doing the bad thing that you’re doing,’”
Vahesan said, “instead of going after the company and saying, ‘We’re going to break you up.’”

**Impact:** Uncontrolled mergers and acquisitions reduce start-ups and new businesses.


“The presence of a few dominant companies in an industry also makes it harder for entrepreneurs to start new businesses in that sector. The rate at which new businesses are created in the economy as a whole has been steadily falling since the 1970s, according to the Census Bureau. In 2013, the growth rate was 10.2 percent, down from 17.1 percent in 1977. More legal challenges could help limit further consolidation and restore more dynamism to the economy. The Justice Department’s antitrust division has in recent years won nearly every merger challenge it has brought. The division and the Federal Communications Commission prevented Comcast from buying Time Warner Cable and AT&T from acquiring T-Mobile. But the division’s record suggests that it could be taking a tougher line. It allowed American Airlines and US Airways to merge after they agreed to sell just a few gates and take off and landing slots to other airlines. It should not have settled so quickly for so little.”

**Analysis:** This argument shows that the Clayton antitrust act is clearly being violated through aggressive anti-competitive mergers and acquisitions by the tech giants. If these anti-competitive efforts are harming the economy, it is appropriate to enforce antitrust regulations to stop industry consolidation by affirming. The best way to weigh this argument is to argue that the judge should prefer impacts startup businesses bring to the economy over large businesses because of the increase in economic growth.
A/2: Technology giants are violating the Clayton Act

**Answer:** Individual mergers and acquisitions are not substantially reducing competition, so the Clayton Act shouldn’t be enforced.

**Warrant:** Previous acquisitions by tech giants were not stopped because of small reductions in competition at time of acquisition.


“In some sense, for example, back when Facebook bought Instagram, that was clearly an acquisition that lessened competition in the sense that both companies made smartphone apps that competed for a supply of time and attention and ad dollars. But Instagram at the time had only 30 million users (and barely a dozen employees). So did it substantially lessen competition? Both regulators and courts have taken different views as to what that means over the years, but since the 1980s — operating under the influence of the “law and economics” movement, which sought to recast the legal concept of competition in terms of economic efficiency — the judicial system has defined these kinds of antitrust questions in terms of their impact on the welfare of consumers. And while there is more to consumer welfare than price alone, in a practical sense, looking at prices (which are obviously important and also lend themselves to being measured in an objective way) has been the dominant strand of consumer welfare analysis.”

**Warrant:** The increase in data accumulation by big companies does not qualify as competitively harmful.

“Su pointed out that the Clayton Act and the Sherman Act empower the commission to regulate antitrust, but data privacy is more the purview of the consumer protection bureau. “The big question in my mind coming out of this task force is you are going to monitor and investigate, but is there going to be a report or are you just going to initiate enforcement when appropriate and if you are, what are the grounds, if you are challenging transactions that previously have undergone review?” He said: “How do you articulate a case of harm based on a transaction that you previously reviewed and cleared? How do you distinguish between what you knew then and what you know now and decide whether what you are concerned about now relates to the acquisition or to developments that have happened since the acquisition?” The task force, however, could also bring cases based on anticompetitive conduct that are unrelated to specific acquisitions or mergers, he said. **While much of the controversy around tech in the last few years has concerned data collection, protection and unauthorized sharing, “I have read a lot of what was said and written and I don’t see a compelling theory of competitive harm built around issues of privacy and data accumulation,”** Su said.”

**Analysis:** This response demonstrates that previous mergers and acquisitions do not specifically violate the Clayton antitrust act because they do not induce serious competitive harm. If tech giants are not violating antitrust law, then there is no need to enforce antitrust regulations by affirming.

**Answer:** Mergers and acquisitions are beneficial to the economy and increase start-ups.
Pro Arguments with Con Responses

Warrant: Mergers and acquisitions promote the virtuous cycle and increase initial investment into tech start-ups.


“Antitrust policy, as applied to the technology sector in its current form, can impede the virtuous circle of nurturing innovation through startups and acquisitions. By slowing down or blocking acquisitions, antitrust policy can limit strategic exit routes for startups, potentially reducing their value and making it less attractive for investors to put their money into the next round of innovative new companies…. And then there’s the virtuous circle where a steady flow of tech acquisitions, rather than reducing competition, can actually spur competition by increasing the incentive to start new companies. Think about it this way: The willingness of investors to put money into a startup depends on the return that they expect. An increase in the number of acquisitions, all else being equal, will raise the expected return to startup investors, since the odds of their company getting acquired goes up. Therefore tech acquisition activity directly impacts the number of startups.”

Warrant: Heavily regulating acquisitions inhibits investments into innovative start-ups.


“But while such acquisitions could have the effect of eliminating a potential threat to a large company down the road, taking too hard a stance against the practice could also stifle innovation, he said. When the rate at which companies are merging or making
acquisitions is high, the chances a startup will get bought is also higher and the incentive for more entrepreneurs to launch one and begin to innovate follows suit. “You’re trying to protect consumers by regulating, but then you can end up taxing innovation,” Van Reenen said. “The big companies say the reason we innovated so much is because of the rewards we expect to get, and if you basically start taking that away—taking away our intellectual property, it’s going to reduce our incentives to invest or for the next wave of entrepreneurs to come along.””

**Analysis:** This response proves that enforcing antitrust regulations via the Clayton act against tech acquisitions would only be detrimental to innovation and even competition as a whole. Therefore, affirming would be counterproductive if the end goal of enforcing antitrust laws is to increase innovation and competition.
PRO: Congressional Regulations Fail

**Argument:** Congress has proven themselves to be unable to pass legislation to stop the growth of the tech industry. Antitrust laws are the best option in lieu of legislation.

**Warrant:** Congress doesn’t understand the tech industry


Earlier this week Google CEO Sundar Pichai testified before Congress regarding transparency and accountability about the company’s data collection. The questioning of the CEO of one of tech’s most powerful companies was something that was long overdue—unfortunately many of the wrong people were asking the questions. That’s because at times it seemed like several congressman only had a rudimentary understanding about Google and how the internet works in general

**Warrant:** The tech industry moves too quickly to regulate through Congress.


Technology companies are moving too fast for governments to keep up, according to a former chief of the US Defense Advanced Research Projects Agency (Darpa).
Kaigham (Ken) Gabriel was acting director of Darpa and the man behind drone technology and global positioning satellites, as well as the military’s top secret, high-tech operation responsible for inventing the forerunner to the internet, Arpanet. He believes governments are fighting a losing battle with technologies such as encryption. But, when it comes to the possibility of advanced tech falling into the wrong hands, he doesn’t believe western governments should give up altogether.

In an interview with Computer Weekly at the EIT Innovation Forum in Budapest, Gabriel said export controls on certain so-called dual-use tech were sensible and practical.

**Warrant:** The tech industry spends disproportionate sums lobbying Congress.


The biggest companies in tech spent more money lobbying the government in 2018 than in any year previous. According to a report from Reuters, Google dropped $21.2 million on lobbying efforts in 2018, a new record for the company and the most it has spent on lobbying since 2012. Likewise, Facebook cranked up its lobbying efforts by dropping $12.62 million, the most the social network has ever spent on political influence.

Google and Facebook weren’t alone in their major expenditures, either. Amazon dropped a cool $14 million and Microsoft ran up a tab of $9.52 million on lobbying last year, an increase of more than $1 million over its spending in 2017. Apple actually decreased its lobbying charges in 2018, spending $6.62 million compared to $7.15 million the year prior. Even Twitter spent more than $1 million for the first time ever.

Combined, the biggest companies in tech spent more than $64 million trying to swing influence in Washington, D.C.
Analysis: Congress is a relatively ineffective regulator most of the time, but especially in a time of polarization. To make matters worse, legislators are largely out of touch with technology, making it far harder for them to understand how to control its spread. With an industry like technology where innovation is constant, it’s unlikely Congress will ever catch up, especially given that many legislators receive hefty donations from these same tech giants. Congressional regulation therefore is too politicized and ineffective to address the size and scope of the tech industry.
A/2: Congressional Regulation Fails

**Answer:** Congress could be effective, but antitrust regulation isn't likely to succeed.

**Warrant:** The FTC can’t take on the tech industry by itself.


Beginning last fall and continuing into the new year, the Federal Trade Commission has embarked on a series of Hearings on Competition and Consumer Protection in the 21st Century. To date, there've been nine hearings, each spanning two or three days. The harms technology presents to consumers have taken center stage during the hearings, with much debate centering on issues like consumer privacy, data security, and the risks platforms pose to competition. Indeed, the hearings stem from a problem that's been brewing for years: Companies have repeatedly shown that they're not up to the task of self-regulation. And yet, while it's certainly good that the FTC wants to be more accountable and transparent, convening a series of public hearings won't be enough—at least, not if they don't get at the deeper question of whether, and how, to regulate today's towering tech companies.

**Warrant:** Legislation is the best route.

This does not mean that our privacy laws are fully adequate as they are. In fact, the time is ripe for Congress to step up to the plate and pass a broad privacy law that establishes strong consumer protections to insulate people from consumer harms associated with the unreasonable collection, dissemination or use of personal information.

There is an irony that the agency best positioned to implement and enforce such a new privacy law is the Federal Trade Commission, which also has authority to enforce the antitrust laws. Under Section 5 of the FTC Act, the Commission is empowered to prohibit ‘unfair or deceptive acts or practices.’ They have already exercised this authority in numerous cases to protect consumers whose privacy has been invaded.

**Analysis:** The FTC is subject to many of the same problems that Congress is dealing with. Many regulators don’t fully understand the tech industry, and they’ve had plenty of opportunities to step in, yet very few actual attempts to regulate. Legislation would likely be the best route given the rising public support and the potential to establish consumer protections as well as privacy benchmarks.
**PRO: Technology Giants Sell Your Information**

**Argument:** Big technology companies are selling their consumer’s data and it is just giving more of a reason for the US to enforce antitrust regulations on them as there is a need to regulate these practices from big technology companies.

**Warrant:** This usage of data can create priority placement which deters competition in the market.


“*Amazon, too, is following the monopolist's playbook, picking and choosing which products consumers discover and determining who gets to compete on its platform, which accounts for nearly one out of every two dollars spent online. Amazon often excludes marketplace sellers from selling products it wants to sell and prohibits brands from selling their own products, taking the retail margin for itself. This exclusionary conduct, combined with Amazon's ability to use its competitors' data to create Amazon versions of popular products, giving them priority placement on Amazon.com, destroys competition on the merits.***

**Warrant:** Major tech companies like Facebook have been pushing out news organizations and content creators by using consumer data to pick and choose what each consumer sees.

“Facebook, in turn, uses its platform privilege to pick and choose what content we see. Facebook competes against news publishers and content creators for consumers' time and data, the fuel for its advertising model. Profit-maximizing algorithms prioritize content that keeps you on the platform, including Facebook's own Instant Articles and content that makes you fearful and angry (or as Facebook calls it, "engaged"). Facebook's exclusionary conduct goes beyond its algorithm: Internal company documents recently made public by the UK Parliament reveal how Mark Zuckerberg moved to exclude a rival app from using Facebook integrations available to others.”

**Warrant:** Other countries are taking steps towards cracking down on this uncompetitive use of data from big tech companies and America should as well in order to promote competition especially among the companies listed above and others.


“LONDON — Competition regulators have a new cause célèbre: Big Tech's use of data. From Europe's top antitrust czar Margrethe Vestager announcing an investigation into Amazon last week over its potential abuse of digital information, to the U.S. Federal Trade Commission holding a public hearing in early November on big data and competition, officials are gearing up for a new round of antitrust battles.

**Impact:** By regulating these practices, the government can create more competition which has a wide variety of benefits to the consumer.

Low prices for all: the simplest way for a company to gain a high market share is to offer a better price. In a competitive market, prices are pushed down. Not only is this good for consumers - when more people can afford to buy products, it encourages businesses to produce and boosts the economy in general. Better quality: Competition also encourages businesses to improve the quality of goods and services they sell – to attract more customers and expand market share. Quality can mean various things: products that last longer or work better, better after-sales or technical support or friendlier and better service. Innovation: To deliver this choice, and produce better products, businesses need to be innovative – in their product concepts, design, production techniques, services etc.

Analysis: This argument points out some of the extremely harmful business practices that these large technology companies are engaging in, specifically the illegal and uncompetitive use of consumer data. This gives them an unfair advantage and overall decreases the incentive to try to compete with these large scale companies which harms the consumers. With this argument, the pro team could weigh both the importance of privacy over their opponent’s arguments and the economic benefits to the consumer.
A/2: Technology Giants Sell Your Information

**Answer:** Breaking up technology companies would overall be harmful for everyone and there are better measures to stop this use of information.

**Warrant:** Europe sees breaking up the companies as a last resort, rather regulating them is a much better alternative


“Albeit ‘**break up Google**’ clearly makes for a punchier political soundbite. Vestager is, however, in the final months of her term as antitrust chief — with the Commission due to turn over this year. Her time at the antitrust helm will end on November 1, she confirmed. (Though she remains, at least tentatively, on a shortlist of candidates who could be appointed the next European Commission president.) The commissioner has spoken up before about regulating access to data as a more interesting option for controlling digital giants vs breaking them up. And some European regulators appear to be moving in that direction already. Such the German Federal Cartel Office (FCO) which last month announced a decision against Facebook which aims to limit how it can use data from its own services. The FCO’s move has been couched as akin to an internal break up of the company, at the data level, without the tech giant having to be forced to separate and sell off business units like Instagram and WhatsApp.”

**Warrant:** Breaking up big tech companies could lead to negative effects such as a reduction in innovation

“Amazon’s research and development spending, for example, has grown from $1.2 billion a year to more than $22.6 billion in less than a decade. Apple was spending around $2.8 billion per quarter last year. Oftentimes Apple gobbles up companies and innovations that are specifically designed to be adapted to improve their products (as with the iPhone) and make production cheaper.”

**Analysis:** This response is beneficial because while the intent may be to benefit consumers, they end up losing out on net. This happens because it might be easier to regulate the specific practices rather than completely breaking up the companies. Furthermore, breaking up the companies could lead to a reduction in innovation overall giving consumers products that have the potential to be better.

**Answer:** The data could be used in order to improve the experience for consumers and companies

**Warrant:** Data collected from the users can personalize the experience for every consumer.


“More than 85% of mobile marketers report success with personalization — higher engagement, revenue, conversions. Customers today don’t just want any app that works. They want an app or website that is personalized to save them time, recognizes
their interests or preferences, and one that does those things seamlessly, without them even realizing it. I’m not just talking about segmentation; I’m talking about singular user experience. Netflix, Spotify and Amazon have the art of personalization perfectly, suggesting books, TV shows, and songs that fit their users’ distinct tastes. None of this would be possible without analytics. The issue remains nearly 70% of users don’t trust retailers with their data (Opinion Lab Survey 2015). The only way to get them to share it is through consistent ongoing stellar CX that provides tangible benefits in exchange for the share.

Warrant: It helps companies improve efficiency and see if their app is working in comparison with the rest


“Of 1.6 million apps on the market, just 200 make up for 70% of use. That means more than 1.5 million did not pass the CX test. Either they were too slow, too clunky, or didn’t perform as described. And ultimately, they did not fix those issues when presented with them. Your company is just like those apps. If you don’t look at the data showing what you’re doing wrong in CX and UX, customers will leave your site, store, or app. It’s no longer a question. There are simply too many other options available to accept a less-than-stellar experience.”

Analysis: This response proves that regardless of whether companies share user data, it can actually be harmful to enforce the antitrust regulations. This is because data can improve the user experience and help companies improve the overall platform and changes they decide to make.
PRO: Tech Companies charge unfair prices

**Argument:** Tech companies are able to manipulate prices, harming consumers and competitors alike.

**Warrant:** Tech companies engage in predatory pricing to drive out competitors.

Johnson, Eric. “We have to rewrite antitrust law to deal with tech monopolies says ‘Positive Populism’ author Steven Hilton.” Vox. 10/24/18.


Today, multiple tech giants operate in parallel to one another, giving away high-quality products for nothing, which prevents most competitors from challenging their dominance.

“When I was learning economics at university, we had this notion of predatory pricing, which is when you price your product below marginal cost in order to shut out the competition, and that was seen as a problem,” Hilton said. “Well, now, predatory pricing is the business model, which is we give it away free.”

He proposed a “sacrificial” idea — meaning a theoretical change that probably wouldn’t work, but points in the right direction — for reining these tech monopolies: Stop leaving antitrust rulings up to “the whim of an individual regulator or a judge.”

**Warrant:** Tech companies are growing to the point where they can control prices.

Paul Solman:

Or **industries dominated by just a few firms, not monopolies, but oligopolies, that still control price and service.**

Tim Wu:

**People may like Amazon and Google, but ask people how they feel about the airlines, ask people how they feel about their cable company, and ask people how they feel about pharmaceutical bills.**

These are areas where the competition has shrunk. We're left with just a few choices.

Paul Solman:

**The classic argument against monopoly that I learned was that the monopolist will be able to charge higher prices because she or he is the only game in town.**

Tim Wu:

Yes, that is the classic argument, but I think it's too thin an argument. And it turns out that the damage done by monopolies is, frankly, much greater than just higher prices.

Paul Solman:

First, says Wu, the industry tends to stagnate.

Tim Wu:

A monopolist has no real need to innovate, no real need to improve things. You know, like AT&T, by the 1960s or '70s, their idea of improvement was three-way calling.

**Impact:** Companies like Qualcomm are raising prices for consumers by cornering certain markets.

Qualcomm arguably holds what FOSSPatents writer Florian Mueller has described as “mutually reinforcing monopolies” — one on wireless broadband modems, and another on certain patents. A 2018 analyst report estimated Qualcomm had a 52 percent share of the baseband processor market, with competitors Samsung and MediaTek trailing far behind. It also owns patents that are vital to wireless broadband, so any device with a high-speed mobile data connection generates royalties for Qualcomm.

As phone makers start building their first 5G-enabled products, Qualcomm and other modem providers will be vying for that new market as well — and, unsurprisingly, Qualcomm is poised to dominate it. If Qualcomm is indeed operating a monopoly, that could drive up the price of any 5G device. And with companies touting 5G as a viable internet option for laptops as well as phones, it would affect a broad swathe of products.

Analysis Once a company has a large enough share of a given market, they’re able to influence the pricing of the product they make, either raising or lowering the price based on their needs. By lowering or eliminating the price, tech companies have essentially bankrupted their competitors. On the other hand, tech companies are also able to raise prices on consumers once their competition has been eliminated, as Qualcomm has started to do.
A/2: Tech Companies charge unfair prices

**Answer:** Regulating tech companies will not stop predatory pricing schemes.

**Warrant:** Antitrust regulations will not be able to stop unfair pricing.


Beginning last fall and continuing into the new year, the Federal Trade Commission has embarked on a series of Hearings on Competition and Consumer Protection in the 21st Century. To date, there've been nine hearings, each spanning two or three days. The harms technology presents to consumers have taken center stage during the hearings, with much debate centering on issues like consumer privacy, data security, and the risks platforms pose to competition. Indeed, the hearings stem from a problem that's been brewing for years: Companies have repeatedly shown that they're not up to the task of self-regulation.

And yet, while it's certainly good that the FTC wants to be more accountable and transparent, convening a series of public hearings won’t be enough—at least, not if they don't get at the deeper question of whether, and how, to regulate today's towering tech companies.

**Warrant:** Antitrust laws don’t address the whole problem.

It seems antitrust is finally having a new moment in the sun. From Attorney General Nominee Bill Barr to Senator Amy Klobuchar, to Congresswoman Alexandria Ocasio-Cortez, to and even President Trump, everyone is talking about antitrust in the context of Internet platforms. While antitrust is a powerful tool and essential to the proper functioning of the economy, antitrust alone cannot eliminate the full array of harms caused by highly concentrated markets. The excessive market concentration and corporate power we see today resulted not only from conservative jurisprudence and lax antitrust enforcement but also excessive deregulation. Antitrust is not sufficient to rectify the very real problems reform advocates identify.

I have tried to rein in the power of telecommunications, media, and cable giants for more than 30 years. In these important industries, strong antitrust has only worked when paired with equally strong regulations that promote competition and markets. The goal of antitrust is to preserve competition and free flowing markets, but some industries have no competition to preserve, and instead need regulation to help competition flourish. Antitrust enforcement can punish companies that are out of line, but often not in time to save competition, and strong regulation is the best and fastest way to revive competition.

**Analysis:** Antitrust regulations are not a panacea. To truly reign in the unfair pricing practices of the tech industry, broader reforms must be in place.
**PRO: Privacy Violations**

**Argument:** Antitrust regulations could deter tech companies from violating consumers right to privacy.

**Warrant:** The tech industry is trying to weaken privacy protections.


After years of claiming they could self-regulate, the tech industry is suddenly receptive to the idea of federal privacy legislation. But don’t let this post-Cambridge Analytica “mea culpa” fool you into believing these companies have consumers’ best interests in mind. Far from it.

This seeming willingness to subject themselves to federal regulation is, in fact, an effort to enlist the Trump administration and Congress in companies’ efforts to weaken state-level consumer privacy protections.

It has often been state legislatures — not Congress — that have led efforts to protect consumer privacy. California was the first in the nation to require that companies notify consumers of a data breach (other states have since followed suit), the first to mandate that companies disclose through a conspicuous privacy policy the types of information they collect and share with third parties, and among the first to recognize data privacy rights for children. Illinois set important limits on the commercial collection and storage of biometric information, such as fingerprints and face prints. Idaho, West Virginia, Oklahoma and other states have passed laws to protect student privacy.
**Warrant:** Privacy is a competition issue. Without competition, tech companies can breach our privacy as freely as they like.


A COUPLE WEEKS ago, during an unassuming antitrust conference at Oxford University, a German bureaucrat uttered a few words that should send a chill through Silicon Valley. In front of a crowd of nearly 200 competition law experts—including enforcement agents, scholars, and economic policy-makers from the United States and Europe—Andreas Mundt, president of Germany’s antitrust agency, Bundeskartellamt, said he was “deeply convinced privacy is a competition issue.”

It’s a conviction major tech platforms are listening to closely, especially since Mundt’s agency is in the midst of a high-profile investigation into whether Facebook abused its dominance as a social network by forcing customers to agree to unfair terms about the way the company uses their data. Mundt’s words may have sounded mundane, but his implication was anything but: the world’s foremost antitrust regulators were publicly discussing whether they should intervene if a transaction weakens consumer privacy protections, a pervasive concern in the era of big data.

**Warrant:** Europe has already started targeting tech companies for misleading privacy statements and data hoarding.


Relying on consumer prices to judge the openness of a market can also be misleading when regulating tech companies. “When more and more services are ‘free,’ you can see
how that really renders antitrust feeble,” says Khan. After the rapid expansion in social networking and online search, it’s clear that financial power lies in data, not just price. “The Europeans hit on this,” says Stucke. “Data is the new lingua franca. That is the currency, and [tech platforms] can translate that data into dollars.”

This is evident in the European Union’s intensified scrutiny of how Silicon Valley tech platforms operate. Germany’s antitrust agency is investigating Facebook. The EU conducted an antitrust probe into Amazon’s e-books business deals (the company agreed to change its contract with publishers in May). Days before the Oxford conference, the EU fined Facebook $122 million for making misleading privacy statements to the EU when it acquired WhatsApp for $19 billion in 2014 about the ability to match Facebook and WhatsApp accounts. (The merger of the popular texting apps raised concerns that Facebook’s online advertising business could gain an unfair advantage.) Days before that, watchdogs in the Netherlands and France slapped Facebook on the wrist for privacy violations.

**Impact:** Tech companies will continue violating our privacy until held accountable for the damage they’ve done.

Leetaru, Kalev. “Social media companies collect so much data, even they can’t remember all the ways they surveil us.” Forbes. 10/25/18.


Social media companies are notoriously silent when it comes to details about how they control what we see and say online. While publicly touting their efforts to remove terrorism, hate speech and fraud online, halt self-harm, silence bullies and address the most toxic and dark areas of their platforms, the companies refuse to release any details about whether those efforts are actually working or whether they are in fact making
things far worse. Moreover, no matter how many warning the companies get regarding a new initiative, they simply blindly proceed forward until eventually acknowledging that the critics were right and abandoning it. The problem is that the companies are never held accountable to all of the damage they have done to society in the interim.

Analysis: Tech companies have little incentive to respect consumer privacy in 2019. If their predatory practices are leaked to the public, there’s little to hold them accountable at all. By subjecting them to antitrust regulations, it would be easier to ensure that they can’t freely violate privacy rights.
A/2: Privacy Violations

Answer: There are better, more legitimate ways to regulate privacy within the tech industry.

Warrant: Antitrust authorities can regulate on the basis of competition, but not solely on the basis of privacy.


Antitrust authorities have the authority and the responsibility to look into these data issues in so far as they affect non-price aspects of competition such as diversity of privacy practices and innovation.

But, going beyond these competition issues to review conduct or mergers based on non-competition issues like privacy itself is a bridge too far. It simply won’t pass muster under current antitrust standards.

The FTC majority said as much in approving the Google-DoubleClick merger. It expressed reservations about intervening ‘in transactions for reasons unrelated to antitrust concerns, such as concerns about environmental quality or impact on employees.’ It said clearly that ‘the sole purpose of federal antitrust review of mergers and acquisitions is to identify and remedy transactions that harm competition’ and concluded that the Commission lacks ‘legal authority to require conditions to this merger that do not relate to antitrust.’

Warrant: Restoring privacy is best accomplished through Congress.
MacCarthy, Mark. Privacy is not an antitrust issue.” Forbes. 10/1/18.
https://www.forbes.com/sites/washingtonbytes/2018/10/01/privacy-is-not-an-antitrust-issue/#24e0b722700d

This does not mean that our privacy laws are fully adequate as they are. In fact, the time is ripe for Congress to step up to the plate and pass a broad privacy law that establishes strong consumer protections to insulate people from consumer harms associated with the unreasonable collection, dissemination or use of personal information.

There is an irony that the agency best positioned to implement and enforce such a new privacy law is the Federal Trade Commission, which also has authority to enforce the antitrust laws. Under Section 5 of the FTC Act, the Commission is empowered to prohibit ‘unfair or deceptive acts or practices.’ They have already exercised this authority in numerous cases to protect consumers whose privacy has been invaded.

Analysis: Privacy is clearly a hot button issue, but that doesn’t mean we should use antitrust laws to weed out prying tech companies. Antitrust regulations are designed to prevent barriers to competition, not to prevent other unsavory social ills. Furthermore, by regulating through congress, there is a far greater chance of success.
**PRO: Technology Are Violating the Sherman Act**

**Argument:** Technology giants are violating the rules and regulations that are outlined in the Sherman Act. The Sherman Act was one of the most important pieces of legislation passed that essentially regulated monopolistic practices, yet tech giants are still violating these laws and it makes sense to enforce them.

**Warrant:** The size of these tech companies reduces the chance of competition in the market


“At the same time, **big technology companies have been brutalizing** suppliers and **competitors** (and, not irrelevantly, publishers of journalism) with a range of questionable tactics — including Amazon’s **price wars against competitors**, Apple’s **high-handed management** of its own App Store, and Facebook’s **long parade of privacy scandals**. As the rich get richer, the criticism has become more intense.

**Warrant:** Big tech companies have a lot of control over the market and that is the exact reason the Sherman Act was created


“The Sherman Act was created to combat juggernauts that ruled entire industries like oil and railroads. **It was made precisely for the highly concentrated power we see**
today in Big Tech. When passing the law, Senator John Sherman declared, "If we would not submit to an emperor, we should not submit to an autocrat of trade...."

Warrant: The Sherman Act is not an outdated act and is still applies today


“If you think an antitrust law passed over a century ago couldn't possibly address the problems of the digital era, you're wrong. Much like our Constitution, the Sherman Act was written broadly enough to handle whatever the future might hold.

Impact: Antitrust Laws are necessary for promoting competition in the technology industry


“Free and open markets are the foundation of a vibrant economy. Aggressive competition among sellers in an open marketplace gives consumers — both individuals and businesses — the benefits of lower prices, higher quality products and services, more choices, and greater innovation. The FTC's competition mission is to enforce the rules of the competitive marketplace — the antitrust laws. These laws promote vigorous competition and protect consumers from anticompetitive mergers and business practices. The FTC's Bureau of Competition, working in tandem with the Bureau of Economics, enforces the antitrust laws for the benefit of consumers.”
Analysis: This argument shows that big technology companies are violating some of America’s oldest and most important rules and regulations. Furthermore, these laws are extremely important for things like promoting competition or protecting the average consumer for some of the harmful business practices that large technology companies may decide to try and end up engaging with. This argument sets you up to weigh the benefits of increased competition over your opponent’s arguments.
A/2: Technology Giants are Violating the Sherman Act

**Answer:** Antitrust regulations are created to regulate monopolies such as Standard Oil, but the tech industry is not a monopoly

**Warrant:** Antitrust Regulations were created primarily for breaking up monopolies because they have full control of the market.


“In 1890, the Sherman Antitrust Act became the first legislation passed by the U.S. Congress to limit monopolies. The Sherman Antitrust Act had strong support by Congress, passing the Senate with a vote of 51 to 1 and passing the House of Representatives unanimously 242 to 0. In 1914, two additional antitrust pieces of legislation were passed to help protect consumers and prevent monopolies. The Clayton Antitrust Act created new rules for mergers and corporate directors, and also listed specific examples of practices that would violate the Sherman Act. The Federal Trade Commission Act created the Federal Trade Commission (FTC), which sets standards for business practices and enforces the two antitrust acts, along with the Antitrust Division of the United States Department of Justice.

**Warrant:** The technology industry is in fact not a monopolistic industry but rather an oligopolistic industry which means that they don’t have full control of the market.

“Specific Current Examples of Oligopolies” National mass media and news outlets are a prime example of an oligopoly, with 90% of U.S. media outlets owned by six corporations: Walt Disney (DIS), Time Warner (TWX), CBS Corporation (CBS), Viacom (VIAB), NBC Universal, and News Corporation (NWSA). Operating systems for smartphones and computers provide excellent examples of oligopolies. Apple iOS and Google Android dominate smartphone operating systems, while computer operating systems are overshadowed by Apple and Windows. Automobile manufacturing another example of an oligopoly, with the leading auto manufacturers in the United States being Ford (F), GMC, and Chrysler. While there are smaller cell phone service providers, the providers that tend to dominate the industry are Verizon (VZ), Sprint (S), AT&T (T), and T-Mobile (TMUS). The music entertainment industry is dominated by Universal Music Group, Sony, BMG, Warner and EMI Group.

Analysis: This response demonstrates that this law that was put in place was not put in place to break up oligopolistic industries like the tech industry, but rather for industries that had full control over the market. As such, the tech industry is not breaking the Sherman Act.

Answer: Even if tech companies are breaking some of the rules set out in the Sherman Act, the implications of breaking up big tech companies are extremely harmful.

Warrant: The current plan being discussed among our representatives is not a good plan and is unworkable

“That’s why there is some chance Washington might get together, and along the lines Warren proposes, effectively outlaw the business models of some of the most successful and iconic American companies. It’s the most compelling evidence yet that, yes, we are losing our minds. Warren’s idea to cleave off the platforms of the tech companies and have them run as “platform utilities” separate from the rest of their business is unworkable and is justified by a series of errors and misjudgments. It’s not true, as Warren asserts, that the antitrust suit against Microsoft in the 1990s opened up the space for Google and Facebook to thrive. Microsoft never got the internet, and left the space open for Google and Facebook all by itself, as often happens with a large incumbent wedded to its successful business model (in Microsoft’s case, based on physical computers).

Warrant: Plans to break up these tech giants could also lead to negative effects for consumers and inevitably raise prices for consumers.


“Clouding the issue of breaking up Big Tech is that these firms arguably make consumers’ lives better by offering such things as free Google searches, social media connections on Facebook and low prices with fast, free shipping through Amazon. But Warren argues that they are impeding competition by buying up or squashing smaller rivals — and ultimately harming consumers. She cited the antitrust lawsuit against Microsoft in the 1990s that tamed its ways and made room for an upstart — Google — to rise. “Aren’t we glad that now we have the option of using Google instead of being stuck with Bing?” But experts from Wharton and elsewhere challenge some of the basic premises of her proposal and warn that breaking up these three companies could result in unintended consequences that ultimately would harm consumers. The
presence of Amazon, Google and Facebook in the market, they said, have lowered prices of products and services to consumers and provided a marketing platform for small companies at little or no cost. Weakening them would not necessarily level the playing field, but could instead route profits back to other big businesses — the old incumbents.”

**Analysis:** This response argues that enforcing antitrust regulations on large technology companies would not work and end up hurting consumers in the end. If the goal of antitrust regulation is to benefit conditions for the consumer, affirming would prove to be counterproductive because prices would end up increasing.
**Argument:** Tech giants are underpaying and mistreating their workers.

**Warrant:** Monopolies decrease wages.


Monopoly power is a hot topic of economic debate. Economists are starting to ask whether increasing industrial concentration is choking off productivity growth, reducing capital investment, throttling or deterring would-be entrepreneurs, raising consumer prices, and reducing the share of national income flowing to workers. This is a good and important effort. But it’s also possible that with all the attention being paid to concentration at the industry level, there hasn’t been enough focus on the other end of the monopoly problem -- local labor markets.

Recent empirical evidence suggests that these kinds of employers are, in fact, suppressing wages. A new paper by economists José Azar, Ioana Marinescu, and Marshall Steinbaum analyzes data from the website CareerBuilder.com, breaking down job postings by commuting zone and occupation. They find that for occupations that have fewer employers posting on the website within a commuting zone, wages are lower than for occupations where lots of companies are looking for workers.

**Warrant:** Companies that control a large share of a specific market can suppress wages.

That’s consistent with the story that dominant employers are using their market power to hold down wages in areas where workers don’t have many choices. There could be other explanations -- for example, towns with few employers tend to have lower wages in general. But Azar et al. control for the level of wages in the surrounding area. They also find that occupations that have only a few employers at the national level tend to have lower wages than other jobs in an area. That rules out most of the obvious alternative explanations for the correlation.

**Warrant:** Tech giants are wealthier, but the most vulnerable workers are paid disproportionately less.


As the market power of these tech giants increases, so does their wealth. Hubbard points out that the wealth from the many among the working and middle classes get transferred to the few belonging to the 1% and 0.1% at the top of the income and wealth distribution. The concentration of market power hurts workers and results in depresses wages, affecting women and other minority workers the most.

“When general wages go down or stagnate, female workers are even worse off. Women make 78 cents to a man’s dollar, with black women making 64 cents and Latina women making 54 cents for every dollar a white man makes. As wages by the bottom 99% of earners continue to shrink, women get paid a mere percentage of fewer dollars. And the top 1% of earners are predominantly men”, mentions Sally Hubbard.
Analysis: Tech giants have been able to ignore the rights of workers on a national level in part because they’ve grown so large and difficult to regulate. The power that they hold decreases the mobility of workers, therefore suppressing wages and hurting the most vulnerable employees the most.
A/2: Fair Wages

**Answer:** Major tech companies aren’t suppressing wages.

**Warrant:** Tech giants on average pay more than other similarly sized companies.

Molla, Rani. “Facebook, Google and Netflix pay a higher median salary than Exxon, Goldman Sachs or Verizon.” Vox. 4/30/18.

**Typical employees at major tech companies make more than people in other industries.** Take a look at how the top tech companies compare to other industries in the Dow Jones Industrial Average.

The median employee salary at Facebook, Alphabet, Netflix and Twitter is higher than at Exxon, Chevron, Goldman Sachs and Verizon, according to data required by the SEC for the first time this year and collected by Equilar, a research firm that tracks data on executives.

**The median salary at the approximately 1,600 companies Equilar has measured so far is $63,058.**

**Warrant:** Tech companies are more equal. Employee pay is much closer to CEO pay than other firms.

Molla, Rani. “Facebook, Google and Netflix pay a higher median salary than Exxon, Goldman Sachs or Verizon.” Vox. 4/30/18.
The median salary at major tech companies is also closer in pay to the CEOs at these companies relative to other industries. CEOs at Facebook, Salesforce, Tesla, Square, Google and Twitter all made less than 40 times the salary of their employees at the median. But across all industries, CEOs made 68 times their company’s median employee salary.

At the same time, it should be noted that tech CEOs take very low salaries since the majority of their compensation comes in company stock.

Jack Dorsey, CEO of both Twitter and Square, made a combined annual salary of two dollars and 75 cents last year. The median salary of his employees was $161,860 and $152,265, respectively, so, obviously, he only makes a fraction of their salary. However, Dorsey has a net worth of nearly $4 billion thanks to his stock.

**Analysis:** With a few notable exceptions (Amazon), tech companies are usually willing to pay higher wages to secure the most skilled workers. This means that they’re generally treating their employees better as well, and they’re more equal than other similarly sized companies.
PRO: Monopolization breeds inequality

Argument: Monopolization eliminates competition and fosters unchecked growth which inevitable concentrates economic power in the hands of a few powerful companies.

Warrant: Facebook and Amazon are Big Tech and growth has been easy due to a lack of antitrust regulation.

Dean Dechario, March 12, 2019, Roll Call,

In less than two decades, three of America’s most ubiquitous technology platforms — Facebook, Google and Amazon — have grown rapidly in size and clout from small, single-market companies into industry conglomerates, thanks in part to a mostly hands-off approach to antitrust by the U.S. government. Arguments in favor of not enforcing anti-trust are based on the idea that large companies lower consumer prices. But a shift in the way the government viewed antitrust, led in the 1970s by conservative judge Robert Bork, resulted in the belief that a company establishing market dominance by acquiring smaller companies was good for consumers as long as prices stayed low. Such was the thinking that allowed Google, in 2007, to purchase the online advertising agency DoubleClick for $3.1 billion, Facebook to buy Instagram for $1 billion in 2012, and Amazon to acquire Whole Foods Market for $13.4 billion in 2017.

Warrant: Big Tech buys out all of their competitors, creating monopolies.
“Having already gained 30 million users in just eighteen months of existence, Instagram was poised to become a leading challenger to Facebook based on its strength on mobile platforms, where Facebook was weak. By the doctrine of internet time, Facebook, then eight years old, was supposed to be heading into retirement. But the disruption narrative was rudely interrupted. Instead of surrendering to the inevitable, Facebook realized it could just buy out the new. For just $1 billion, Facebook eliminated its existential problem and reassured its investors. As TIME would put it, “Buying Instagram conveyed to investors that the company was serious about dominating the mobile ecosystem while also neutralizing a nascent competitor.”

When a dominant firm buys its a nascent challenger, alarm bells are supposed to ring. Yet both American and European regulators found themselves unable to find anything wrong with the takeover. The American analysis remains secret, but we have the United Kingdom’s report. Its analysis, such as it was, went as follows. Facebook did not have an important photo-taking app, meaning that Facebook was not competing with Instagram for consumers. Instagram did not have advertising revenue, so it did not compete with Facebook either. Hence, the report was able to reach the extraordinary conclusion that Facebook and Instagram were not competitors. It takes many years of...
training to reach conclusions this absurd. A teenager could have told you that Facebook and Instagram were competitors—after all, teenagers were the ones who were switching platforms. With this level of insight, the world’s governments in the 2010s did nothing to stop the largest firms from buying everyone and anyone who might be a potential threat, in a buying spree worthy of John D. Rockefeller himself. Nothing was learned from the Instagram failure: Facebook was able to buy its next greatest challenger, WhatsApp, which offered a more privacy-protective and messaging-centered competitive threat. The $19 billion buyout—as suspicious as J.P. Morgan’s bribe of Andrew Carnegie—somehow failed to raise any alarm. At the time, many were shocked at the price. But when one is actually agreeing to split a monopoly as lucrative as generalized social media, with over $50 billion in annual revenue, the price suddenly makes sense. In total, Facebook managed to string together 67 unchallenged acquisitions, which seems impressive, unless you consider that Amazon undertook 91 and Google got away with 214 (a few of which were conditioned).

**Warrant:** Amazon is effectively blocking competitors

David Dayen, April 1, 2019, HOW TO THINK ABOUT BREAKING UP BIG TECH, The Intercept, https://theintercept.com/2019/04/01/elizabeth-warren-tech-regulation-2020/

“Some of these restrictions, like those on banks or television stations, have been dismantled. And there are cases of companies selling products in a store while also owning the store: Kirkland products at Costco are ubiquitous, for example. But as Lina Khan, scholar and staffer for Cicilline’s antitrust subcommittee, has pointed out, the key question is whether the platform, be it brick and mortar or digital, is creating a bottleneck by privileging its own products over rivals. And there’s a lot of evidence that Amazon in particular does just that, reacting to high-selling products by creating a generic version, and down-ranking the competitor in its search. Because half of all e-
commerce is sold on Amazon, competitors have few alternatives but to sell in what feels like a rigged marketplace.

**Impact:** Antitrust laws protect the concentration of economic power


It would be an exaggeration to suggest that antitrust provides a full answer to either inequality or other economic woes. But it does strike at the root cause of private political power—the economic concentration that facilitates political action. Advocating antitrust revival is not meant to compete with other economic proposals to address inequality. But laws that would redistribute wealth are themselves blocked by the enhanced political power of concentrated industries. In this way, the structure of the economy has an underlying influence on everything in the realm of economic policy. If antitrust is not the solution, it, historically, has been part of the solution, meriting a new look at what it can do.

**Warrant:** Should apply anti-trust law to break the concentration of economic and political power. Exposing IBM to antitrust and breaking up AT&T spurred massive innovation


Tim Wu: There’s a both political case and a strong economic case for antitrust enforcement. I think first of all, it’s a question for citizens and engages people’s capacity, not necessarily in what position they hold in the economy, but just in general. There are
a lot of questions about whether democracy remains representative of what people want and concerns that excessive private influence on government, if not resisted, eventually leads to more extreme politics and the election of ever more extreme people. That’s the political case. I think the economic case for constraints on private power is also very strong. Economics 101 suggests that too many monopolies are bad for an economy and tend to create long-term stagnation. The United States has had a vibrant economy for most of its history, but occasionally, it has had industries that get locked up by the monopolies or oligopolies. A good example, I think, is the telecom industry, which had fallen into a pretty stagnant state by the ’60s and was benefited greatly by the breakup, even though they didn’t like it at the time. BRINK News: What do you think are the repercussions of pursuing an antitrust agenda that might hobble domestic companies and embolden foreign competitors? Professor Wu: I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech.
Analysis: It is hard to ignore the inherent issues with the lack of regulation in the status quo. Because of the debate that surrounds antitrust regulation, it is important that the aff paints the narrative that regulation is not an end-all be-all solution, but a stepping stone towards something meaningful. Just by showcasing the harms of the status quo, coupled with evidence on the efficacy of regulation should be enough to convince a judge that it could work as a temporary solution.
A/2: Monopolization breeds inequality

**Answer:** Not only do large tech firms facilitate lower prices independently, but they also influence the emergence of newer, related firms in other parts of the world.

**Warrant:** These companies don’t harm the market and new competitors emerge.


Warren’s Populist Puritanism

“Or spinning out the App Store from Apple, as Spotify is seeking in the European Union. There’s little sign of consumer harm in any of these cases. Sure, the tech titans have some issues. Google’s searches favored its own sites over others. Facebook sold private information after agreeing not to, and the Federal Trade Commission is set to collect a huge fine. So keep up the pressure. Firms clearly ought to respect property rights better, and pay for news content and user data. But demanding divestitures and regulation is an old trick competitors use to get government to do their bidding. In reality, the moves would freeze innovation without enhancing competition. I lived through the 1982 breakup of the Bell System. Now that was a harmful monopoly, and a government-mandated one. But the market would have done it eventually. Even still, the telecom Humpty Dumpty was put together again as AT&T and Verizon, companies desperately in search of growth business models. On the other hand, IBM didn’t get broken up. It was the ultimate platform in the ’80s: IBM made chips, boards and disk drives, put them in a box with software, and had half of industry sales and 90% of profits. But antitrust wasn’t necessary: Management figured out all by itself how to become irrelevant. When AOL bought messaging company ICQ in 1998, pundits freaked out, scared of AOL’s new dominance. Do you use ICQ today, or AOL? Didn’t think so. Technology progresses along a continuum. Antitrust is a snapshot, ignoring innovation surprises that come out of nowhere and everywhere. New companies will
eventually render the existing tech giants passé. A decentralized open-source Facebook is coming someday soon. That plus plateauing usership moved Mark Zuckerberg to announce a pivot to privacy, expanding Facebook’s messaging and private-applications services. **The new platform might be much like WeChat in China, and in more direct competition with Amazon in e-commerce and Apple in apps.** Will the pivot work? Maybe. But consumers surely will benefit. Why is that wrong? The four tech giants are huge spenders on research and development—some $60 billion in 2018. Add Microsoft and Samsung and it’s $85 billion. But world-wide, according to KPMG, venture capitalists invested $254 billion, meaning focused competition will sprout, like daffodils every spring. **Uber and Lyft were enabled by Apple, not invented by it. Airbnb provides travel search and e-commerce beyond what Google and Amazon can deliver. Amazon Prime is competing with Netflix**, and its Whole Foods subsidiary wants to reinvent retail. Is that anticompetitive? Quite the opposite”

**Warrant:** Market dominance could lower prices

Matthew Yglesias, May 3, 2019, The Push To Break Up Big Tech, Explained, 

“This sometimes leads to “anti-monopoly” policies that can sound a little perverse. A few years back, for example, Amazon essentially monopolized the market for e-books. Major book publishers fought back by teaming up to take on the bigger company and the Justice Department filed an antitrust suit against them. Why? Well, **Amazon was using its power in the marketplace to keep e-book prices low. The publishers, the government argued, were trying to form a cartel to force Amazon to raise prices. And, indeed, even though the publishers ended up settling with the government, the introduction of more competition into the e-book marketplace (primarily from Apple) has had the impact of making e-books more expensive than they were when Amazon ruled the roost. The standard, in other words, isn’t that one company dominating a**
market is bad. It’s that it’s bad if a company’s market domination leads to bad outcomes for consumers.”

**Analysis:** The idea that monopolies give smaller, related firms a blueprint to model is critical in that it facilitates the rise of industry in areas of the world that these large tech firms cannot reach. The spread of technology to areas of the world that originally lacked it has massive potential in and of itself.

**Answer:** Monopolies create large platforms, which benefit consumers

**Warrant:** Large platforms benefit consumers – the larger the platform the more people want to put apps on it


“But beyond a more lenient antitrust policy, other factors, such as the role of network effects and of two-sided platforms can also help to explain increased concentration and profits, especially with regards to the tech giants like Amazon, Apple, Facebook and Google. **The value to an individual consumer of certain goods and services increases as more people purchase it.** For example, as more consumers buy Apple products, more designers write applications to run on Apple software, and as more applications are created for Apple products more consumers want to buy them. **These network effects create positive feedback loops that encourage firms to grow large.** Industries with strong network effects naturally converge to a small number of big firms where only the firms with very large networks or market shares can survive. Network effects are particularly prevalent in markets served by firms that act as two-sided platforms where advertisers on one side can find potential customers on the other side. For example, **the more that consumers use Google, the more firms want to advertise on its search**
engine, and, in turn, the more consumers want to use Google. Two-sided platforms are very prevalent in the digital economy and include media companies, credit card companies, gaming consoles, and dating services. This is reinforced by scope economies - it is cost efficient for a retailer such as Amazon to sell many products, not just books. The cost efficiencies from network effects, two-sided platforms and scope economies tend to make companies natural oligopolies with sizeable market shares and profits”

**Warrant:** Google provides a superior service because of its size

Peter Karmin, Stuart Loren, Managing Partner & Director, Karmin Capital, March 2018, Antitrust in the Internet Age, https://static1.squarespace.com/static/59c018a20abd045c70aaa964/t/5ab13e5b88251b94b30e65/1521565277206/Antitrust+in+the+Internet+Age.pdf

Internet-based businesses particularly lend themselves to winner-take-all markets. Where businesses create frictionless markets, intelligently matching the distribution of content, goods or advertisements to their network’s users, the winner-take-all effect is especially pronounced. As technology business analyst Ben Thompson of Stratechery notes: “in a world with zero distribution costs and zero transaction costs; consumers are attracted to an aggregator through the delivery of a superior experience, which attracts ... suppliers, which improves the experience and thus attracts more consumers.”13 This virtuous cycle leads to the big getting bigger – particularly in markets where an increasing amount of user data enables a company to offer increasingly better, broader and more targeted services. Markets defined by demand aggregation ultimately have huge competitive barriers to entry due to network effects. Take, Google for instance, in the internet search market: the more consumers who use Google’s search engine (and other services such as Gmail and Google Maps), the more attractive Google becomes to advertisers. Google can then use advertising revenue and the data its users generate to attract more consumers and advertisers, as well as
to improve its search algorithms. While alternative search engines are, as Google notes, “just one click away,” the reality is that consumers are intelligent and will self-select into using the best service. To critique Google for its market power would, as Mr. Thompson again notes, be “treating people like dummies, assuming they can’t figure out how to find a competitive service, when in fact the truth is they don’t want to.” Any regulatory demand for an alternative competitive choice, would in fact be demanding an inferior product.

**Analysis:** Unlike other monopolies which traditionally center around a product or service, tech giants center around data. This means that web developers, app developers, and other companies looking to operate in a similar sphere as these tech giants can do so at very little cost to them. These tech monopolies like apple, serve as a platform for other companies to build off of, like apps for a smartphone.
**PRO: Regulation cripples monopolization**

Argument: The current state of affairs regarding big data has allowed monopolies to flourish and has left small businesses stranded a mile behind the herd

**Warrant:** The status quo needs changing

Isaac Cheifetz, April 20, 2018, http://www.startribune.com/it-might-be-time-to-break-up-the-tech-giants/480411843/ It might be time to break up the tech giants

“1. **Amazon continues to aggressively pursue new online industries, in groceries (Whole Foods), prescriptions and even event ticketing.** Whole Foods was barely making money as a public company. Given the much-publicized reduction in prices at Whole Foods after Amazon’s acquisition, it is very likely Amazon is subsidizing Whole Foods’ business to gain market share, a violation of antitrust law. Amazon has also been in the news after President Donald Trump attacked the company for taking advantage of U.S. Postal Service discounts, though this is a tactical issue compared to Amazon as a market force. 2. **Google**, as described in a recent New York Times article, is **fighting a series of lawsuits by small competitors who innovated better than Google in search technologies and found the monolith subverting their ability to be found online by potential customers. Some have even credibly alleged that Google has stolen intellectual property.**

**Warrant:** Should apply anti-trust law to break the concentration of economic and political power. Exposing IBM to antitrust and breaking up AT&T spurred massive innovation

Tim Wu: There’s a both political case and a strong economic case for antitrust enforcement. I think first of all, it’s a question for citizens and engages people’s capacity, not necessarily in what position they hold in the economy, but just in general. There are a lot of questions about whether democracy remains representative of what people want and concerns that excessive private influence on government, if not resisted, eventually leads to more extreme politics and the election of ever more extreme people. That’s the political case. I think the economic case for constraints on private power is also very strong. Economics 101 suggests that too many monopolies are bad for an economy and tend to create long-term stagnation. The United States has had a vibrant economy for most of its history, but occasionally, it has had industries that get locked up by the monopolies or oligopolies. A good example, I think, is the telecom industry, which had fallen into a pretty stagnate state by the ’60s and was benefited greatly by the breakup, even though they didn’t like it at the time. BRINK News: What do you think are the repercussions of pursuing an antitrust agenda that might hobble domestic companies and embolden foreign competitors? Professor Wu: I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer
industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech.

**Warrant:** Antitrust regulation is the key


“CONCLUSION Internet platforms mediate a large and growing share of our commerce and communications. Yet evidence shows that competition in platform markets is flagging, with sectors coalescing around one or two giants. The titan in e-commerce is Amazon—a company that has built its dominance through aggressively pursuing growth at the expense of profits and that has integrated across many related lines of business. As a result, the company has positioned itself at the center of Internet commerce and serves as essential infrastructure for a host of other businesses that now depend on it. This Note argues that Amazon’s business strategies and current market dominance pose anti-competitive concerns that the consumer welfare framework in antitrust fails to recognize. In particular, current law underappreciates the risk of predatory pricing and how integration across distinct business lines may prove anticompetitive. These concerns are heightened in the context of online platforms for two reasons. First, the economics of platform markets incentivize the pursuit of growth over profits, a strategy that investors have rewarded. Under these conditions predatory pricing becomes highly rational—even as existing doctrine treats it as irrational. Second, because online platforms serve as critical intermediaries, integrating across business lines positions these platforms to control the essential infrastructure on which their
rivals depend. This dual role also enables a platform to exploit information collected on companies using its services to undermine them as competitors. In order to capture these anticompetitive concerns, **we should replace the consumer welfare framework with an approach oriented around preserving a competitive process and market structure.** Applying this idea involves, for example, assessing whether a company’s structure creates anticompetitive conflicts of interest; whether it can cross-leverage market advantages across distinct lines of business; and whether the economics of online platform markets incentivizes predatory conduct and capital markets permit it. More specifically, restoring traditional antitrust principles to create a presumption of predation and to ban vertical integration by dominant platforms could help maintain competition in these markets.

**Impact:** Regulation protects small businesses


How did Brandeis’s principles manifest themselves more broadly, as economic policy? Brandeis took the view that government’s highest role lay in the protection of human liberty and the provision of securities consistent with human thriving. That meant a commitment to civil liberties, like rights of free speech and privacy, protected by the courts. But it also meant a commitment to the protection of workers, and an open economy composed of smaller firms—along with measures to break or limit the power of monopolies. Hence, **if the antitrust laws might decentralize the economy, so much the better.** If other laws might do the same, that was good, too. Beyond that, Brandeis thought there should be no business exception for ethics, but that government should punish those who used abusive, oppressive, or unconscionable business methods to succeed. That’s why some of his greatest ire was reserved for abusive consolidation
campaigns that offended both his sense of ethics and economics, where businesses were forced into sales to avoid being bankrupted or destroyed by a powerful rival. On the positive side Brandeis was an advocate of measures designed to make life worth living, or foster a republic of good character and true citizenry. That meant good public education, steady but not outrageous work hours, pensions for the aged, and sufficient time for leisure and study. He wanted child labor to be banned, and the imposition of maximum work hours for others. In short, he wanted the nation to be a place with room for citizens to thrive, not merely to survive. Wu, Tim. The Curse of Bigness (pp. 42-43). Columbia Global Reports. Kindle Edition.

Analysis: As stated before, I personally think the best route to take on this topic is one which shoots straight down the middle of the aff. Highlighting the harms of the squo illustrates the need for action, the inherency in the Khan evidence should give you enough to establish offense in the form of regulation. The direct impact comes to small businesses which could be used in conjunction with other evidence detailing their importance.
A/2: Regulation cripples monopolization

**Answer:** It is harmful to break up these large companies

**Warrant:** Breaking up the companies means they can’t subsidize related services


“Why does Google provide for free a tool without which it’s impossible to imagine contemporary life? Because it can monetize it with advertising. Without the advertising, which Warren insists should be a separate business, Google has no incentive to devote engineers to improving its search engine. By the same token, no one will welcome iPhones that no longer come with or sell Apple apps. And would people really appreciate having to go to two different Amazons, one just a platform, one selling Amazon products? This is all silly, as are the mergers that Warren pledges to reverse, including Amazon’s acquisition of Whole Foods. Amazon doesn’t have anything close to a monopoly in food retail. Rather than taking over the sector, it’s spurring investment and innovation. The nation’s largest supermarket chain, Kroger, was slated to increase its spending on investment 200 percent in 2018. The tech giants aren’t stand-pat companies. Amazon alone spent more than $22 billion on investment in 2017. The development of autonomous vehicles, artificial intelligence, and voice recognition wouldn’t be nearly as advanced if it weren’t for the research of the tech companies. The behemoth of yesteryear, General Electric, isn’t making these investments. None of this is to deny genuine concerns about tech companies. They need rules for content that honor the spirit of the First Amendment, and perhaps there should be tighter regulations around privacy. But any real offenses should be addressed
with fixes directed at specific conduct, rather than with a massive politically imposed reorganization.”

**Warrant:** Breaking up companies would reduce investment in start-ups, prevent cross subsidization of services

Megan McArle, March 8, 2019, Why ‘break up big tech’ will work better as a Warren campaign theme than as an actual policy, Washington Post, ashingtonpost.com/opinions/2019/03/08/why-break-up-big-tech-will-work-better-warren-campaign-theme-than-an-actual-policy/?utm_term=.2a27e6b16a5b

For Warren’s theory to work, you have to believe that both tech firms and antitrust regulators can correctly identify which businesses are likely to pose a threat to big incumbents and force them to stay out of those businesses. But the history of antitrust does not offer much reason to think this is true. Consider the decade-long antitrust case against Microsoft, in which both the firm and regulators obsessed about who was going to control the Web browser, while Google quietly sneaked into the pole position in the race for the Next Big Thing. Too, the venture capitalists who fund all these start-ups want to recoup their investment, if not more, and one of the main ways of doing that is by selling out to one of the FAANGs — Facebook, Apple, Amazon, Netflix or Google. So, ironically, an antitrust move to enhance competition could end up making it harder to finance start-ups in the first place. Meanwhile, Warren’s plan would do approximately nothing to address a subject that voters do actually care about, at least a little: the fear that occupying such dominant market position gives the FAANGs too much power over our day-to-day lives. The problem is, the companies have that power only because we want the services they provide. And since these businesses tend to be characterized by network effects — meaning that sites such as Facebook become more valuable to users as more users join them — you can’t break up their core
services without taking away something we really want. Splitting Facebook or Amazon or Google Search in two would create substantially less useful services. But slicing off big tech’s peripheral offerings won’t substantially diminish the power that really bothers people.

**Analysis:** Often times, large companies monopolize when it makes more sense for them to function together, rather than independently. Regulation would be especially harmful in the case of mergers and acquisitions, which occur all the time in order to benefit the consumer. Moreover, the McArle evidence works to functionally turn the aff’s focal impact of creating competition.

**Answer:** Under the proposed plan to regulate, there would be little solvency

**Warrant:** Break-ups are practically impossible


Under Warren’s plan, **Apple would have to remove Apple apps from its App Store**, and presumably also the App Store from iPhones, unless those became separate enterprises. **Netflix would no longer be able to offer its own content alongside content from third parties.** Voice devices — a fiercely competitive market at the moment — would have to direct you to a weather service rather than just telling you the weather. **The plan would essentially outlaw most large tech companies’ business models.** Search firms, for instance, sell ads based on the data they collect around users’ search habits. Spinning a search engine off into a separate company would break that link, rendering the model impossible. The Internet would look and act much more primitive than the Internet we know today. Rather than what tech guru Tim O’Reilly calls the “magical use
experience” that tech companies now offer their customers, virtually every online
transaction would involve switching between different providers, each with its own
interfaces and quirks. Using the Internet would become laborious again. **Warren’s plan
would also forbid mergers and buyouts that “reduce competition.”** Yet, buyouts by
large tech firms offer a way for innovators to realize a return on their initial
investment that is often part of their business plan.

**Impact:** Warren’s plan will not do anything to curb recent activity

Eleanor Stravinova, April 25, 2019,

Warren’s plan places emphasis on the fact that you will still be able to order
something from Amazon and have it arrive at your house in two days—but she has
nothing to say about where the people who work under the grueling conditions that
make this consumerism fit into the post-antitrust framework. Indeed, the entire
organizational structure and relations of production of these hypothetical post-
antitrust companies is implicitly the same as the companies from which they were
broken off. Further, Warren has nothing to say in the way of expropriation. Although a
great deal is said about the nature of disentangling the various aspects of the tech giants
and the undoing of existing mergers, Warren’s intentions for the wealth of the likes of
Jeff Bezos goes no farther than making him pay a slightly higher tax rate. Given Warren’s
own understanding of why the monopolies are bad, this seems like a rather light
punishment for someone who became one of the richest men on earth by helping to
subvert democracy. And it is on this note, the subversion of democracy, that there is the
third problem with Warren’s plan—**it fails to address how breaking up the companies
would actually engender a democracy worth the name.** Warren cites that breaking up
the tech companies along the lines that she proposes would curb Russian influence on U.S. elections. But she has little to say, for instance, about the role that Facebook has played in helping the U.S. influence politics abroad or the way in which Facebook and other Silicon Valley companies have cooperated with law enforcement to track black activists, help ICE or contribute to US militarism which routinely murders people on a mass scale across the globe. Russia didn’t make Google help the Pentagon develop a better drone and it didn’t make Amazon assist ICE. Breaking up these companies fails to actually disentangle them from the anti-democratic structures of the state.

**Analysis:** These two responses work really well together in that they respond directly to the most relevant legislation on the topic. In a world where the resolution passes, lawmakers would most likely look to Warren’s plan first, which is where these responses would fit in nicely. I think it is rather compelling to say that the intent of the aff is good, however in reality, the legislation behind the resolution is flawed.
PRO: Big Data Creates Dominance in Markets

Argument: Large tech monopolies are growing at an unprecedented rate, thus allowing them to expand their influence in other facets of our lives.

Warrant: Amazon using software to create pricing controls

Lisa Khan, 2017, Amazon’s Antitrust Paradox,
https://www.yalelawjournal.org/note/amazons-antitrust-paradox, Lina Khan is an Academic Fellow at Columbia Law School. She researches and writes on antitrust law and competition policy.

“D. Amazon Marketplace and Exploiting Data As described above, vertical integration in retail and physical delivery may enable Amazon to leverage cross-sector advantages in ways that are potentially anti-competitive but not understood as such under current antitrust doctrine. Analogous dynamics are at play with Amazon’s dominance in the provision of online infrastructure, in particular its Marketplace for third-party sellers. Because information about Amazon’s practices in this area is limited, this Section necessarily will be brief. But to capture fully the anticompetitive features of Amazon’s business strategy, it is vital to analyze how vertical integration across internet businesses introduces more sophisticated—and potentially more troubling—opportunities to abuse cross-market advantages and foreclose rivals. The clearest example of how the company leverages its power across online businesses is Amazon Marketplace, where third-party retailers sell their wares. Since Amazon commands a large share of e-commerce traffic, many smaller merchants find it necessary to use its site to draw buyers.357 These sellers list their goods on Amazon’s platform and the company collects fees ranging from 6% to 50% of their sales from them.358 More than
two million third-party sellers used Amazon’s platform as of 2015, an increase from the roughly one million that used the platform in 2006. The revenue that Amazon generates through Marketplace has been a major source of its growth: third-party sellers’ share of total items sold on Amazon rose from 36% in 2011 to over 50% in 2015. Third-party sellers using Marketplace recognize that using the platform puts them in a bind. As one merchant observed, “You can’t really be a high-volume seller online without being on Amazon, but sellers are very aware of the fact that Amazon is also their primary competitor.” Evidence suggests that their unease is well founded. Amazon seems to use its Marketplace “as a vast laboratory to spot new products to sell, test sales of potential new goods, and exert more control over pricing.” Specifically, reporting suggests that “Amazon uses sales data from outside merchants to make purchasing decisions in order to undercut them on price” and give its own items “featured placement under a given search”

**Warrant:** Use of Big Data creates unique harms

Lisa Khan, 2017, Amazon’s Antitrust Paradox,
https://www.yalelawjournal.org/note/amazons-antitrust-paradox, Lina Khan is an Academic Fellow at Columbia Law School. She researches and writes on antitrust law and competition policy.

The difference with Amazon is the scale and sophistication of the data it collects. Whereas brick-and-mortar stores are generally only able to collect information on actual sales, Amazon tracks what shoppers are searching for but cannot find, as well as which products they repeatedly return to, what they keep in their shopping basket, and what their mouse hovers over on the screen. In using its Marketplace this way, Amazon increases sales while shedding risk. It is third-party sellers who bear the initial costs and uncertainties when introducing new products; by merely spotting them,
Amazon gets to sell products only once their success has been tested. The anticompetitive implications here seem clear: Amazon is exploiting the fact that some of its customers are also its rivals. **The source of this power is: (1) its dominance as a platform, which effectively necessitates that independent merchants use its site; (2) its vertical integration—namely, the fact that it both sells goods as a retailer and hosts sales by others as a marketplace; and (3) its ability to amass swaths of data, by virtue of being an internet company.** Notably, it is this last factor—its control over data—that heightens the anticompetitive potential of the first two. Evidence suggests that Amazon is keenly aware of and interested in exploiting these opportunities. For example, the company has reportedly used insights gleaned from its cloud computing service to inform its investment decisions.

**Warrant:** Potential competitors in the form of start-ups are failing

Clara Hendrickson and William A. Galston


**Other evidence suggests the weakening of competitive forces. The chances of start-ups succeeding have diminished.** Even IAC, an internet company intent on supporting digital brands that challenge the power of the major tech companies, has “internalized a kind of working method that recognizes the Five as more-or-less permanent fixtures of the internet,” New York Times’ Farhad Manjoo reports. **While Silicon Valley is home of the “disruption economy,” little disruption seems to be taking place. The vision of some enthusiastic geek working out of a garage able to one day displace today’s incumbents feels more and more like a far-fetched possibility.**
Impact: Big Tech uses platforms to black competitors


“The nearly 20-year-old case of US v. Microsoft illustrates how today's tech giants are breaking the law. The court held that Microsoft used its monopoly power in "Intel-compatible desktop PC operating systems" to squash the Netscape browser by requiring computer makers to instead install Microsoft's own Internet Explorer browser. Google, Amazon and Facebook are following the same playbook. The tech giants have "platform privilege" — the incentive and ability to prioritize their own goods and services over those of competitors that depend on their platforms. By doing so, they contend they are improving their products and benefiting customers. An entrepreneur can create a superior product or service and still get crushed because Big Tech is controlling the game and playing it, too. This distorted playing field strikes at the heart of the American Dream. And it deprives consumers of the choice, innovation and quality that comes from competition on the merits. Just as Microsoft used its monopoly in PC operating systems to exclude competition in internet browsers, Google used its monopoly in mobile operating systems to exclude competition in mobile apps. The European Commission fined Google $5 billion in July for requiring phone makers using Android to pre-install Google's apps and not competitors' apps. The Commission said 80% of smart phones in Europe and worldwide run on the system. By closing the gates of competition, Google cemented its monopoly in mobile search. The Commission ordered Google to stop its anticompetitive conduct, but many question whether it's too little too late. Google has appealed. The Android case followed the European Commission's Google Shopping case from a year prior, when it fined Google $2.7 billion for burying its comparison shopping competitors on page four, on average, of Google search results. The Commission found that Google used its monopoly on
internet search to take over the comparison shopping market without competing on
the merits. It ordered Google to give equal treatment to competing comparison
shopping services and its own service. Google has made changes but some
competitors say it’s not complying with the decision. Google has also been accused of
prioritizing its own reviews, maps, images and travel booking services in its search
results, excluding competition in those markets. Google has rejected claims that it tries
to hurt competitors, and has appealed this decision as well. Amazon, too, is following
the monopolist’s playbook, picking and choosing which products consumers discover
and determining who gets to compete on its platform, which accounts for nearly one
out of every two dollars spent online. **Amazon often excludes marketplace sellers from
selling products it wants to sell and prohibits brands from selling their own products,**
**taking the retail margin for itself.** This exclusionary conduct, combined with Amazon's
ability to use its competitors' data to create Amazon versions of popular products, giving
them priority placement on Amazon.com, destroys competition on the merits.
Facebook, in turn, uses its platform privilege to pick and choose what content we see.
Facebook competes against news publishers and content creators for consumers' time
and data, the fuel for its advertising model. Profit-maximizing algorithms prioritize
content that keeps you on the platform, including Facebook's own Instant Articles and
content that makes you fearful and angry.”

**Analysis:** The idea of large technology companies gaining enough power to influence our
everyday lives is not that far-fetched of a narrative to paint. The Khan evidence is rather explicit
in outlining the danger that a company like Amazon could pose when left unchecked. I think
that teams can be really successful on this topic with a straight down the middle approach and
by reading evidence outlining the inherent dangers of large monopolies.
A/2: Big Data Creates Dominance in Market

Answer: Big data is not anti-competitive nor do they undermine market competition

Warrant: Big data does not undermine market competition

D. Daniel Sokol1 & Roisin Comerford, Professor of Law, 2017, University of Florida and Senior Of Counsel Wilson, Sonisini Goodrich & Rosati, Does Antitrust Have A Role to Play in Regulating Big Data?,

“Andres Lerner (2014) argues that claims of Big Data presenting competitive concerns are unsupported by real world evidence. In particular, Lerner argues that in practice the oft-cited “feedback loops” do not have the strong effects with which they are commonly credited. Lerner discusses the procompetitive rationales for collection and use of consumer data online, including the potential for improved services, and the ability of firms to monetize effectively on the paid side so as to provide better services at lower prices or for free. He dismisses the idea that firms’ may have the incentive or ability to use data to entrench their dominant position (e.g., user data is non-rivalrous and no one firm controls a significant share of data) citing similar attributes of data as Ohlhausen and Okuliar. Lerner maintains that there is a complete lack of evidence that online markets have “tipped” to dominant firms, due in most part to the differentiated nature of online offerings. He concludes that without strong real-world evidence of anticompetitive effects, aggressive antitrust enforcement would hamper competition and chill innovation, injuring consumer welfare in the process. Although policy makers have dipped their toe into the antitrust in Big Data debate,5 antitrust agencies and the courts have not found a Big Data competition problem. In fact, that the FTC and DG Competition have thoroughly considered Big Data as an antitrust problem and completely dismissed it. The agencies in the United States and Europe have moved
cautiously so far, which is not only proper, but also serves as a reminder that the distinct
issues addressed by antitrust and consumer protection law, and the solutions that may
be applied by each set of laws to prohibited behavior, are distinct for good reason, and
are complements rather than substitutes (Muris and Zepeda 2012; Averitt and Lande
1997)”

Warrant: Big data is not anti-competitive

D. Daniel Sokol1 & Roisin Comerford, Professor of Law, 2017, University of Florida and
Senior Of Counsel Wilson, Sonisini Goodrich & Rosati, Does Antitrust Have A Role
to Play in Regulating Big Data?,

(c) Economic Characteristics of Big Data Protect Against Competitive Harm In addition to
the affirmative pro-competitive benefits of Big Data expounded above, the economics of
how Big Data works, as described below, damages claims that it should be feared, or
reined in by antitrust. Additionally, the unique economic characteristics of data mean
that its accumulation does not, by itself, create a barrier to entry, and does not
automatically endow a firm with either the incentive or the ability to foreclose rivals,
expand or sustain its own monopoly, or harm competition in other ways (Lambert and
Tucker 2015). Lambrecht and Tucker explain that “For there to be a sustainable
competitive advantage, the firm’s rivals must be unable to realistically duplicate the
benefits of the strategy or input.” As we suggest below, both theory and actual cases
support a finding that the characteristics of data are such that rivals cannot be
foreclosed from replicating the benefits of Big Data enjoyed by larger online firms, and
Big Data in the hands of large firms does not necessarily pose a significant antitrust
risk. (i) Low Barriers to Entry Data driven markets are typically characterized by low
entry barriers, as evidenced by innovative challengers emerging rapidly and displacing
established firms with much greater data resources than themselves (Tucker and
Welford 2014). While the existence or lack thereof of barriers to entry can, and will, differ from market to market, and a blanket determination cannot be made in the abstract, the history of the digital economy offers many examples, like Slack, Facebook, Snapchat, and Tinder, where a simple insight into customer needs enabled entry and rapid success despite established network effects. The data requirements of new competitors are far more modest and qualitatively different than that of more established firms. Little, if any, user data is required as a starting point for most online services. Instead, firms may enter with innovative new products that skillfully address customer needs, and quickly collect data from users, which can then be used towards further product improvement and success. As such, new entrants are unlikely to be at a significant competitive disadvantage relative to incumbents in terms of data collection or analysis (Tucker and Welford 2014). And, while a firm that has been operational for ten years may have a larger data store, lack of asset equivalence has never been a sufficient basis to define a barrier to entry in any cases as of yet. In brick and mortar retail, a new entrant may have a smaller showroom than an established competitor, but this does not render the need for a physical store location an insurmountable barrier to entry. Indeed, an established bricks and mortar store could have much more data on local customer preferences, but that has never been viewed as prohibitive to entry. -6- (ii) Data is Ubiquitous, Inexpensive, and Easy to Collect Data is ubiquitous, inexpensive, and easy to collect (Tucker 2013). Users are constantly creating data – increased internet and smartphone usage means customers are continuously leaving behind traces of their needs and preferences (Lambrecht and Tucker 2015).

Analysis: Low barriers to entry coupled with the fact that data is rather ubiquitous lends leniency to the fact that it is pretty difficult to dominate in an industry centered around data—this extends as far as to say that multiple companies can operate with overarching control harmoniously. This evidence and this response functions as nothing more than terminal defense, but a strong response overall.
**Answer:** Big data is beneficial for consumers

**Warrant:** Making it more difficult for companies to monetize data means fewer services for consumers


Perhaps the most obvious and pervasive benefit to be realized in the Big Data era has been the ability of firms to offer heavily subsidized, often free, services to consumers as consumers give those firms permission to monetize consumer data on the other side of their business (Evans and Schmalensee 2014). In a competition law regime where lower prices for consumers are deemed highly desirable, this is undoubtedly a benefit to consumers. The monetization of the data in the form of targeted advertising sales for antitrust purposes is not suspect or harmful, but rather “economically-rational, profit-maximizing behavior,” that results in obvious consumer benefit (Lerner 2015). Were online platforms prevented or restricted from collecting and monetizing consumer data, competition for users would be inhibited, and harm to consumers would result, in the form of higher prices for services. Indeed switching costs are low regarding data and search (Edlin and Harris 2013).

**Impact:** More data improves products

D. Daniel Sokol & Roisin Comerford, Professor of Law, 2017, University of Florida and Senior Of Counsel Wilson, Sonisini Goodrich & Rosati, Does Antitrust Have A Role to Play in Regulating Big Data?
As an input, online firms use data to improve and refine products and services in a number of ways, and to develop brand new innovative product offerings. For example, search engines, both general and niche, can use data to deliver more relevant, high quality search results. By learning from user search queries and clicks, search engines can identify what are the most relevant results for a particular query. “Click-and-query” data, as it is known, is a highly valuable input in delivering high quality search results (Salinger and Levinson 2015). Outside of just relevant results, search engines can use data to provide additional “value-added” services to users. Travel search engines, for instance, can use data to forecast price trends on flights for specific routes. Amazon and multiple other ecommerce sites use past purchase information and browsing history to make personalized shopping recommendations for users (Goldfarb 2012). Social networking platforms use data collected from users to suggest friends, celebrity or business pages, or articles that customers might be interested in. Online media outlets use browsing history and personal information to recommend other articles that a reader may be interested in.

**Analysis:** Big data allows for a more targeted, and economically viable avenue to market select products and services. The fact that this is better than the costlier alternative highlights the inherent value of big data in the equation. Moreover, the fact that this monetization of data is being used in a way that is in tune with the current trend of social media advertising implies that we are heading in the direction of monetization anyway.
**PRO: Market Power Leads to Decreased Privacy**

**Argument:** Monopolization eliminates competition and fosters unchecked growth which inevitable concentrates economic power in the hands of a few powerful companies.

**Warrant:** Facebook leveraged market power to degrade privacy.


Monopoly power refers specifically to the power to control a market—that is, the power in a market to raise price above or reduce quality below competitive levels. From a legal standpoint, the question of whether a company has monopoly power in a market is answered through direct or indirect evidence. Indirect evidence focuses on a company’s percent share of a relevant market, amongst other structural factors that indicate a company’s hold on a market (e.g., entry barriers). Direct evidence, on the other hand, demonstrates a company’s acquired ability to increase price above or decrease quality below levels unsustainable in a previous competitive environment. Under the direct evidence approach, the strongest type of evidence is evidence of price or quality levels pre-power, an event or point in time which results in power, and evidence of price increases or quality degradations that would have previously been unsustainable. This fact-based, retrospective before-and-after analysis—though somewhat rare in antitrust cases—is particularly relevant in Facebook’s case. Part II now tells the story of how it came to be that Facebook extracts from consumers an exchange founded on surveillance. Contrary to what many believe, digital surveillance is not simply the inevitable byproduct of how the internet works. Rather, promises of
privacy were the deciding factors that tipped the early market in Facebook’s favor, away from MySpace. Facebook’s conduct, from 2004-2012, provides the benchmark of quality—at least with respect to commercial surveillance—that the restraining forces of competition demanded. By 2014, competitors had exited the market, Google’s competitive offering Orkut shut down, and Facebook’s monopoly was complete due to the exit of competition combined with the protection of the barrier to entry that results from a product with over a billion users on a closed communications network. Subsequently, in 2014, Facebook leveraged its market power in a consolidated market to successfully degrade privacy to levels unsustainable in the earlier competitive market when market participants were subject to consumer privacy demands. Facebook rapidly unraveled its promise not to conduct commercial surveillance by using the technical framework it built over the years by perpetuating the belief that it would not leverage such a framework for a commercial purpose.”

Warrant: Facebook’s market power enabled it to degrade privacy


“Facebook’s monopoly power gave it the ability to further deteriorate privacy and extract more of the user’s data—which, as Dave Wehner, chief financial officer of Facebook, clarified on Facebook’s Q2 2018 earnings call, is directly correlated with higher ad revenues.157 Part I of this Paper detailed Facebook’s initial commitment to privacy, and Sections A and B surveyed Facebook’s inability to extract a condition of surveillance in a competitive market. Section C traces Facebook’s ability to reverse
course post-power—direct evidence of monopoly power. First, Facebook initiates user surveillance for commercial ad purposes. Second, Facebook ties user identification with cookies to conduct more intrusive surveillance. Third, Facebook then circumvents user attempts to opt-out or block Facebook’s quality degradations. The three quality deteriorations can be understood as the monopoly rents Facebook is able to command in the market today. Absent competition, Facebook is able to degrade quality levels below that which was required in a competitive market, and financially profit from this conduct.”

Impact: Privacy is key to freedom- surveillance causes stress and kills individuality

Jay, Senior Policy Analyst with the ACLU’s Speech, Privacy & Technology Project, “Does Surveillance Affect Us Even When We Can’t Confirm We’re Being Watched? Lessons From Behind the Iron Curtain”, October 15, 2012, https://www.aclu.org/blog/does-surveillance-affect-us-even-when-we-cant-confirm-were-being-watched-lessons-behind-ironz, kc

“Of course, the point is not that the FISA Amendments Act is equivalent to the kind of surveillance that took place behind the Iron Curtain. Rather, it’s that there are things we can learn from the experience of extreme surveillance in Eastern Europe. In particular, that experience makes especially clear a point that the government is trying to obfuscate in this case: the negative effects of surveillance flow not just from direct observation, but equally from uncertainty over whether and when one might be under observation. Even a person who was never actually spied upon could have his or her life drastically curbed by the threat of such spying.¶ That is a dynamic that operates in all times and places where such a threat is present. The brief also includes a succinct rundown of studies that have shown how perceptions of surveillance (not just surveillance) cause psychological stress and altered behavior:¶ For example, a workplace study conducted statewide in New Jersey found a direct correlation
between workers’ perceptions of surveillance and negative sentiments concerning privacy, role in the workplace, self-esteem, and workplace communication.

Similarly, a study of seven urban centers in New Zealand supported the conclusion that a perceived lack of privacy is directly associated with psychosomatic stress.

While we are no East Germany, some lessons from that time and place have become newly relevant to us in different ways in our age of high technology. We humans are inherently social animals, keen at all times to know how we are presenting ourselves before the eyes of others. **Unless we feel entirely secure in our privacy, we will act in guarded ways—and that means, to a greater or lesser extent, we will not be free.**

**Impact:** Surveillance anxiety causes major health problems


You’re not paranoid if they really are out to get you. More than 50 years after Ernest Hemingway committed suicide, we know that Hemingway was being tracked and hounded by the FBI, but this revelation seems less significant in a culture dominated by surveillance. Edward Snowden’s recent revelations about NSA spying have sparked a vigorous public debate, and employers routinely spy on their employees by tracking their email, logging their chats, and checking their Facebooks. Walk down any street or enter any convenience store and the odds are good that there’s a camera filming you. The line between public and private behavior is increasingly blurred. Some people are willing to sacrifice a bit of privacy to feel safer, but what about the psychological effects of all this surveillance? It makes sense that people might feel more afraid of their government when they think they’re being watched, but the effects go deeper. One
study found that when people identified with a leader, their trust in that leader actually decreased when they found out they were being watched. Another study found that people’s willingness to put up with surveillance decreases when they realize that they are the ones being watched instead of a mysterious bad guy.¶ A sense of privacy can play a significant role in the control people feel over their lives. We all have private thoughts and behaviors that we’d rather keep under wraps, but mass surveillance makes this much more challenging. A hastily typed email message or unfortunate Facebook update can suddenly become public knowledge. As far back as 1996, researchers found that people felt a loss of control when they knew they were being watched.¶ The mental health effects don’t end there, though. Researchers have found that as surveillance increases, so does anxiety. Anxiety can lead to a host of health conditions, including high blood pressure, obesity, respiratory problems, gastrointestinal problems, and even cancer.

Warrant: Tech advances make surveillance power hierarchies spillover to culture


Today, intelligence agencies still operate on the assumption that most individuals unknowingly turn their private lives over to the spying state and corporations. Accordingly, they work hard to appropriate new technologies to serve the interests of a turnkey authoritarian state in which the ‘electronic self’ becomes state property. Rather than defending the public against corporate interests, these agencies encourage lawlessness and use corporate data-mining tactics for their own ends. As Jonathan Schell (2013) points out, everything that moves is now monitored, along with
information that is endlessly amassed and stored by both private and government agencies: Thanks to Snowden, we also know that unknown volumes of like information are being extracted information from Internet and computer companies, including Microsoft, Yahoo, Google, Facebook, PalTalk, AOL, Skype, YouTube and Apple. The first thing to note about these data is that a mere generation ago, they did not exist. They are a new power in our midst, flowing from new technology, waiting to be picked up; and power, as always, creates temptation, especially for the already powerful. Our cellphones track our whereabouts. Our communications pass through centralized servers and are saved and kept for a potential eternity in storage banks, from which they can be recovered and examined. Our purchases and contacts and illnesses and entertainments are tracked and agglomerated. If we are arrested, even our DNA can be taken and stored by the state. Today, alongside each one of us, there exists a second, electronic self, created in part by us, in part by others. This other self has become de facto public property, owned chiefly by immense data-crunching corporations, which use it for commercial purposes. Now government is reaching its hand into those corporations for its own purposes, creating a brand-new domain of the state-corporate complex. The details of our daily lives are now not only on full display, but are also being monitored, collected and stored in data banks waiting to be used for commercial, security or political purposes. What is represented so grippingly in Orwell’s text – and remains relevant for us today – is how authoritarianism in its contemporary manifestations no longer depends on raw displays of power, but instead has become omniscient in a regime of suppression and surveillance in which the most cherished notions of agency collapse into unabashed narcissistic exhibitions and confessions of the self. Surveillance feeds on the titillating elements of fear and self-delusion in the interests of producing particular subjects, modes of identification and desires that accept the security state as an overarching power legitimized by a state of exception that is comparable to an unending militarized tyranny (Hardt and Negri 2012). Serving as willing fodder for the spying state, the self under such conditions becomes not simply the object of surveillance, but a participant and subject in surveillance culture.
But Orwell’s 1984 looks subdued next to the current parameters, intrusions, technologies and disciplinary apparatuses wielded by the new corporate–government surveillance state. **Surveillance has not only become more pervasive, intruding into the most private of spaces and activities in order to collect massive amounts of data, it also permeates and inhabits everyday activities so as to be taken for granted.**

**Surveillance is not everywhere, but its presence has become normalized.**

**Analysis:** This is one of those messy debates that many rounds will end up spilling over into- the key to winning them though is having explicitly clear evidence and ensuring that the warranting behind the argument is solid. I think the fact that the argument is supported by a company as large as facebook with a reputation for privacy issues, the argument should come across much easier and receptive than most privacy arguments that are made.
**A/2: Market Power Leads to Decreased Privacy**

**Answer:** Antitrust law should not be applied to big data, privacy concerns do not justify it

**Warrant:** Privacy concerns fall outside the realm of antitrust laws, the are constitutional concerns

D. Daniel Sokol & Roisin Comerford, Professor of Law, 2017, University of Florida and Senior Of Counsel Wilson, Sonisini Goodrich & Rosati, Does Antitrust Have A Role to Play in Regulating Big Data?,


“First, Big Data creates efficiency gains. Second, an antitrust institutional choice would increase subjectivity into antitrust analysis. Third, using antitrust would create opportunities for strategic gaming by firms of the legal system. Finally, Ohlhausen and Okuliar warn that using an antitrust lens may threaten innovation for new products and services. James Cooper (2013) echoes that antitrust law is an inappropriate tool to regulate Big Data. He writes: [E]ven if one were to accept the analogy between enhanced personal data collection and prices (or equivalently, lower quality) at face value, there is nothing in the antitrust laws to prevent a firm from unilaterally engaging in this conduct. Antitrust’s longstanding aversion to price regulation means that a legal monopolist is free to charge whatever price the market will bear. Cooper also suggests that privacy in Big Data as an antitrust concern would raise certain First Amendment issues, as well as muddle the goal of enforcement, thereby introducing unnecessary subjectivity into the analysis, lending itself to Virginia School styled rent seeking in antitrustproof that such acquisition is likely to substantially lessen competition, prohibited under the antitrust laws. Indeed, the potential for such acquisitions incentivizes entry.
Warrant: Privacy is not about competition


“(b) Harm to Privacy Proponents of antitrust involvement in Big Data suggest that consumers feel they do not have control over how their data is collected and used by online platform providers (Stucke and Grunes 2015a; Jones Harbor and Koslov 2010). As users create more and more data, and firms continue to collect it, the safeguards protecting its collection and use may well become more important and more vulnerable to attack. The economics literature shows that in fact the collection of data may provide improved services (Acquisti and Varian 2005), product recommendations (Bennett and Lanning 2007), or provide free content (Goldfarb and Tucker 2010). Privacy protections can be considered a form of non-price competition, which is especially important in industries where the service itself is offered for free (Ohlhausen and Okuliar 2015). Firms may compete by offering tighter or more transparent privacy policies (Evans 2009; Savage and Waldman 2015). Yet Jones Harbour and Koslov (2010) argue that consumers can be harmed when a dominant firm has no incentive to invest in privacy protections. Acquisti (2014) offers a literature review that provides a more nuanced view of the different ways of how consumers value privacy. It is important to note however that harm to privacy does not, without more, equal harm to competition. And, as discussed in more detail below, antitrust is ill-equipped to solve consumer law problems.”

Analysis: Given the fuzziness surrounding privacy and how it ought to be viewed in a legal standing, many believe that privacy concerns stemming from tech giants raise larger constitutional issues pertaining as deep as to the first amendment. Moreover, following an
antitrust framework would allow large tech firms to play the system and use lawmakers as pawns.

**Answer:** The public doesn’t care about privacy violations

**Warrant:** Facebook proves- consumers have “privacy fatigue”- don’t care about privacy anymore


**Facebook Users Experience Privacy Fatigue** -- Facebook users are struggling to keep up with the "dizzying" number of changes to privacy settings made by the social network, a survey has found.¶ Almost half (48%) of those questioned by consumer magazine Which? Computing confessed they had failed to keep track of all the security changes that had been introduced, while almost a fifth (19%) said they had never altered their privacy settings.¶ Despite concerns about the amount of personal information being published by users of the website, many could be suffering "privacy fatigue", the magazine suggested.¶ **Although Facebook has introduced a slew of changes over the past two years, respondents had on average changed their privacy settings just twice.¶** Rob Reid, scientific policy adviser for Which?, said: "Many Facebook users have never changed their privacy settings and those who have do it far less often than Facebook makes changes.¶ "This may reflect a disregard or lack of awareness for privacy or, more worryingly, privacy fatigue stimulated by the dizzying number of changes."¶ Which? Computing interviewed 953 people in September about their Facebook use.

**Warrant:** Public apathy about privacy violations.

A series of revelations about the National Security Agency’s surveillance programs sparked outrage among many this week, including the expected privacy activists and civil libertarians. But there seems to be a gap between the roiling anger online and the attitudes of other people, especially younger ones, who think it’s just not that big a deal. It’s the rare issue that crosses party lines in terms of outrage, apathy and even ignorance. When interviewing people about the topic in downtown San Francisco, we found a number of people of all ages who had not heard the news, and more than one who asked what the NSA was. The rest had various reasons for not being terribly concerned. Privacy is already dead. When the news broke on Wednesday, a number of people responded online by saying an extensive government surveillance program wasn’t surprising and just confirmed what they already knew. The lack of shock wasn’t limited to savvy technologists who have been following reports from organizations like the Electronic Frontier Foundation, or EFF, that cover possible monitoring going back to 2007. Many people already assumed that information online was easily accessible by corporations and the government. A survey conducted by the Allstate/National Journal Heartland Monitor just days before the NSA news broke found that 85% of Americans already believed their phone calls, e-mails and online activity were being monitored. Allen Trember from San Luis Obispo, California, said he knew when he started using the Internet that his information wasn’t going to be private, but still lamented that privacy no longer exists. "I don't like it, but what can I do about it?" he said. "I'm just glad that we have as much freedom as we do."

Analysis: This argument is much more compelling than it comes off as. It is an surprisingly true statement that most people don’t really care at all about their privacy. One could even throw a
little joke about the obnoxiously long user agreements that nobody signs. Nevertheless, the public apathy surrounding privacy concerns serves to discredit the fact that people actually care about privacy violations.
Champion Briefs
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Public Forum Brief

Con Arguments with Pro Responses
CON: Federal antitrust enforcement is inefficient

**Argument:** Federal antitrust enforcement is inefficient

**Warrant:** federal antitrust doesn't address underlying concerns


Today's tech giants have been likened to the railroad conglomerates and AT&T Bell System of the past, with some calling for them to face the same fates of forced divestitures and break-ups. But antitrust is far from a panacea; breaking up the platforms doesn't necessarily address underlying privacy and data-security concerns. Still, the historic shake-ups suggest that today's enforcement approach is comparably lax—especially in light of recent decisions like opting not to pursue a formal investigation into Amazon's acquisition of Whole Foods.

**Warrant:** government intervention in the market place generally fails for several reasons

Ryan Young, Clyde Wayne Crews, 4-17-2019, "The Case against Antitrust Law," Competitive Enterprise Institute, https://cei.org/content/the-case-against-antitrust-law

1: **Restraint of Trade and Monopolization.** The Sherman Act of 1890 makes illegal “every contract, combination, or conspiracy in restraint of trade,” and declares that, “every person who shall monopolize, or attempt to monopolize, or conspire to monopolize shall be deemed guilty of a felony.” Nearly 130 years later, the phrases “restraint of trade” and “monopolize” remain key terms in antitrust regulation. Yet,
monopolies cannot last without government assistance (barring some very narrow
limited circumstances, such as near-total control of a natural resource). If a dominant
company is making extra-normal monopoly profits, the only way for it to keep out
competitors is to use government on its behalf. The solution to this problem is not
antitrust enforcement, but taking away the government’s power to grant favors to
rent-seekers. 2: Horizontal Mergers. Horizontal mergers are between companies
competing in the same market. Vertical mergers are between companies up and down
the supply chain. Horizontal mergers reduce the number of competitors in a market and
increase their average size. Both of these raise red flags for regulators searching for
possible restraints of trade or attempts at monopolization. Antitrust law treats a
company differently based on whether it reaches a certain size through growth or
through merger. If size or market concentration is the offense, that is what the law
should be concerned with, not how a company got its dominant position. [...] 4:
Predatory Pricing. Antitrust regulators can penalize a company for predatory pricing if it
charges lower prices than its competitors. The thinking goes that a company can sell
goods at a loss to gain market share, causing competitors to exit the market or even
go bankrupt. Then the predator can raise its prices and enjoy monopoly profits. The
problem here is one of simple arithmetic. Predators nearly always have a larger market
share than the prey. This means the larger company must sell more product at a loss
than the smaller prey companies, and thus incur a larger loss. The only way for the
predator to keep a permanent monopoly is to permanently sell at a loss. [...] 9:
Strategic Predatory Behavior. This is often used as a catchall term for competitive
behavior that antitrust regulators dislike. Trying to undercut rivals’ profitability is the
very essence of business competition, but recently, the ordinary competitive market
behavior of causing one’s rivals to face higher costs has spawned a veritable academic
industry devoted to identifying competitive strategies as means of monopolization.
10: Exploiting Technological Lock-In. Companies can use technological lock-in to keep
customers from fleeing to better alternatives. The famous example of technological
lock-in is the QWERTY keyboard. As it turns out, QWERTY keyboards are just as efficient
as Dvorak and other alternatives. **Nowadays Internet browsers are often cited as an example of technological lock-in. Life is much easier when all of your website passwords and other information are stored in your browser and entered automatically when needed.** In theory, this convenience also makes consumers reluctant to switch to a competing browser, even if it offers a better user experience. This reticence can lock consumers into an inferior technology, reducing competition and the incentive to innovate, but that is a problem grounded in consumer behavior that government is ill equipped to address. Even so, the title of most popular browser has shifted at least three times over the past 20 years. Netscape gave way to Internet Explorer, then Firefox, and now Chrome, which could be eclipsed at any time.

**Warrant:** Judges are improperly trained for this role


**Impact:** Antitrust laws become exploited by politicians without solving other issues

That acceptance should be reconsidered, far beyond even what SMARTER will do. Economic regulations, including antitrust regulation, transfer wealth and are vulnerable to exploitation. Regulation attracts and enables political entrepreneurs seeking entry or price regulation that hobbles and eliminates competition. When the federal government disrupts mergers like Sysco-US Foods, AT&T and T-Mobile, or Staples and Office Depot, competitors need not respond to these deals. They can relax. In turn, consumers do not get the benefit of their otherwise-necessary competitive response. Things stagnate. In that sense, antitrust and regulation rather than markets create lock-in.

Analysis: While primarily defensive, this argument can show that antitrust enforcement distracts from more pressing solutions while not causing substantial change.
A/2: Federal antitrust enforcement is inefficient

**Answer:** Doctrines like the essential facilities doctrine allows for enforcement.

**Warrant:** Enforcement is possible.


Un fortunately, **antitrust enforcement in the U.S. has become strangled in an outmoded economic doctrine that fails to recognize the realities of today’s Internet.** We recently submitted comments to the FTC explaining a few key ways to strengthen antitrust enforcement and enable it to better protect competition, the marketplace, and consumer welfare. Increasingly, consumers “pay” for services that we use online not in dollars, but with our data, which the companies then use without compensation to enable targeted advertising. Given that these services are nominally “free” to consumers, it makes no sense to evaluate consumer welfare solely on the basis of price. [...] At the same time that antitrust regulators and courts developed an unsustainable, myopic interpretation of consumer harm, they also sharply limited one of the strongest levers in antitrust law for guarding competition: the “essential facilities” doctrine. It has been applied in cases ensuring that railroads could access bridges over rivers even when their competitors owned the bridges and that advertisers could run ads in newspapers even when the newspaper might prefer to exclude them in retaliation for those advertisers also buying ads in other advertising mediums. When a
firm wielding monopoly power leverages a resource that other firms cannot duplicate by refusing to allow access, courts can apply the essential facilities doctrine. On the one hand, leveraging a firm’s unique infrastructure might seem like a normal way of doing business. Seen from another perspective, this kind of activity preys on consumers—and competition—by preventing competition from emerging and forcing users to settle for the first mover. Applications of essential facilities doctrine might appear aggressive, but applying the doctrine need not impose the kinds of obligations that constrain common carriers. Indeed, common carrier restrictions on social networks would risk imposing harms on speech. In contrast, recognizing essential facilities claims by competitors hampered by an anticompetitive denial of access would promote a diversity of approaches to content moderation, and other platform conduct (such as predatory uses of the Computer Fraud and Abuse Act) that harms users. Essential facilities claims would also encourage the development of new social media platforms and expand competition.

Answer: We are seeing a resurgence of antitrust behavior


Based on this evidence, an emerging progressive, anti-monopoly New Brandeis School is challenging the status quo. Liberals and conservatives are increasingly warning that consumers are not benefitting from the meager competition in many markets. Their concern is that the current state of competition law (and crony capitalism) benefits the select few at the expense of nearly everyone else. The laissez-faire “Chicago
“School” ideology has lost some of its appeal, most notably at the University of Chicago. Furthermore, legislation is being proposed to restore the Clayton Act to its original purpose, by, among other things, establishing “simple, cost-effective decision rules that require the parties to certain acquisitions that either significantly increase consolidation or are extremely large [to] bear the burden of establishing that the acquisition will not materially harm competition.” Some might concede that concentration has increased, that industries with larger increases in concentration have experienced larger declines in the labor share, and that the fall in the labor share is largely due to the reallocation of sales to the dominant firms. However, they argue that these firms achieve their “superstar” status with superior quality, lower costs, or greater innovation. One study, for example, found the rise in industry concentration “positively and significantly correlated with the growth of patenting intensity.” Powerful enterprises and their lawyers, economists, and lobbyists may maintain that all is well — higher concentration levels deliver greater efficiency and markets will, if needed, self-correct. Accordingly, they want to preserve their narrow utilitarian reading of the antitrust laws, which effectively minimizes enforcement.

**Answer:** There is a bipartisan push for antitrust enforcement


Congressional Democrats have formally committed themselves to pushing for more stringent antitrust enforcement, and presidential candidate Sen. Elizabeth Warren has even called to dismantle several of these companies. Few politicians go quite as far as Warren, but most of the Democrats running for president in 2020 have called for more stringent regulation of technology companies and several Republicans including Sens. Ted Cruz (R-TX) and Josh Hawley (R-MO) are even making noises about it.

**Analysis:** a strong pro can walk the line between proving inherency in their case and proving that there is an attitude for antitrust enforcement that is not being acted on.
CON: Federal antitrust enforcement weakens A.I.

**Argument:** Enforcement of antitrust legislation hurts U.S. companies decreasing hegemony

**Warrant:** Section 5 of the FTC act lays the foundation to challenge AI


Most panelists agreed that the broad jurisdiction conferred by section 5 of the FTC Act, which allows the agency to investigate "unfair or deceptive acts or practices in or affecting commerce," is sufficient to reach consumer and market harms caused by AI and algorithms. The drawback of section 5 is that it offers little guidance on what conduct will trigger agency scrutiny, which is a particularly fraught issue for cutting-edge industries such as AI. The contrarians of the group argued that if AI is as transformative some suggest, new institutions and statutes are needed to grapple with the regulatory challenges. Both camps urged the FTC to provide guidance, through policy statements, on what constitutes an actionable practice, that is, practices that harm either consumers or competition in the relevant market. Key takeaways Consensus on how to effectively regulate AI is as almost impossible as the technology is impenetrable. However, the FTC hearings offered useful insights into what measures companies and agencies may undertake to protect consumers and competition: The next frontier of antitrust enforcement may focus on algorithm collusion. The agencies have the daunting task of regulating an industry that their own staff may not understand. Establishing legal parameters to distinguish between lawful conscious parallelism and suspect conduct that falls short of a hard-core violation will be difficult.
Businesses with AI expertise understand the power asymmetry that exists online and the potential for consumer harm. Rather than waiting for government intervention, companies can take proactive steps that empower consumers, such as education initiatives and opt-out provisions. However, industry self-policing will, at most, delay more intensive government oversight of AI practices. The broad jurisdiction of section 5 of the FTC Act will capture most if not all of the antitrust and consumer protection issues that may arise from AI, even as the technology continues to evolve. However, the industry would benefit from clear guidance on the practices the FTC may challenge.

**Warrant:** FTC has expanded oversight into AI


Mergers that regulators believed would make markets worse for consumers have been blocked. Meanwhile, an increasingly aggressive FTC has expanded its oversight over “unfair or deceptive” practices so deeply into novel issues including online data collection and use, the Internet of Things, artificial intelligence and spam that the agency is known here in Silicon Valley as the "Federal Technology Commission." The results of that approach don’t suggest the need for a radical expansion of trade law. Just the opposite. Falling prices, new entrants, and the explosion of the kind of better and cheaper new technologies my co-author Paul Nunes and I coined as “Big Bang Disruptors” have, with notable exceptions including education and health care, left consumers better off. As economist Mark Perry has pointed out, purchasing power has increased dramatically for nearly every commodity and many luxury goods.

**Warrant:** U.S. Regulation of A.I allows Chinese A.I. to grow unchecked
GAFA are not alone in the world. China has its own data superpowers, heavily invested in AI development: search engine Baidu, e-commerce giant Alibaba, and multipurpose social platform Tencent (henceforth ‘BAT’). Currently, there is minimal overlap in the largest markets; GAFA [google, facebook, amazon, apple] are dominant in the OECD, while BAT lead in China. Compartamentalization, however, may be fading fast. On the one hand, BAT are stepping up their attempts to penetrate advanced economies—so far, they were held back by a combination of competitive disadvantage in purely economic dimensions and national security safeguards. The former may not last indefinitely, and the latter may not evolve in the same way everywhere—in the US, increased political friction with China over trade is likely to yield more restrictions, but other OECD jurisdictions might adopt different stances. On the other hand, demand for AI-based services in emerging countries with young, tech-savvy middle classes is growing. With a combined population of 1.6 billion, India and Indonesia are turning into key GAFA–BAT battlegrounds; the African continent may follow soon. As the data and AI markets open, how would social welfare in OECD countries be affected by the introduction of policies aimed at containing GAFA’s power? Should BAT gain more ground as a consequence, consumers on GAFA home turf may enjoy positive fallout from enhanced competition in terms of lower prices and better quality of goods and services, but may face negative effects from reduced control over data (for the intricate politics of online privacy in China, see Chorzempa et al. 2018). More importantly, the risk of AI monopolization gets worse in a global market, because of enhanced network effects and economies of scale. If GAFA are weakened by domestic policies, while China takes no action to contain its own behemoths, we may still end up with one all-seeing AI, except that its understanding of human-machine-
government relations may reflect values different from those prevalent in liberal democracies.

**Warrant:** The majority of AI research is driven by the private sector

Kathleen Walch, 8-28-2018, "The Race for AI Dominance is More Global Than you Think," Medium, https://medium.com/cognilytica/the-race-for-ai-dominance-is-more-global-than-you-think-e01a0c34d64e

The majority of AI innovation in the US is being driven by the private sector, mostly large corporations and startups as the government’s own investment has been lackluster in comparison to that of China and other countries. The question remains whether the US will be able to maintain its technology dominance in AI as it has previously in other areas.

**Warrant:** AI is driven by tech giants


The **AI stack** relies on services provided by public cloud vendors and open source projects. Investment by cloud giants — such as Google, Amazon, Facebook, Microsoft, and Baidu — into AI services has facilitated a shift away from proprietary vendors owning the stack. In concert, the **embrace of open source as an accepted standard has caused more rapid development across the AI ecosystem. Google’s open-source TensorFlow library exemplifies this mindset by enabling anyone with an interest in machine learning to develop models without having to build libraries and algorithms from scratch.** AI ECOSYSTEM The last decade brought AI out of research institutions and
into the forefront of some of the world’s most progressive technology companies. These companies have embedded AI into their core products and services, accelerating technology advancement, talent development, and investment seen in the AI ecosystem. For example: Amazon is using AI to improve personalized recommendations and optimize inventory management. In Amazon’s annual letter to shareholders, CEO Jeff Bezos discussed the importance of adopting AI to deliver goods more quickly, enhance existing products, and create new tools through its cloud-computing division. Google uses its own DeepMind technology to manage data center energy and reduce cooling costs by 40%. The company’s AI-first strategy is focused on leveraging AI for search optimization, self-driving cars, and numerous other portfolio solutions. Facebook is committed to building the foundational technologies of AI. Its research group, FAIR, is one of the top producers of breakthroughs in neural networks. Microsoft has created an AI business unit with over 5,000 computer scientists and engineers focused on driving AI into the company’s products. Intel is updating its servers to cope with the increased computation required to process and train AI systems. To do this, the company has aligned its AI efforts under a single organization led by Naveen Rao, former CEO of Nervana (a deep learning startup Intel acquired in 2016). Baidu is investing heavily in artificial intelligence, building image-recognition technology, advancing autonomous driving, launching digital assistants, and developing augmented reality tools. The shortage of AI talent remains an issue. According to McKinsey, 70% of AI investment comes from internal R&D investment by the largest technology companies. We continue to see the cloud giants hiring key AI talent from academia to head their AI efforts. It comes as little surprise that 80% – 90% of all AI talent is working at the largest technology companies in the world.

Warrant: Data is key to achieving AI supremacy

Thomas H. Davenport, Professor of Information Technology and Management, Babson College, 2-27-2019, "China is catching up to the US on artificial intelligence
A final key element in AI progress is data: The more data a country’s companies have, the better able they are to develop capable AI systems. Chinese online firms have massive amounts of consumer data on which to train machine learning algorithms. Because of its very large number of inhabitants, the population’s heavy use of digital services and its lax regulatory environment, China clearly beats the U.S. on data. 

**Impact:** AI is key to U.S. GDP


Why is it so important that the U.S. lead in AI? It’s a simple question, with a straightforward answer: AI promises major economic and societal benefits that the U.S. would be foolish to forfeit. **PWC estimates that AI technologies could increase global GDP by $15.7 trillion by 2030, a 20 percent increase overall. The estimated increase for North America alone is an eye-popping $3.7 trillion; a 14.5 percent increase in GDP.**

Couple these massive economic gains with the potential for major AI-driven advancement in industries such as manufacturing, healthcare, national security and education, and AI has the potential to be the proverbial tide lifting all boats – as long as the boats are soundly built. We are pleased to see bipartisan efforts to ensure the U.S. is a leader in AI. The recent Executive Order on Maintaining American Leadership in Artificial Intelligence and the establishment of the Senate Artificial Intelligence Caucus both show that policymakers understand the importance of developing and deploying this innovative technology. The U.S. needs to further these efforts by adopting a complete U.S. National AI Strategy that includes specific funding commitments and timelines for implementation. Industry and government will have to work together to
navigate some tricky shoals, including regulatory burdens to AI development, potential workforce displacement, slow AI adoption and concerns over ethical implications of AI use. Having the national strategy address the following four main areas would be a good start. [...] Create a supportive legal and policy environment. The federal government should use caution before adopting new laws, regulations, taxes or controls that may inadvertently impede the responsible development of AI. Additionally, to ease burdens and protect U.S. innovation, federal agencies should avoid requiring companies to transfer or provide access to technologies, source code, algorithms or encryption keys as conditions of doing business.

**Impact:** A.I is critical to U.S. security and MAD

Jeremy Straub, Assistant Professor of Computer Science, North Dakota State University, 1-29-2018, "Artificial intelligence is the weapon of the next Cold War," Conversation, https://theconversation.com/artificial-intelligence-is-the-weapon-of-the-next-cold-war-86086

Just like the the Cold War in the 1940s and 1950s, each side has reason to fear its opponent gaining a technological upper hand. In a recent meeting at the Strategic Missile Academy near Moscow, Russian President Vladimir Putin suggested that AI may be the way Russia can rebalance the power shift created by the U.S. outspending Russia nearly 10-to-1 on defense each year. Russia’s state-sponsored RT media reported AI was “key to Russia beating [the] U.S. in defense.” It sounds remarkably like the rhetoric of the Cold War, where the United States and the Soviets each built up enough nuclear weapons to kill everyone on Earth many times over. This arms race led to the concept of mutual assured destruction: Neither side could risk engaging in open war without risking its own ruin. Instead, both sides stockpiled weapons and dueled indirectly via smaller armed conflicts and political disputes. A country that thinks its adversaries have or will get AI weapons will want to get them too. Wide use of AI-
powered cyberattacks may still be some time away. Countries might agree to a proposed Digital Geneva Convention to limit AI conflict. But that won’t stop AI attacks by independent nationalist groups, militias, criminal organizations, terrorists and others – and countries can back out of treaties. It’s almost certain, therefore, that someone will turn AI into a weapon – and that everyone else will do so too, even if only out of a desire to be prepared to defend themselves. With Russia embracing AI, other nations that don’t or those that restrict AI development risk becoming unable to compete – economically or militarily – with countries wielding developed AIs. Advanced AIs can create advantage for a nation’s businesses, not just its military, and those without AI may be severely disadvantaged. Perhaps most importantly, though, having sophisticated AIs in many countries could provide a deterrent against attacks, as happened with nuclear weapons during the Cold War.

**Analysis:** Making the story into “A.I is inevitable, the only difference is if China or the U.S. gets it first” allows the con to control the impact debate while forcing the pro into conceding either a lack of enforcement or large impacts.
Con Arguments with Pro Responses

June 2019

A/2: Federal antitrust enforcement weakens A.I.

Answer: A.I risks malevolent harms

Warrant: The current threat is underappreciated and risks extinction


Our legal system lags hopelessly behind our technological abilities. The field of machine ethics is in its infancy. Even the basic problem of controlling intelligent machines is just now being recognized as a serious concern; many researchers are still skeptical that they could pose any danger at all. Worse yet, the threat is vastly underappreciated. Of the roughly 10,000 researchers working on AI around the globe, only about 100 people – one percent – are fully immersed in studying how to address failures of multi-skilled AI systems. And only about a dozen of them have formal training in the relevant scientific fields – computer science, cybersecurity, cryptography, decision theory, machine learning, formal verification, computer forensics, steganography, ethics, mathematics, network security and psychology. Very few are taking the approach I am: researching malevolent AI, systems that could harm humans and in the worst case completely obliterate our species. Our research allows us to profile potential perpetrators and to anticipate types of attacks. That gives researchers a chance to develop appropriate safety mechanisms. [...] Purposeful creation of malicious AI will likely be attempted by a range of individuals and groups, who will experience varying degrees of competence and success. These include: Militaries developing cyber-weapons and robot soldiers to achieve dominance; Governments attempting to use Al
to establish hegemony, control people, or take down other governments;

Corporations trying to achieve monopoly, destroying the competition through illegal means; Hackers attempting to steal information, resources or destroy cyberinfrastructure targets; Doomsday cults attempting to bring the end of the world by any means; Psychopaths trying to add their name to history books in any way possible; Criminals attempting to develop proxy systems to avoid risk and responsibility; AI-risk deniers attempting to support their argument, but making errors or encountering problems that undermine it; Unethical AI safety researchers seeking to justify their funding and secure their jobs by purposefully developing problematic AI. What might they do? It would be impossible to provide a complete list of negative outcomes an AI with general reasoning ability would be able to inflict. The situation is even more complicated when considering systems that exceed human capacity. Some potential examples, in order of (subjective) increasing undesirability, are: Preventing humans from using resources such as money, land, water, rare elements, organic matter, internet service or computer hardware; Subverting the functions of local and federal governments, international corporations, professional societies, and charitable organizations to pursue its own ends, rather than their human-designed purposes;

Constructing a total surveillance state (or exploitation of an existing one), reducing any notion of privacy to zero – including privacy of thought; Enslaving humankind, restricting our freedom to move or otherwise choose what to do with our bodies and minds, as through forced cryonics or concentration camps; Abusing and torturing humankind with perfect insight into our physiology to maximize amount of physical or emotional pain, perhaps combining it with a simulated model of us to make the process infinitely long; Committing specicide against humankind. We can expect these sorts of attacks in the future, and perhaps many of them. More worrying is the potential that a superintelligence may be capable of inventing dangers we are not capable of predicting. That makes room for something even worse than we have imagined.

Answer: A.I takes away jobs

An artificial intelligence expert and venture capitalist predicts automation will cause major changes in the workforce. Speaking to CBS News’ Scott Pelley in an interview for 60 Minutes on Sunday, Kai Fu Lee said that he believes 40% of the world’s jobs will be replaced by robots capable of automating tasks. He said that both blue collar and white collar professions will be affected, but he believes those who drive for a living could be most affected. “Chauffeurs, truck drivers, anyone who does driving for a living—their jobs will be disrupted more in the 15-25 year time frame,” he said in the interview. “Many jobs that seem a little bit complex, chef, waiter, a lot of things will become automated.” Lee’s comments are not necessarily new. Many who support artificial intelligence and automation believe that they can fundamentally change the workforce. But many of those people also believe that while some jobs could be affected, humans will find new opportunities surrounding artificial intelligence and take on new professions.

Impact: A.I increases monopoly


What creates the risk? In an earlier era, antitrust authorities would have looked for evidence produced in a smoked-filled room of competitors. Today, Al could facilitate pricing collusion through price monitoring and matching algorithmic software. While
companies may intelligently adapt their prices to those of their competitors, they cannot exchange information on future pricing intentions either directly or indirectly (e.g., through price signaling). This poses a new compliance challenge for companies using price matching and monitoring algorithms or implementing blockchains to implement smart contracts, particularly companies in markets with only a few large competitors. In other examples, **AI could facilitate exploitation of market power (through discrimination and bias) or foreclosure of competitors.** This can happen through a merger or an exclusive cooperation agreement resulting in the combination of a large and unique set of “Big Data”; or it can happen where a dominant company holding such large and unique set of “Big Data” leverages it to discriminate against its competitors or customers.

**Analysis:** The pro needs to prove that there are unique harms to U.S. AI such as job loss to win this argument.
**CON: Federal antitrust laws are out of date**

**Argument:** Antitrust law (not enforcement) is the problem as it is outdated

**Warrant:** Antitrust law wasn’t written with technology in mind

Fiona M. Scott Morton, Theodore Nierenberg Professor of Economics, 7-12-2013, "Is antitrust law keeping up?" Yale Insights, https://insights.som.yale.edu/insights/is-antitrust-law-keeping-up

In a conversation with Yale Insights, Fiona Scott Morton, professor of economics, said that policing the antitrust realm is becoming increasingly complicated. Scott Morton, who recently spent a year as the head economist for the antitrust division of the U.S. Department of Justice, said that while the essential laws dictating antitrust haven’t changed in 100 years, new technology, globalization, and changes like those in healthcare delivery have greatly expanded the realm of what can fall under antitrust.

"Those are products and industries that are not well settled, perhaps, in antitrust law, or where there are new strategies being tried," she said. "Nobody has quite figured out what is legal and what is not legal."

**Warrant:** Antitrust is poorly suited to protect privacy


Second, the courts’ own interpretation of antitrust laws limits their ability to protect privacy. Antitrust law is guided by the consumer welfare standard, an economic model
that assesses consumer benefits. The standard is hotly contested, with experts in widespread disagreement over whether “consumer benefits” is limited to price effects or if it also includes non-price effects like quality and innovation. The decision from the U.S. Court of Appeals affirms the latter, broader application. But the debate around the appropriateness of the standard arguably stems from the uncertainty of how to apply it in court, especially with regard to hypothetical harms that are harder to demonstrate and quantify, like privacy. With this recent case, the Department of Justice’s lawsuit focused not on how the combined company intends to use the data that it’d have at its disposal, but on whether prices would increase post-merger. After Judge Leon ruled that the government failed to demonstrate that the AT&T/Time Warner merger would result in higher prices, judges at the appeal homed in on whether customers and rivals of the merged company would pay higher prices for DirecTV services or Time Warner content. This focus on price reinforces the perception that the consumer welfare standard too narrowly limits scrutiny to the prices consumers pay, despite the fact that weakened privacy protections should also constitute a consumer harm in the digital economy. In addition, important questions remain: Should antitrust regulators intervene if a transaction would likely weaken consumer privacy protections? And how would a court determine that? If the government’s quantitative models predicting higher prices failed to persuade the judges, how would a model predicting harm to consumer privacy stand up to scrutiny? Third, the slow nature of law enforcement means that protecting privacy through antitrust enforcement alone would likely still leave consumers vulnerable. AT&T and Time Warner announced their merger in October 2016, and now, more than two years later, after a three-judge panel affirmed Judge Leon’s decision to approve the merger, the Department of Justice has decided to abandon its case. But the case could’ve dragged on even longer had the government decided to ask the full D.C. Circuit to review the decision, or appeal it to the Supreme Court.

**Warrant:** Past precedent makes any enforcement difficult
Many critics have offered a more sinister theory: Amazon has spent the past couple decades building up market share by underpricing competitors, and someday, when there are no alternatives left, it will become fabulously profitable. Amazon is laying in wait, in other words, to become a monopoly. The technical term for this is predatory pricing, and it’s actually illegal under U.S. antitrust laws. You can’t drop prices with the intent to monopolize. But predatory pricing is extremely difficult to prove in court. Plaintiffs bringing suit would have to demonstrate that Amazon set prices below the cost of production, which is difficult without access to the internal books. In addition, plaintiffs would have to establish that Amazon’s practices had a high likelihood of successfully creating a lucrative monopoly. The high bar is thanks to Robert Bork, the godfather of modern antitrust theory, who declared predatory pricing schemes irrational in his influential book The Antitrust Paradox. The Supreme Court adopted Bork’s theory in a 1986 case, claiming that it would be “implausible” for Japanese electronics makers to conspire to hold prices low for television sets exported to the U.S. This would “require the conspirators to sustain substantial losses in order to recover uncertain gains,” the Court ruled. Since then, predatory pricing cases have been few and far between.

Impact: The burden for enforcement is impossible to reach

We have antitrust laws that are supposed to deal with concentrated economic power. The problem is that the antitrust laws have been hijacked in two ways. First, ideologues changed the legal standard from addressing a variety of goals to focusing solely on the concept of consumer welfare. Second, some courts and enforcers went even further than confining antitrust solely to consumer welfare and instead promoted economic policies that neither improved our welfare nor promoted competition. Recent Supreme Court decisions, including American Express1 and the U.S. District Court’s decision in favor of AT&T, the largest pay-television distributor in the country, acquiring media conglomerate Time Warner,2 illustrate how antitrust, under the prevailing consumer welfare standard, has been distorted beyond all recognition. The courts have elevated the burden of proof on the government and other antitrust plaintiffs to such an extent that the Sherman and Clayton Antitrust Acts have become unenforceable for many anticompetitive practices.

**Impact:** Antitrust law increases data collection


First, antitrust law promotes competition—not privacy. In fact, it may actually legitimize using consumer data as a key competitive strategy if the practice is deemed critical to the company’s ability to compete. Companies, in turn, may see mergers as an effective strategy for accumulating consumer data. This line of thinking was at the center of the AT&T/Time Warner merger. AT&T CEO Randall Stephenson testified that
the quest to acquire a content company was spurred not only by Netflix and Amazon’s ability to gain valuable data on what their subscribers are watching, but also by Google and Facebook’s targeted advertising practices, which utilize data on consumer preferences. U.S. District Judge Richard Leon, who presided over the case, accepted the merger rationale, writing in his opinion, “Facebook’s and Google’s dominant digital advertising platforms have surpassed television advertising in revenue. Watching vertically integrated, data-informed entities thrive as television subscriptions and advertising revenues declined, AT&T and Time Warner concluded that each had a problem that the other could solve.” He even attempted to rationalize the market shift from television ads to digital ones, claiming that the latter are “more efficient” (though even if his assessment were true, “competition” encompasses more than just “efficiency”).

**Analysis:** Proving that these laws were not meant for technology giants helps explain why current laws, not enforcement, is insufficient.
A/2: Federal antitrust laws are out of date

Answer: The consumer welfare standard can be used today

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Thus, Posner (2001) concluded, “it is a reasonable guess that the total social costs of monopoly will usually exceed [the deadweight loss] by a significant amount”.13 And subsequent, so-called post-Chicago scholarship has in fact had an enormous impact: Among other things, the more recent scholarship has developed a rich understanding of how firms can harm competition by raising rivals’ costs14 and how game theory can enhance our ability to understand bargaining both among rivals hoping to coordinate their behavior15 and between trading partners.16 Indeed, contemporary economic learning teaches that allocative efficiency—far from being confined to static welfare and reduction of deadweight loss—encompasses more broadly any improvement in the allocation of resources including through the innovation process. The teachings of post-Chicago scholarship have been brought to bear in contemporary cases. In its 2015 opinion McWane, Inc., v FTC, for example, the Court of Appeals for the 11th Circuit expressly quoted the seminal work of Krattenmaker and Salop on strategic anticompetitive exclusion in support of the holding that a dominant producer of domestic pipe fittings had used exclusive dealing arrangements to raise its “rivals’ costs sufficiently to prevent them from growing into effective competitors”.17 Second, this criticism fails to appreciate that Bork wrote about CW as the goal of the Sherman Act—not as being a legal rule that would itself determine the lawfulness of conduct (Werden 2014). Antitrust doctrine is embodied in a variety of legal principles that—while intended to promote economic welfare and susceptible of evaluation and revision in light of that objective—do not themselves require decision makers to base their
determination in the particular case on a test of welfare effects. In this respect, antitrust is like other areas of the law. Patent law, for example, intends to promote innovation through the creation of incentives, and particular aspects of patent law can be evaluated by the extent to which they further that objective. But patent law does not require anyone to innovate, and the rules can be applied without regard to the effects of the individual case on innovation. [...] The CW standard, in short, presents no conceptual or legal obstacle to addressing issues that involve innovation, monopsony, and zero-price markets. The “blind spot” criticisms of the CW standard thus need to be based on pragmatism rather than principle. The argument might be as follows: “Even if CW works in theory, as it has been applied, it requires factual and economic understanding that is often impractical. It should thus be replaced with a standard that is less difficult to apply.” We do not quarrel with the first sentence, but the second is a non-sequitur. For one thing, the practical problems are likely to be less serious in the future. Antitrust academics—lawyers and economists—have, for example, developed various formal and empirical tools, such as those described in the agencies’ merger guidelines for defining markets as a proxy for measuring market power. They are now turning their attention to the new issues that are raised by dynamic markets characterized by winner-takes-all competition, multi-sided platforms, network effects, and often the utilization of big data and the provision of services for a zero nominal price—which are rapidly replacing yesterday’s static and slowly evolving markets (Katz and Sallet 2018; Rubinfeld and Gal 2016b). One can reasonably expect the development of new tools that will reduce the practical problems that are posed by antitrust enforcement in the information economy. Moreover, critics complain that antitrust law is too humble and that it defaults to non-enforcement when faced with factual or economic uncertainty—often by concluding that the complainant has not proven that the alleged conduct was anticompetitive or harmed competition. Whether the substantive, default, and burden-of-proof rules are optimal in some or all cases is a fair subject for debate. The important point for present purposes is that nothing in the CW paradigm prevents revising those rules.
Answer: The FTC created a tax force that solves


The field of technology and the business practices within it tend to advance faster than regulators can keep up. But the FTC is making a concerted effort with a new 17-lawyer tech task force dedicated to ensuring “free and fair competition” and watching for anticompetitive conduct among technology companies. This isn’t necessarily a precursor to some big action like breaking up a big company or imposing rules or anything like that. It seems to be more a recognition that the FTC needs to be ready to ascertain quickly and move decisively in tech matters, and a crack team of tech-savvy staff attorneys is the way to do it. [...] Essentially it’s an indication that the FTC will be taking tech antitrust more seriously going forward, and dedicating more and better organized resources to the task of monitoring the sector. That’s probably not the kind of thing big tech companies like to hear.

Answer: Precedent sent by AT&T solves


Defenders of strong antitrust enforcement say these federal actions not only brought major benefits to consumers, but also made possible the booming tech sector that spawned Google, Facebook, and Amazon. Richard John, a telecommunications
historian who teaches at the Columbia School of Journalism, said the AT&T breakup paved the way for the development of the cellphone industry, while also resulting in much lower costs for consumers. “The challenges to the largest, most powerful corporations through antitrust have always been to the public good,” John said. When the United States launched an antitrust lawsuit against IBM in 1969, IBM responded by letting its customers buy hardware and software separately. That gave competitors a shot at developing new software they could sell to businesses. “That’s where the American software industry came from,” said a Silicon Valley antitrust attorney, Gary Reback. But he later came to believe that constant oversight by the government prevented Microsoft from acquiring or crushing its rivals. Reback said the Microsoft of old would have annihilated upstarts like Google, Amazon, and Facebook long before they became competitive threats. “The reason they didn’t do that was they were afraid of further antitrust enforcement,” Reback said. Antitrust isn’t the only legal strategy that can be brought to bear against the tech giants. On Tuesday, Facebook settled a housing discrimination lawsuit brought by the American Civil Liberties Union and others, agreeing to change its advertising service to prevent real estate ads that discriminate on the basis of race, sex, age or disability.

Analysis: The pro needs to prove that antitrust legislation can keep up with technology in order to stay ahead in the debate
CON: Tech Giants are not violating antitrust laws

**Argument:** As tech giants are not violating antitrust laws there is no rational for their disruption

**Warrant:** Massive growth has been due to high levels of competition


Something similar seems to be happening today. **Thanks to new technology, top firms earn higher profits and realize larger market share, hence higher concentration.** In a careful analysis, Autor et al. find strong evidence that market share is being reallocated to “superstar” firms that outperform rivals; they are more productive hence they grow faster.10 In this case, **the superior performance of these leading firms might result from greater innovation and might produce greater social benefit.** But what might cause the top firms to grow faster? The authors speculate **that the underlying cause might actually be greater competition caused by globalization or better comparative price information made available by the Internet or other technology.** In their model, greater competition, captured by an increase in the elasticity of demand, increases the market advantage of more productive firms

**Warrant:** Tech giants have not violated the consumer welfare standard


**By the standard of consumer welfare, big tech is a blessing.** I have been using Gmail every day for over a decade. It operates flawlessly. And its search feature is so good that
it acts as a virtual diary, allowing me to revisit correspondence from years ago with just a few keystrokes. Google, the creator and operator of Gmail, has charged me exactly zero dollars for this fantastic product. Amazon is pushing prices so low that some believe it is reducing the rate of price inflation for the overall economy. Apple put a sleek computer -- and the ability to access previously unimaginable quantities of knowledge -- in our pockets. In short, by the standards of consumer welfare -- providing a variety of high-quality products, innovation, low prices -- big tech is one of the best things to happen in the economy in decades. A more subtle argument against big tech involves the future: Yes, many new and innovative products are given away free today. But what effect is big tech having on tomorrow’s prices and innovation? This argument assumes that big tech is stifling the competition today that tomorrow would lead to innovation or lower prices. I’m not sold. It is certainly true that consumer welfare can be harmed by the absence of products that might have been created if a market had had more competition. But look at what is actually happening: Big tech firms plow revenue into research and development in order to continue creating new and better products. These companies are innovation powerhouses, and there are no signs that that will change.

Warrant: The issues are best solved with other laws, not the antitrust ones


Antitrust law has limits; it should not be expected to address all social problems.

There are other laws and policies to address those. For instance, tax laws are better
suited to correct wealth inequality, and privacy laws are better suited to safeguard personal data. The proposal to dismantle large technology companies by unwinding already completed mergers and to prohibit platform owners from participating on their own platforms is flawed. A respect for property rights and the freedom of contract are fundamental tenets of a free-market economy. So is competition policy that enables long-term economic growth benefiting businesses and consumers alike. Expropriating the property rights of a successful company is a veritable “nuclear option” in antitrust law, especially when less intrusive remedies exist. The more dramatic approach would cause significant damage to the economy if it were to use antitrust law to break up large companies in an effort to remedy broad public-interest concerns. Restricting successful companies reduces incentives to innovate, invest, and compete. Competition-enforcement agencies must be empowered to make evidence-based decisions using economic analysis to deal with antitrust issues. Theories and the quest for political wins should not drive policymakers to take hasty actions in the shaping of our markets. Let’s exercise care in wielding our regulatory hammers.

**Warrant:** Tech giants are not harming prices which is needed to enforce antitrust law


In an article for Yale Review published a year ago, Lina Kahn, a legal fellow at Yale specializing in competition law, wrote that current interpretation of antitrust laws “focuses exclusively on consumer welfare.” Kahn argues this is a “mistake” because this definition of competition only focuses on the short-term, allows monopolies to develop and limits consumer choice and consumer freedom. In other words, current antitrust law assumes that if prices for goods and services are falling, then that can only be a
good thing — even if falling prices are accompanied by market consolidation and fewer choices for consumers. Instead, “antitrust law and competition policy should promote, not welfare, but competitive markets.” Big tech companies like Google and Facebook, which offer their services for free, and Amazon, which sells goods for exceptionally low prices, don’t fit the right profile for antitrust litigation — even though they may be considered monopolies in their respective industries.

Analysis: If the con can prove that no laws are being violated then the pro cannot claim offense making it a worthwhile defensive strategy.
**A/2: Tech Giants are not violating antitrust laws**

*Answer: Big tech is violating the Sherman act*


Being big on its own does not violate the Sherman Act. To do so, a company must also have acquired or maintained its monopoly power using exclusionary conduct. Monopoly power is the ability to control prices or exclude competition for a particular product or service. **Google (GOOGL), Facebook (FB) and Amazon (AMZN) have monopoly power in their respective markets.** A market for antitrust purposes includes only those options that consumers would switch to when prices went up or quality went down a small amount. Each tech company maintains that it does not have monopoly power, despite the examples below of their power to exclude competition. The platforms define the markets they operate in broadly, as in "all e-commerce," "all social media," or "all mobile operating systems," rather than limiting the markets to substitutes that consumers would easily switch to. Switching is important because only if consumers can readily vote with their feet do other companies competitively constrain the tech platforms. **Facebook, for example, doesn't need to have a monopoly over a market as broad as "all social media."** All social media platforms are not substitutes for Facebook. You can't see baby pictures on LinkedIn, and you can't keep in touch with Grandma on Twitter. The closest substitute to Facebook is Instagram, which isn't much of a choice since Facebook owns it. Google, Amazon and Facebook are following the same playbook. **The tech giants have "platform privilege" — the incentive and ability to prioritize their own goods and services over those of competitors that depend on their**
platforms. By doing so, they contend they are improving their products and benefiting customers. **An entrepreneur can create a superior product or service and still get crushed because Big Tech is controlling the game and playing it, too.** This distorted playing field strikes at the heart of the American Dream. And it deprives consumers of the choice, innovation and quality that comes from competition on the merits. Just as Microsoft used its monopoly in PC operating systems to exclude competition in internet browsers, **Google used its monopoly in mobile operating systems to exclude competition in mobile apps.** The European Commission fined Google $5 billion in July for requiring phone makers using Android to pre-install Google's apps and not competitors' apps. The Commission said 80% of smart phones in Europe and worldwide run the system. By closing the gates of competition, Google cemented its monopoly in mobile search. The Commission ordered Google to stop its anticompetitive conduct, but many question whether it's too little too late. [...] **Amazon, too, is following the monopolist’s playbook, picking and choosing which products consumers discover and determining who gets to compete on its platform, which accounts for nearly one out of every two dollars spent online.** Amazon often excludes marketplace sellers from selling products it wants to sell and prohibits brands from selling their own products, taking the retail margin for itself. This exclusionary conduct, combined with Amazon's ability to use its competitors' data to create Amazon versions of popular products, giving them priority placement on Amazon.com, destroys competition on the merits. **Facebook, in turn, uses its platform privilege to pick and choose what content we see.** Facebook competes against news publishers and content creators for consumers' time and data, the fuel for its advertising model. Profit-maximizing algorithms prioritize content that keeps you on the platform, including Facebook's own Instant Articles and content that makes you fearful and angry (or as Facebook calls it, "engaged").

**Answer:** Other countries are already enforcing antitrust law on big tech
The European Commission’s top competition regulators this morning fined Google nearly $1.7 billion, saying that Google abused its position in the market when third-party websites used its AdSense for Search product. The fine, equaling 1.49 billion euros, is only the latest that European regulators have brought against the tech giant over antitrust violations. The search giant has already faced $7.7 billion, or 6.76 billion euros, in fines related to antitrust violations. Last year, regulators levied a record $5.1 billion fine on Google for its Android operating system, on which regulators said Google favored its own products like search maps. In 2017, regulators brought down a $2.7 billion fine after finding that Google favored its own shopping platform in search results. In 2018, Google generated nearly $20 billion in revenues from advertising programs on Google properties, which includes AdSense.

Answer: The issue is weak enforcement, not a lack of violations

America’s big tech companies have achieved their level of dominance in part based on two strategies: Using Mergers to Limit Competition. Facebook has purchased potential competitors Instagram and WhatsApp. Amazon has used its immense market power to force smaller competitors like Diapers.com to sell at a discounted rate. Google has snapped up the mapping company Waze and the ad company DoubleClick. Rather than blocking these transactions for their negative long-term effects on competition and innovation, government regulators have waved them through. Using Proprietary
Marketplaces to Limit Competition. Many big tech companies own a marketplace — where buyers and sellers transact — while also participating on the marketplace. This can create a conflict of interest that undermines competition. Amazon crushes small companies by copying the goods they sell on the Amazon Marketplace and then selling its own branded version. Google allegedly snuffed out a competing small search engine by demoting its content on its search algorithm, and it has favored its own restaurant ratings over those of Yelp. Weak antitrust enforcement has led to a dramatic reduction in competition and innovation in the tech sector. Venture capitalists are now hesitant to fund new startups to compete with these big tech companies because it’s so easy for the big companies to either snap up growing competitors or drive them out of business. The number of tech startups has slumped, there are fewer high-growth young firms typical of the tech industry, and first financing rounds for tech startups have declined 22% since 2012.

Analysis: Smart pros need to include in their constructive cases what specific antitrust laws technology giants are violating in order to claim unique offense in the round
CON: Lobbying backlash

**Argument:** Anti-trust regulation encourages lobbying.

**Warrant:** The threat of antitrust regulations has led to increased lobbying.


U.S. lawmakers and regulators have weighed new privacy and antitrust rules to rein in the power of large internet service providers such as Google, Facebook and Amazon.com Inc. Regulatory backlash in the United States, as well as Europe and Asia, is near the top of the list of concerns for technology investors, according to financial analysts.

Microsoft Corp spent $9.52 million on lobbying in 2018, according to its disclosure on Tuesday, up from $8.5 million in 2017 but below its $10.5 million tab in 2013. Apple Inc spent $6.62 million last year, compared to its record of $7.15 million in 2017, according to center data going back to 1998.

Apple and Microsoft did not respond to requests to comment. A filing from Amazon was expected later on Tuesday.

Google disclosed that new discussion topics with regulators in the fourth quarter included its search technology, criminal justice reform and international tax reform. The company is perennially among the top spenders on lobbying in Washington along with a few cable operators, defense contractors and healthcare firms.

**Warrant:** Tech companies are already fighting back against antitrust regulation.
http://www.journalgazette.net/business/20190127/tech-lobbying-ramping-up

Google's longtime Washington director, former representative Susan Molinari, a New York Republican, resigned at the end of 2018, although she remains in an advisory role. Bhatia's challenges include responding to possible U.S. antitrust scrutiny, tough new privacy rules in California, a bipartisan congressional push for a new law to protect consumer privacy and attempts to make tech companies responsible for the content disseminated by their services.

Google said it lobbied on dozens of issues, reflecting how integral its services have become to American lives and commerce. The filing cited privacy, data security, antitrust, taxes, tariffs, trade, the opioid crisis, artificial intelligence, cloud computing, autonomous vehicles, immigration, the future of work, encryption and national security.

Facebook's Washington office also has undergone a shakeup, including the firing in November of a Republican public-affairs firm. It had distributed information on financial ties between the company's critics and prominent Jewish philanthropist George Soros, which some Soros aides interpreted as an anti-Semitic attack.

In April, soon after a scandal involving Cambridge Analytica, the political consulting firm that acquired the data of millions of Facebook users without their consent, Zuckerberg endured a marathon grilling before congressional committees.

**Warrant:** Tech companies are planning a well-financed backlash against regulation.

However they feel, they won’t want this idea to become a real problem. Which is why we can expect significant pushback no matter how Warren’s candidacy fares, particularly if other Democratic presidential contenders unveil antitrust-themed policy proposals. (Even more moderate candidates like Sen. Amy Klobuchar have been tough on the internet platforms over the last couple of years.) The large tech companies have a huge lobbying presence in Washington and will likely offer their own, more industry-friendly proposals for reform. They’ll message loudly, perhaps through the platforms they control (and which Warren and others need for advertising and outreach). They’ll support candidates who are friendlier to the industry. And they’ll dig trenches: There’s a good case that their business moves already reflect their concern over regulation. Earlier this week, Facebook CEO Mark Zuckerberg shared a new plan to merge his three main social media networks by building an encrypted messaging service that works across WhatsApp, Facebook, and Instagram—a move that was seen by many as fortifying against a potential attempt by lawmakers to break his companies apart. Silicon Valley knows how to spend to get its way, which may be one reason why the tech industry has been able to grow unhindered for so long. Facebook, Google, and Amazon have all hired former top aides from the Obama administration, and Facebook Chief Operating Officer Sheryl Sandberg, a Clinton administration veteran, was reportedly considered for two jobs in Hillary Clinton’s cabinet. As scrutiny of internet platforms has increased in the aftermath of the 2016 election, their lobbying shops have staffed up in order to protect their interests against politicians like Warren who think they’ve become too big.

**Analysis:** Tech giants obviously have a lot of money to spend on lobbying. The trouble with pursuing antitrust regulation is that it would encourage tech companies to deepen their grip on Washington.
A/2: Lobbying backlash

**Answer:** Tech companies are already thoroughly involved in lobbying.

**Warrant:** Tech executives ‘always have a seat at the table.’


When it comes to formulating government policies, Silicon Valley’s most powerful tech executives always have a seat at the table – literally, as was the case during the White House tech summits we’ve seen happen. They also make sure their voices are heard through lobbying the House, Senate, White House and federal agencies.
And 2018 proved to be another big year for lobbying, especially for internet companies.
It’s easy to see why. Besides intense scrutiny from federal regulators for facilitating Russian interference in the U.S. elections, they faced criticism for their handling of personal data, complaints that they are biased against conservatives and calls to hike the local taxes they pay.

**Warrant:** The tech industry lobbies on virtually every policy decision.


Google’s reach extended to every manner of policy decision. Last year, it lobbied on bills related to political ads, music licensing, autonomous vehicles, drones, green cards, data privacy, government surveillance, human trafficking, patent reform,
corporate tax reform, the H-1B temporary worker visa, Deferred Action for Childhood Arrivals (DACA), cybersecurity and the opioid crisis.

Internet companies Google, Facebook Inc. (FB), Amazon.com Inc. (AMZN), Twitter Inc. (TWTR), Alibaba Group (BABA) and Salesforce.com Inc. (CRM) spent record amounts last year to influence the government. Altogether, internet companies spent $77.2 million last year, up from $68.61 million in 2017. Over 60% of this was by the top three spenders — Google, Amazon and Facebook.

Analysis: Concerns about tech lobbying are wholly nonunique. Regardless of the federal government bringing an antitrust case against tech giants, lobbying on their behalf. has been ongoing for years.
CON: Antitrust laws are costly

Argument: Antitrust laws are extremely expensive for companies to adjust to.

Warrant: The benefits of antitrust law are overstated.

“Benefits and costs of antitrust legislation” The White House, 2010

“Economic regulation may produce net social benefits when natural monopolies are regulated to simulate competition. Although, the dollar amounts of such efficiency benefits are small and short lasting in a dynamic and technologically vibrant economy, this is a judgment that is not the result of an empirical study. It is, however, based on the increasingly accepted view that the U.S. economy is becoming more competitive over time, with fewer long-lasting natural monopolies, and on evidence that much economic regulation seeks primarily to enhance one group at the expense of another.”

Warrant: It is extremely expensive for companies to prepare for compliance of antitrust legislation.


“Total resources consumed by antitrust enforcement, however, amount to much more than government antitrust agency expenditures....Firms involved in antitrust cases must pay for legal advice, particularly in obtaining approvals for mergers and
acquisitions. Fisher and Lande (1983) estimate that a merger case cost a firm as much as $1.5 million during the 1980s. Firms that face a lawsuit must pay for their defense, which could involve a lengthy trial and subsequent appeals. Antitrust cases also require the time and resources of management and critical staff to address issues of firm conduct, to provide financial information and so on. We are not aware of estimates of the costs to firms caused by antitrust investigations and court proceedings, but they undoubtedly run into the billions of dollars per year. Finally, the largest cost of antitrust enforcement may be that firms are discouraged from pursuing potentially efficient mergers, taking competitive pricing actions, developing new products or making new investments for fear of being embroiled in an antitrust action, especially if competitors use the antitrust authorities to block one another.

Warrant: Being blocked from merging by the government can be extremely expensive.


“The failure of a merger attempt can entail significant direct and indirect costs to the acquirer, target, or both firms. From the time of a merger announcement to the time when it is completed or canceled, the acquiring firm discloses information that it would not otherwise disclose, incurs substantial legal expenses, and faces production activity disruptions as well as management distraction. If the deal falls through, then competitors are in a better position to use such information to their advantage. Ekbo and Wier (1985) find evidence that rival firms benefit from the news of a merger proposal and that a delay in completion of the deal gives rival firms additional time to exploit the news. Bates and Lemmon (2003) find that the inclusion of target termination fees is more frequent in merger deals where the potential for information expropriation by third parties is significant. The target, on the other hand, has to seek other means of
Restructuring, including being taken over by a different firm, which may not be possible within a short period of time.”

**Impact:** Antitrust due to cost can put companies out of business.

https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2152&context=journal_articles

Yet all business arrangements entail some cooperation, if only the cooperation in delivering the product pursuant to a contract of sale. Cooperation is the source of monopoly, yet it is also the engine of efficiency. Firms organize some span of activities the better to compete with others. No surprise that antitrust enforcers and courts, charged with finding the anticompetitive cooperation in a maze of beneficial cooperation, should turn a suspicious eye on practices that seem to entail cooperation without competitive benefit. The inhospitality tradition of antitrust has proven very costly. The costs were inevitable. Wisdom lags far behind the market. It is useful for many purposes to think of market behavior as random. Firms try dozens of practices. Most of them are flops, and the firms must try something else or disappear.10 Other practices offer something extra to consumers-they reduce costs or improve quality-and so they survive. In a competitive struggle the firms that use the best practices survive. Mistakes are buried.

**Analysis:** Large companies that are affected by antitrust law are not always too big to fail. In fact, sometimes antitrust laws can cause large corporations to go out of business’. This is problematic as these large corporations can hire thousands of employees that might have to be fired due to antitrust laws making it hard for the company to grow,
**A/2: Antitrust laws are costly**

**Answer:** Antitrust laws benefit the economy

**Warrant:** Antitrust laws promote economic growth.


The goal underpinning U.S. antitrust law is to promote competition that leads to lower prices and enhanced consumer welfare. For years, antitrust agencies have approached this goal by focusing on short-term, static competition, which emphasizes achieving low prices in the here and now. This narrow focus, however, has resulted in unnecessary conflict between the static competitive analysis deployed by antitrust regulators and the dynamic issues raised by intellectual property. Fortunately, over the last few decades, a growing recognition has emerged among economists that antitrust laws must be recalibrated to preserve the incentive to innovate and promote the U.S. innovation economy. **These economists are calling for an antitrust framework that prioritizes dynamic over static competition — placing less weight on market concentration in the assessment of market power and more weight on assessing technological opportunity, innovation-driven competition and appropriate enterprise-level capabilities. At the heart of this movement is the foundational principle, dating back to Joseph Schumpeter and Nobel Laureate economist Robert Solow, that innovation is the main driver of economic growth.**

**Warrant:** Antitrust laws allowed for the birth of the tech boom.
I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech. Do you protect today’s champions by giving them a pass on antitrust law? That, I think, has the best chance of making China the tech power of the future. Trying to encourage competitors has proven to be a much better policy.

Analysis: In the short term, antitrust laws might in fact be costly for big corporations. However, antitrust laws are beneficial to society as they allow for greater competition and growth. This is important to American consumers as it means they get access to the resources they need for low prices.
Answer: Antitrust is necessary now more than ever

Warrant: Facebook and other tech giants need reforms


Facebook doesn't have a sterling reputation for privacy given its numerous data scandals, and Mark Zuckerberg wants to address it. In a reflection of what he said during a recent fiscal results call, the CEO outlined plans to rework more of Facebook's services around a "privacy-focused" approach over the next few years. This includes "simple, intimate" places where no one else can see your data, the use of end-to-end encryption, a reduced amount of permanent content, greater safety and secure data storage.

Zuckerberg also vowed more interoperability between apps and networks. Zuckerberg saw WhatsApp as the template for these changes. It's a secure messaging platform first, and includes features built on top of that foundation. The executive suggested that it ultimately represented the "future of communication," where you can be sure that whatever you say is both protected and impermanent. He also acknowledged the skepticism surrounding any privacy-oriented approaches at Facebook, noting that many wouldn't believe that it would want to reform its services.

Warrant: Both democrats and republicans have made calls to regulate big tech.

Congressional Democrats have formally committed themselves to pushing for more stringent antitrust enforcement, and presidential candidate Sen. Elizabeth Warren has even called to dismantle several of these companies. Few politicians go quite as far as Warren, but most of the Democrats running for president in 2020 have called for more stringent regulation of technology companies and several Republicans including Sens. Ted Cruz (R-TX) and Josh Hawley (R-MO) are even making noises about it. The issue is complicated by the fact that even though it’s convenient to shorthand Microsoft, Google, Amazon, Apple, and Facebook as “Big Tech,” these five companies are actually structured in very different ways. Facebook is a pretty narrowly focused company, running three big online services (Instagram, WhatsApp, and Facebook itself) that might superficially look like competitors. Apple is a behemoth of vertical integration, producing hardware, software, and online services that mostly work as an integrated whole. But Google, Amazon, and Microsoft have all become pretty classic conglomerates, with a sprawling array of loosely related businesses under one roof.

Analysis: Tech firms need antitrust legislation now more than ever. This is because they are only getting bigger as time goes on. Waiting makes it more difficult to regulate as it means the corporations will only further grow in power and pose an even worse threat to the United States than the one they already pose.
CON: Antitrust laws trade off with taxes on wealthy

**Argument:** There will be a lack of political capital for greater taxes on the rich if we implement antitrust laws.

**Warrant:** Because of tax changes, the wealthy have been accumulating more and more wealth in recent years.


“All, on fairness: Those with the very highest incomes have benefited disproportionately from tax cuts, and that lost revenue is driving the federal deficit ever higher. The Institute on Taxation and Economic Policy estimates that since 2001, “significant federal tax changes have reduced revenue by $5.1 trillion, with nearly two-thirds of that flowing to the richest fifth of Americans.” Twenty-two percent of the tax cuts have gone to the top 1 percent. And by 2025—in just seven more years—ITEP estimates that lost revenue will have more than doubled, to $10.6 trillion, with nearly $2 trillion going to the top 1 percent, those with annual incomes over $420,000. Second, lost federal revenue means higher annual deficits and a growing cumulative debt burden. To date, the cumulative impact of tax cuts since 2001 is $5.9 trillion. ITEP estimates that it will reach $13.6 trillion by 2025, from lost revenues and increased interest payments on the debt. So for some, more revenues are needed simply to get annual deficits and cumulative debt under control.”

**Warrant:** It is a unique time for antitrust laws.
Antitrust law now stands at its most fluid and negotiable moment in a generation. The bipartisan consensus that antitrust should focus solely on economic efficiency and consumer welfare has quite suddenly come under attack from prominent voices calling for a dramatically enhanced role for antitrust law in mediating a variety of social, economic, and political friction points, including employment, wealth inequality, data privacy and security, and democratic values. To the bewilderment of many observers, the ascendant pressures for antitrust reforms are flowing from both wings of the political spectrum, throwing into confusion a conventional understanding that pro-antitrust sentiment tacks left and antitrust laissez faire tacks right.

Warrant: Politicians are constrained to pay more attention to the desires of the rich. This means there is likely very little room to get many progressive economic policies through congress.

Isabel Sawwell, “Americans want the wealthy and corporations to pay more taxes, but are elected officials listening?,” Brookings Institute. March 14, 2019
https://www.brookings.edu/blog/up-front/2019/03/14/americans-want-the-wealthy-and-corporations-to-pay-more-taxes-but-are-elected-officials-listening/

“More recent work suggests that elected officials are more responsive to economic elites and business interest groups compared to mass-based interest groups and the average citizen. Policymaking is much more responsive to the views of those at the 90th percentile of the income distribution compared to those at the median or the 10th percentile. This phenomenon is even more powerful when these groups disagree.
Rising inequality combined with policymaking that is unresponsive to the average voter suggests a disturbing cycle in which inequality begets more inequality. “

**Impact:** With high taxes, Americans would be able to afford universal healthcare.

Tami Luhby, “Can taxing the rich pay for Bernie Sanders' Medicare for All plan?” CNN

Health care is dominating the debate of the 2020 election, with Democrats divided over whether to aim high with Medicare for All or take a more moderate approach. Meanwhile, President Donald Trump and Republicans say the universal health care concept is too expensive and would undermine the current Medicare program for senior citizens. Sanders hasn’t provided a comprehensive analysis of how much the plan -- which he reintroduced last week with expanded long-term care benefits that will add to the price tag -- will cost or how how he will pay for it. Analyses conducted by different think tanks on his previous proposals suggest the price tag could be as much as $32 trillion over 10 years. The Committee for a Responsible Federal Budget looked at the plan Sanders unveiled during the 2016 presidential campaign, which included an array of taxes on the rich and on all Americans. The proposal would cost $25 trillion over a decade, but only raise $11 trillion in taxes, said Marc Goldwein, senior policy director at the committee. "His plan still doesn't add up," Goldwein said in an interview with CNN. The other main Medicare for All bill -- a very similar effort sponsored by Rep. Pramila Jayapal, a Democrat from Washington, in February -- also lacks a financing plan. Neither are expected to get far in the current Congress. Other proposals to expand Medicare to younger Americans or add a government-run plan to the Affordable Care Act exchanges would largely be paid for through premiums, like current insurance plans are.
**Analysis:** By implementing antitrust laws congress would trade off its ability to increase taxes on the wealthiest Americans. This would trade off with the United States ability to implement taxes that would be able to create programs like universal healthcare.
A/2: Antitrust laws trade off with taxes on wealthy

**Answer:** Antitrust laws are more beneficial than wealth taxes.

**Warrant:** Antitrust laws allow for greater competition to take place by giving more power to the people.


Thus, in a case settled in 1999, the FTC challenged Intel for cutting off access to technical information about upcoming Intel microprocessor products that customers needed to design complementary products like personal computers. **The FTC argued that Intel harmed competition when it cut off its customers to gain leverage in unrelated commercial disputes involving the scope of competing intellectual property rights.** The second principle, that competition promotes innovation, recognizes that firms have a powerful incentive to gain a march on their rivals by cutting costs or being first with new products or product improvements. The primary counter-arguments, often associated with economist Joseph Schumpeter, are that a monopolist may have greater access to low-cost internal finance, and may be better able to take advantage of scale economies in research and development and to appropriate the full value of its new ideas.

**Warrant:** Antitrust laws force competition.

I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech.

Analysis: Antitrust laws allow the private market to be more free. This means individuals have greater ability to find better products and cheaper prices. With greater competition, companies can begin to cater more to their consumers than their shareholders.

Answer: Now is the time to implement antitrust law.

Warrant: American government is lenient on antitrust law.

In recent years, a number of analysts have increasingly railed against large firms, particularly modern technological giants such as Amazon, Google, and Facebook — calling for such firms to be regulated like public utilities or perhaps broken up as was famously done with Standard Oil over a century ago and, more recently, with AT&T. (See for instance writings by Lina Khan, Barry Lynn, Scott Galloway, and Jonathan Taplin). Very specifically, these commentators call for a change in antitrust policy from one that focuses primarily on consumer welfare in terms of prices paid and availability of products, to one that views all large firms with sizable market shares as problematic. **This invokes an American populist tradition that is suspicious of concentrated economic and political power.** It also reflects a response to the more lenient antitrust policy, that began in the 1980s, in which mergers are more likely to be approved and large firms are less likely to be charged with anticompetitive practices.

**Warrant:** Antitrust law would allow us to better compete against China.


I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to
protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech. Do you protect today’s champions by giving them a pass on antitrust law? That, I think, has the best chance of making China the tech power of the future.

**Analysis:** The United States must now implement antitrust policy to help us compete against other states like China. This is important as it allows the United States to succeed geopolitically in the international system. With more international legitimacy the United States can more effectively get cheaper goods and pressure states to do their bidding.
**CON: Antitrust laws harm American jobs**

**Argument:** Antitrust laws would harm the profits of the tech industry and decrease the amount of jobs available to the American people.

**Warrant:** Antitrust laws take profits away from corporations. This harms the ability for them to be able to expand and create more jobs.


“Antitrust laws are fluid, non-objective and frequently retroactive. Because of murky statutes and conflicting case law, companies can never be sure what constitutes permissible behavior. Normal business practices — price discounts, product improvements and exclusive contracting — can somehow morph into an antitrust violation when examined by government antitrust regulators. Companies can be accused of monopoly price gouging for charging more than their competitors, or accused of predatory pricing for charging less, or accused of collusion for charging the same. **Antitrust law is based on a static view of the market. In real markets, sellers seek to carve out mini-monopolies so they can increase profits. The prospect of extra profits, deriving from market power, is the engine that drives the economy.** So what might happen in a utopian, perfectly competitive environment is irrelevant to the question of whether government intervention is necessary. The proper comparison is with the marketplace that will evolve if the antitrust laws, by punishing success, eliminate incentives for innovation.”

**Warrant:** Workers move to other places if markets are restricted due to antitrust laws.
“A firm that has market power when purchasing inputs or hiring workers may be able to exploit its market power, at least in the short-run. “Monopsony power” in the labor market may lead a firm to restrict employment, reducing wages below what they would be in a competitive market. In the classic example of isolated “company towns” in the late 19th and early 20th centuries, workers only had one option to which to sell their labor and hence could be exploited by this company, at least in the short run. Boal (1995) finds some evidence of monopsony power in the short run on the part of coal mining firms that owned company towns in the early 1900s. But over the longer run, it appears that workers move to find better paying jobs if wages are too low. This dynamic highlights how the mobility of assets—be they human, capital, or even digital—may help to mitigate against market power.”

**Warrant:** Antitrust laws are ineffective.


“Antitrust law has long been perceived as taming the excesses of capitalism and the free market and thereby protecting consumers. But the law’s creation and enforcement are rife with tales of its transformation into a tool for regulatory excess. Indeed, many of the practices disparaged by antitrust regulation and targeted by enforcers are in fact good for both competition and consumers—albeit bad for competitors. Particularly in the new information economy, conventional thinking regarding smokestack era antitrust law and the allegedly harmful practices it targets must be challenged.
Antitrust, in the final analysis, is now and has always been just another form of inefficient economic regulation.”

**Impact:** Antitrust laws restrict economic growth. This was proven with the Sherman act.


“Since monopoly is defined by consumer harm caused by lower output and higher prices, the trusts that spurred passage of the Sherman Act should at the very least have exhibited these features. But they didn’t. “Output of industries dominated by trusts expanded more rapidly than Gross National Product during the 10 years preceding the Sherman Act,” according to economist Thomas DiLorenzo. 8 The only exceptions were the match and castor oil industries. As output rose, prices generally fell dramatically across major industries as well. If the trusts were actually raising rather than lowering prices, that would have created cover for rivals to raise prices, too, giving them little incentive to lodge the complaints that led to the antitrust laws in the first place. But hauling one’s competitor into court or appealing to legislators when that rival’s prices are falling and sales are increasing is consistent with an alternative interpretation of antitrust: that antitrust law helps higher-cost competitors’ efforts to hobble their more efficient cousins.”

**Analysis:** Antitrust laws would harm tech industries ability to expand over the years and hire more employees. This is extremely important as restricting the ability of large corporations to compete makes it difficult for laid off workers to find new jobs. Some of these individuals may in fact be plunged into poverty.
**A/2: Antitrust laws harm American jobs**

**Answer:** Antitrust laws foster competition.

**Warrant:** Antitrust laws allow for greater competition to take place by giving more power to consumers.


Thus, in a case settled in 1999, the FTC challenged Intel for cutting off access to technical information about upcoming Intel microprocessor products that customers needed to design complementary products like personal computers. The **FTC argued that Intel harmed competition when it cut off its customers to gain leverage in unrelated commercial disputes involving the scope of competing intellectual property rights.** The second principle, that competition promotes innovation, recognizes that firms have a powerful incentive to gain a march on their rivals by cutting costs or being first with new products or product improvements. The primary counter-arguments, often associated with economist Joseph Schumpeter, are that a monopolist may have greater access to low-cost internal finance, and may be better able to take advantage of scale economies in research and development and to appropriate the full value of its new ideas.

**Warrant:** Empirically antitrust laws help force big companies to compete.


I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what
we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T.

They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech.

Analysis: By fostering greater competition antitrust laws make companies better at ensuring workers get paid higher wages. This is more important than the amount of jobs as the quantity of jobs fluctuate in an economy. The amount of money people get paid is more important as it determines whether they have upward mobility.

Answer: Antitrust laws are good for countries

Warrant: Antitrust laws promote democracy.

The data set comprises 154 countries during the period from 1960 to 2007. In 1960, 11 states already had an antitrust institution. During the observed time period, 81 countries introduced an antitrust system. One state, Georgia, introduced an antitrust law in 1996 and effectively abolished it again in 2005. Figures 4 and 5 show that states introducing an antitrust law usually have a higher democracy score and a higher level of economic development. However, this does not mean that only democracies introduce antitrust laws. There are 38 countries in the data set that introduced an antitrust law as non-democracies, i.e. having a democracy score of five or less. 26 of these countries even had a democracy score of less than zero when they introduced an antitrust institution. Nearly half of the non-democracies that introduced an antitrust law had a transition to democracy during the observation period, which is indicated by a democracy score of six or more.

**Warrant:** Antitrust laws promote innovation which is the main driver of economic growth.


The goal underpinning U.S. antitrust law is to promote competition that leads to lower prices and enhanced consumer welfare. For years, antitrust agencies have approached this goal by focusing on short-term, static competition, which emphasizes achieving low prices in the here and now. This narrow focus, however, has resulted in unnecessary conflict between the static competitive analysis deployed by antitrust regulators and the dynamic issues raised by intellectual property. Fortunately, over the last few decades, a growing recognition has emerged among economists that antitrust laws must be recalibrated to preserve the incentive to innovate and promote the U.S. innovation economy. These economists are calling for an antitrust framework that prioritizes
dynamic over static competition — placing less weight on market concentration in the assessment of market power and more weight on assessing technological opportunity, innovation-driven competition and appropriate enterprise-level capabilities. At the heart of this movement is the foundational principle, dating back to Joseph Schumpeter and Nobel Laureate economist Robert Solow, that innovation is the main driver of economic growth.

Analysis: Antitrust laws give more economic and political rights to consumers. This is extremely important to low income individuals who are taken advantage in a world absent of antitrust laws. These individuals are vulnerable to shocks in the economy and any sort of economic policy that gives them greater power allows is beneficial for all of society.
CON: Antitrust laws harm tech philanthropy efforts

Argument: Anti-trust laws would harm the ability of tech giants to engage in philanthropy projects due to a loss in profits.

Warrant: Antitrust laws end up harming consumers.


“Antitrust laws — statutes that supposedly keep any one firm or group of firms from dominating the marketplace — are thought by some to be the bulwark of free enterprise. Without the continued vigilance of the government, so the argument goes, large corporations would ruthlessly destroy their smaller rivals and then raise prices and profits at consumers’ expense. But antitrust has a dark side; it often is used to the detriment of the consumers it’s supposed to protect. Antitrust debases the idea of private property. Too often, government seeks to transform a company’s private property into something that effectively belongs to the public, to be designed by government officials and sold on terms congenial to competitors. But if new technology is to be expropriated, future technology will not materialize. The goose is unlikely to continue laying golden eggs if those eggs are taken away.”

Impact: Microsoft is gives hundreds of millions of dollars to charity.

“Microsoft is a company that has historically been very generous with its money, something likely inspired by the philanthropic actions of its founder Bill Gates; at least partially. Even more impressive is the company's Employee Giving program, where Microsoft matches donations of both time and money that is given by its workers. 2016 was yet another successful giving year for the Windows-maker, as it donated more than $650 million in cash, time, software, and services to nonprofit organizations. A good portion of that was from its employees. "A year after the formation of Microsoft Philanthropies, Microsoft Corp. and its employees have donated more than $650 million in cash, cloud services and software to nonprofits around the world. In a letter published today, Mary Snapp, corporate vice president at Microsoft Philanthropies, detailed the organization's 2016 contributions. Highlights include $465 million in cloud services donated to more than 71,000 organizations to benefit the public good. In addition, Microsoft employees raised $142 million for 19,000 nonprofits, helping reach an important milestone: The company’s giving program has now raised $1.5 billion since 1983," says Microsoft. The Windows-maker further shares, "In January 2016, Microsoft CEO Satya Nadella announced the company would donate $1 billion in cloud services to nonprofit organizations and researchers working on the world's most urgent needs, from health care to education to the environment. While the commitment was originally envisioned as a three-year initiative, Microsoft Philanthropies is nearly at the halfway point of the goal, with $465 million donated in a year to 71,000 organizations."

Impact: Facebook invest billions of dollars in small businesses.

Facebook recently announced it plans to invest $1 billion in programs for small businesses in 2018—an amount nearly equal to its investment in similar initiatives over the past seven years combined. But it's not exactly rolling in the "likes" so far. While Mark Zuckerberg focuses on damage control following the Cambridge Analytica data scandal, his 14-year-old social network this week kicked off a 30-city tour for a digital skills training program starting in St. Louis. That's on top of a previously announced expansion of its jobs platform, which debuted in the U.S. and Canada a year ago. "We know there is more Facebook can do to connect people and businesses," says Alex Himel, vice president of local, in a press release announcing the new initiatives. "Since 2011, Facebook has invested more than $1 billion to help local businesses grow and help people find jobs. And in 2018, we plan to invest the same amount in more teams, technology, and new programs. Because when businesses succeed, communities thrive.

**Analysis:** Through making large profits, technology firms are able to invest heavily into the American public through donating to charity. This is important as it means millions of individuals who lack healthcare, money, food can get the resources they need. It is unlikely that they would be able to make the same contributions in a world of antitrust laws as companies would lack the incentive to give.
A/2: Antitrust laws harm tech philanthropy efforts

**Answer:** Big technology firms do not give that much to philanthropy.

**Warrant:** Normal Americans give proportionately more money to charity than big corporations.


“Many of the U.S.’s most successful companies give less of what they take home annually to charity than their customers typically do. That’s based on findings from a Chronicle of Philanthropy survey of the 300 largest companies on the Fortune 500 list. Out of 300 businesses surveyed, 63 volunteered data about their corporate giving habits over the last two years. **All told, the companies that responded typically give about 1% of their pretax profit to charity. It’s not an apples-to-apples comparison, but most Americans who give, typically give between 2% and 3% of their income to nonprofits, according to the National Center for Charitable Statistics.**”

**Warrant:** Companies have been giving less and less to charities over the past thirty years.


**Over the past 30 years, corporate contributions to charities in the U.S., as measured by percentage of pretax profits, have fallen precipitously, from a high of 2.1 percent at**
its peak in 1986 to just around 0.8 percent in 2012. There is some year-to-year variability to this measure, because ironically enough, contribution percentages tend to rise in periods of poor corporate earnings. But the long-term curve is consistently down. Over the past 10 years, even through the ups and downs of a violent economic cycle, contributions as measured by percentage of pretax earnings have dropped by half. Given the scale of American business, it is surprising how small a role corporations play in charitable giving in the U.S., now comprising only about 6 percent of private-sector donations and only a little more than 1 percent of the $1.5 trillion charitable economy.

**Analysis:** Companies have been giving less to charity than ever before in history. This is problematic as not implementing antitrust laws only worsens prospects for the poor as companies will continue to prioritize profits over people. Only with antitrust policy can we redistribute wealth back to the American people from big technology firms.

**Answer:** Charities are not that beneficial

**Warrant:** Many charitable organizations have been found to be corrupt.


 “Nonprofit Organizations do one of the most crucial and significant work to assist those who aren't fortunate. As society progressed, these charities started to become more known and accessible which furthers assistance. However, this progress has made corruption more noticeable and heartbreaking. Some actions found in charitable foundations include stealing donations, embezzlement, fraud, misusing contributions and/or purposely avoiding tax deductions. One famous case that centers
around this idea of charities misusing funds is the Red Cross and the 500 million US dollars that were supposed to be used to recover Haiti. **In response to the earthquake in 2010, people donated to the American Red Cross near half a billion dollars.** The money was supposed to be used for development and repairing infrastructure, but hardly any progress was witnessed in Haiti. National Public Radio and ProPublica tried to find out this mystery of where this money disappeared too and gained a lot of information.

**Warrant:** More companies are investing into donor advised funds that simply only helps big businesses.

Bloomberg News. “Super-Rich Are Piling up Wealth in Black-Box Charities.”

InvestmentNews,

It's all the rage in charitable giving — and it's actually got some charities worried. **Donor-advised funds — money that grows tax-free in individual accounts — are reshaping the landscape of U.S. philanthropy.** After creating their account, donors choose how it's invested, and the money compounds until they decide where to dole it out. DAF assets mushroomed to more than $85 billion at the end of 2016 from $30 billion in 2010. Not everyone thinks that's good news. Critics say the approach may slow the flow of money directly into nonprofits that serve the needy on a daily basis. Moreover, it injects charitable affiliates created by for-profit financial players such as Fidelity Investments and Charles Schwab deep into the big business of philanthropy -- a boon for them and their clients, but, some worry, not so clear a win for the causes. The Salvation Army is grateful for DAF contributions, said Jeff Hesseltine, director of gift planning for the not-for-profit's western territory. But "the best option is for donors to
work directly with a Salvation Army fundraiser who can assess their charitable intent, decide on a giving strategy and have gifts put to good use immediately.

**Analysis:** Donations to charities are not as beneficial as they used to be. Rather than helping the poor it seems as though these donations in the 21st century have been going more to the rich than the poor. Antitrust policies would allow for big corporations would take power away from elites and give it to the American people.
CON: Antitrust Laws harm tech innovation

**Argument:** Antitrust laws would harm the profits of large corporations like google, apple, amazon, and Facebook who invest heavily in innovation efforts.

**Warrant:** Monopolies have greater ability to invest in new innovative projects as they have greater revenue on hand.


Thus, in a case settled in 1999, the FTC challenged Intel for cutting off access to technical information about upcoming Intel microprocessor products that customers needed to design complementary products like personal computers. The FTC argued that Intel harmed competition when it cut off its customers to gain leverage in unrelated commercial disputes involving the scope of competing intellectual property rights. The second principle, that competition promotes innovation, recognizes that firms have a powerful incentive to gain a march on their rivals by cutting costs or being first with new products or product improvements. **The primary counter-arguments, often associated with economist Joseph Schumpeter, are that a monopolist may have greater access to low-cost internal finance, and may be better able to take advantage of scale economies in research and development and to appropriate the full value of its new ideas.**

**Warrant:** New laws in Singapore are harming innovation already.

Singapore’s parliament on Wednesday passed the Protection from Online Falsehoods and Manipulation Act, a law criticized by rights groups, journalists and tech firms over fears it could be used to clamp down on freedom of speech. The passage of the law comes at a time when Singapore, a financial and transport hub, has been making efforts to position itself as regional center for digital innovation. Google said the law could hamper those efforts. “We remain concerned that this law will hurt innovation and the growth of the digital information ecosystem,” the company said in response to a query from Reuters. “How the law is implemented matters, and we are committed to working with policymakers on this process.” The law will require online media platforms to carry corrections or remove content the government considers to be false, with penalties for perpetrators running as high as prison terms of up to 10 years or fines up to S$1 million ($735,000).

Impact: Google is using revenue to find a cure to aging.


In 2013, Time magazine ran a cover story titled Google vs. Death about Calico, a then-new Google-run health venture focused on understanding aging — and how to beat it. “We should shoot for the things that are really, really important, so 10 or 20 years from now we have those things done,” Google CEO Larry Page told Time. But how exactly would Calico help humans live longer, healthier lives? How would it invest its vast $1.5 billion pool of money? Beyond sharing the company’s ambitious mission — to better understand the biology of aging and treat aging as a disease — Page was vague. I
recently started poking around in Silicon Valley and talking to researchers who study aging and mortality, and discovered that four years after its launch, we still don’t know what Calico is doing. I asked everyone I could about Calico — and quickly learned that it’s an impenetrable fortress. Among the little more than a dozen press releases Calico has put out, there were only broad descriptions of collaborations with outside labs and pharmaceutical companies — most of them focused on that overwhelmingly vague mission of researching aging and associated diseases. The media contacts there didn’t so much as respond to multiple requests for interviews. People who work at Calico, Calico’s outside collaborators, and even folks who were no longer with the company, stonewalled me. We should pause for a moment to note how strange this is.

**Impact:** Facebook invests billions of dollars into small businesses.


Facebook recently announced it plans to invest $1 billion in programs for small businesses in 2018— an amount nearly equal to its investment in similar initiatives over the past seven years combined. But it's not exactly rolling in the "likes" so far. While Mark Zuckerberg focuses on damage control following the Cambridge Analytica data scandal, his 14-year-old social network this week kicked off a 30-city tour for a digital skills training program starting in St. Louis. That's on top of a previously announced expansion of its jobs platform, which debuted in the U.S. and Canada a year ago. "We know there is more Facebook can do to connect people and businesses," says Alex Himel, vice president of local, in a press release announcing the new initiatives. "Since 2011, Facebook has invested more than $1 billion to help local businesses grow and help people find jobs. And in 2018, we plan to invest the same amount in more teams,
technology, and new programs. Because when businesses succeed, communities thrive."

Impact: Apple is investing millions into clean energy technology.


On Friday, the iPad and iPhone maker -- which has just revealed a refresh of its MacBook lineup -- said that $300 million will be invested in the next four years between Apple and 10 initial suppliers. The China Clean Energy Fund's goal is to "invest in and develop clean energy projects totaling more than one gigawatt of renewable energy in China, the equivalent of powering nearly one million homes," according to the company. In a statement, Apple said that by joining suppliers with renewable energy sources through the scheme, the company is renewing its commitment to addressing both climate change and the increased use of renewable energy sources within its supply chain. "At Apple, we are proud to join with companies that are stepping up to address the climate challenge," said Lisa Jackson, Apple's vice president of Environment, Policy and Social Initiatives. "We're thrilled so many of our suppliers are participating in the fund and hope this model can be replicated globally to help businesses of all sizes make a significant positive impact on our planet."

Analysis: Anti-trust laws significantly harm the ability for a company to grow thereby harming their potential revenue. This is damaging to innovation as it means projects like the ones google, apple, and Facebook are investing in will lack wealthy investors that make future technologies a reality.
**A/2: Antitrust Laws harm tech innovation**

**Answer:** Antitrust laws promote innovation

**Warrant:** The United States has taken a lenient approach and tech companies are partaking in anticompetitive practices due to little regulation.


In recent years, a number of analysts have increasingly railed against large firms, particularly modern technological giants such as Amazon, Google, and Facebook — calling for such firms to be regulated like public utilities or perhaps broken up as was famously done with Standard Oil over a century ago and, more recently, with AT&T. (See for instance writings by Lina Khan, Barry Lynn, Scott Galloway, and Jonathan Taplin). Very specifically, these commentators call for a change in antitrust policy from one that focuses primarily on consumer welfare in terms of prices paid and availability of products, to one that views all large firms with sizable market shares as problematic. **This invokes an American populist tradition that is suspicious of concentrated economic and political power. It also reflects a response to the more lenient antitrust policy, that began in the 1980s, in which mergers are more likely to be approved and large firms are less likely to be charged with anticompetitive practices.**

I think there is an allure to a policy that says we should be supporting and even subsidizing and protecting our national champions, but I think it goes against what we’ve learned, over the last 50 years or so, about the wisdom of national championship policies. I think the wiser version of American industrial policy has usually suggested that you want as much domestic competition as possible in order to make the companies as strong as possible. A strong example comes from the last time America and the tech industry faced a foreign challenge, and that is in the ’70s and ’80s when Japan was thought to be challenging the United States for supremacy in tech markets. Following Mark Zuckerberg’s logic, for example, the right thing to do would’ve been to protect and support IBM, AT&T and Xerox, which were the leading American tech firms then. Instead, the United States federal government sued both IBM and AT&T. They put IBM through 13 years of antitrust scrutiny. They broke AT&T into eight pieces. If you look at the results, the scrutiny of IBM led to, among other things, the personal computer industry and the birth of an independent software industry, both of which became much more important than IBM. And in the case of the breakup of AT&T, you had the birth of an online networking industry, CompuServe AOL, the modem industry, and over the long term, the Internet economy, which is now the mainstream of U.S. tech. Do you protect today’s champions by giving them a pass on antitrust law? That, I think, has the best chance of making China the tech power of the future. Trying to encourage competitors has proven to be a much better policy.

Analysis: By reducing monopolies and allowing for greater competition, anti-trust laws actually improve the ability of companies of all sizes to innovate. This is proven empirically. The United States decision to break up AT&T led to the creation of the internet boom.

Answer: The status quo is changing. Anti-trust laws will make little difference.

Warrant: Facebook and other tech giants have been making reforms due to political pressure.
Facebook doesn’t have a sterling reputation for privacy given its numerous data scandals, and Mark Zuckerberg wants to address it. In a reflection of what he said during a recent fiscal results call, the CEO outlined plans to rework more of Facebook’s services around a "privacy-focused" approach over the next few years. This includes "simple, intimate" places where no one else can see your data, the use of end-to-end encryption, a reduced amount of permanent content, greater safety and secure data storage.

Zuckerberg also vowed more interoperability between apps and networks. Zuckerberg saw WhatsApp as the template for these changes. It's a secure messaging platform first, and includes features built on top of that foundation. The executive suggested that it ultimately represented the "future of communication," where you can be sure that whatever you say is both protected and impermanent. He also acknowledged the skepticism surrounding any privacy-oriented approaches at Facebook, noting that many wouldn't believe that it would want to reform its services.

Warrant: There is bipartisan support to regulate technology firms.

Congressional Democrats have formally committed themselves to pushing for more stringent antitrust enforcement, and presidential candidate Sen. Elizabeth Warren has even called to dismantle several of these companies. Few politicians go quite as far as Warren, but most of the Democrats running for president in 2020 have called for more stringent regulation of technology companies and several Republicans including Sens. Ted Cruz (R-TX) and Josh Hawley (R-MO) are even making noises about it. The issue is
complicated by the fact that even though it’s convenient to shorthand Microsoft, Google, Amazon, Apple, and Facebook as “Big Tech,” these five companies are actually structured in very different ways. Facebook is a pretty narrowly focused company, running three big online services (Instagram, WhatsApp, and Facebook itself) that might superficially look like competitors. Apple is a behemoth of vertical integration, producing hardware, software, and online services that mostly work as an integrated whole. But Google, Amazon, and Microsoft have all become pretty classic conglomerates, with a sprawling array of loosely related businesses under one roof.

**Analysis:** There is no need to create antitrust laws. This is because technology firms are reforming internally and there is a bipartisan effort in congress to regulate technology companies. By creating antitrust laws, you only risk potential technology lobbyist backlash. This would lead to an even worse situation as it means technology firms might in fact have more power.
**CON: US Tech Dominance**

**Argument:** Antitrust regulation threatens U.S. technological advantages.

**Warrant:** The U.S. is the global leader in tech innovation.


The US has been named the most promising market for innovation and technology breakthroughs that have global impact for the second year, with China following, both seen as leading regions of innovation and disruption, according to KPMG’s 2018 Global Technology Innovation Report (PDF 3.57 MB).

In keeping the US on top, more than one-third (34 percent) of those surveyed named the US as the most promising market for tech breakthroughs compared to 26 percent in last year’s report. China remained second at 26 percent, and India ranked third at 13 percent, with the UK and Japan fourth. The report highlights key findings from a survey of nearly 800 technology industry leaders globally about technology innovation, leadership and market trends.

**Warrant:** U.S. tech dominance is under attack.

Pethokoukis, James. “There’s an attack on American tech dominance happening. And that’s OK if we respond the right way.” American Enterprise Institute. 10/5/18.
The flipside here is that I want America to remain the world’s economic leader that’s always pushing the technological frontier. And it’s a bad thing if America slowly cedes its leadership — such as measured by these VC numbers — through policymaking self harm such as making our tech hubs unaffordable and our nation inhospitable to immigrants who more than ever have good options at home. (For instance: The South China Morning Post reports that the number of Chinese students returning from abroad “has grown by leaps and bounds. In 2017, 608,000 students went abroad and 480,900 returned ... a return rate of 79 percent; in 1987, the return rate was about 5 percent, and in 2007 only 30.6 percent.)

**Warrant:** Tech companies are not permanent, and attacking them could spell their demise.


http://www.aei.org/publication/are-americas-tech-giants-really-permanently-dominant-forever-companies/

As Arthur points out, Big Tech CEOs know the risks. They’re paranoid about their future. They’ve all read Clayton Christensen’s work on innovation and disruption. They’re not assuming they are Forever Companies. Far from it. **Indeed, Petit has attempted to document their fears by looking at what tech firms do (invest a lot in R&D, including long-shot bets) and what they say, especially in SEC filings. So maybe these companies can avoid disruption or displacement.**

Maybe. But it would be imprudent given the historical evidence to assume they can and then employ that assumption when arguing we need to preemptively dismantle or regulate them, pre-crime style, when they are innovating hard and providing
massive consumer value within their dominant core businesses. Indeed, some attempts at regulation, such as the EU’s new Global Data Protection Rule, may even cement Big Tech’s incumbency.

Analysis: The United States is a leader in technological innovation and tech revenue, which is an enormous benefit for the country. To maintain this advantage, the U.S. will need to continue to foster an environment that is conducive to this type of success. By targeting tech companies, there is a chance that the federal government could jeopardize their long term success.
A/2: US Tech Dominance

**Answer:** China is already on track to surpass the United States’ tech leadership.

**Warrant:** China has filed an avalanche of patents, slowly eroding the U.S.’ advantage.


The U.S. is losing its advantage to China and other countries when it comes to innovations related to artificial intelligence, blockchain and other key technology, according to an analysis of patent filings over the past decade. While American inventors still command the largest portion of the nation’s patents, the percentage is dropping in the high-tech fields, according to a yearlong study conducted by the law firm Kilpatrick Townsend & Stockton LLP and researchers at GreyB Services Pte. That could lessen any home-field advantage in areas like wireless phones, internet of things and artificial intelligence, the study’s authors said.

U.S. applicants filed 66% of patents for artificial intelligence in 2018, down from 78% in 2007. The percentage of filings for so-called internet of things fell to 59% last year, from 66% a decade ago, while financial technology dropped to less than 75% from 82%.

“We are filing more; they’re just filing more, more quickly,” said Kate Gaudry, a patent lawyer with Kilpatrick Townsend in Washington and one of the study authors. “In a lot of high tech areas and in software, we’re seeing a decrease of contributions.”

**Warrant:** China has taken the lead in the race for AI.

Yet even that big of a geopolitical story, in a pivotal Latin American country that holds the world’s largest oil reserves, couldn’t compete with a matter that was already hitting so many Davos delegates so directly, as an all-consuming bottom-line issue for companies.

**Most troubling for the American business leaders in Davos, who had grown accustomed to being atop the global technological heap, was that they heard time and again how quickly they were falling behind their Chinese peers. Though it is a tech race most Western executives feel is only on its first laps, they heard how President Xi had declared a sort of space race or Manhattan Project around AI that is already delivering measurable results.**

**As a sign of the times, PwC used its annual survey of some 1,400 global CEOs – released every year here at Davos – to ask business executives whether they thought AI or the Internet would have the greater long-term impact. Some 84 percent of Chinese executives laid their bets on AI, while only 38 percent of their US colleagues agreed.**

That was reflected as well in how those polled by PwC said they had already deployed AI in their companies. A full 25 percent of Chinese executives reported they had utilized AI broadly compared to just 5 percent of American executives.

“It’s rare you get that big of a difference between two superpowers,” Tim Ryan, US chair of PwC told The Washington Post. “It tells us we (Americans) probably need to make sure we’re thinking about it in the right way.”
Analysis: The United States’ leadership in the tech industry is already coming to an end, regardless of whether or not the federal government pursues an antitrust case. China will likely surpass the United States within the next few years, if they haven’t already.
CON: Higher Wages

**Answer:** Major tech companies pay high wages.

**Warrant:** Entry level tech positions pay upwards of one hundred thousand dollars annually.


Data Scientist is the highest paying entry-level job in tech, paying an average salary of $113,254.

Product Managers and Developers are the 2nd and 3rd highest-paying tech jobs this year, paying average salaries of $106,127 and $100,610 respectively.

The highest-paid workers in the entire study are Data Scientists in Seattle, followed closely by Data Scientists in San Francisco, and Product Managers in Seattle.

These and many other insights into the current job market are from Comparably’s latest study of the Highest Paying Entry-Level Jobs in Tech. The study is based on the average salary of 8,005 entry-level workers (defined as having up to 3 years of experience) in 10 of the most popular jobs in the tech industry. Data was collected over a 12-month period, between March 2018 and March 2019. Founded in 2015, Comparably’s mission is to make workplaces transparent and rewarding for both employees and employers by providing assessments of company cultures & market compensation from actual employees. Key insights from the study include the following:

**Warrant:** Tech giants on average pay $63,058 annually.
Molla, Rani. “Facebook, Google and Netflix pay a higher median salary than Exxon, Goldman Sachs or Verizon.” Vox. 4/30/18.

**Typical employees at major tech companies make more than people in other industries.** Take a look at how the top tech companies compare to other industries in the Dow Jones Industrial Average.

The median employee salary at Facebook, Alphabet, Netflix and Twitter is higher than at Exxon, Chevron, Goldman Sachs and Verizon, according to data required by the SEC for the first time this year and collected by Equilar, a research firm that tracks data on executives.

**The median salary at the approximately 1,600 companies Equilar has measured so far is $63,058.**

**Warrant:** Tech companies are more equal than similar companies.

Molla, Rani. “Facebook, Google and Netflix pay a higher median salary than Exxon, Goldman Sachs or Verizon.” Vox. 4/30/18.

**The median salary at major tech companies is also closer in pay to the CEOs at these companies relative to other industries.** CEOs at Facebook, Salesforce, Tesla, Square, Google and Twitter all made less than 40 times the salary of their employees at the median. But across all industries, CEOs made 68 times their company’s median employee salary.
At the same time, it should be noted that tech CEOs take very low salaries since the majority of their compensation comes in company stock.

Jack Dorsey, CEO of both Twitter and Square, made a combined annual salary of two dollars and 75 cents last year. The median salary of his employees was $161,860 and $152,265, respectively, so, obviously, he only makes a fraction of their salary. However, Dorsey has a net worth of nearly $4 billion thanks to his stock.

Warrant: Antitrust regulators don’t address the harms done to workers.


Of late, powerful corporations have been pairing up with impressive ardour. Perhaps it is something in the air. Or perhaps it is friendly regulators. On October 22nd America’s antitrust authorities gave their blessing to this year’s latest mega-merger: the union of Praxair and Linde, two industrial-gas giants worth a combined $90bn. Despite signs that industrial concentration is sapping the economy of its dynamism, regulators remain permissive. That might be because, when they scrutinise a merger, they focus solely on consumers’ welfare. A growing body of research suggests regulators should be as eager to address the harm done to workers.

Analysis: Tech companies generally treat their workers fairly well, and pay them relatively high wages. Regulation could jeopardize that relationship between employer and employee. Research by leading economists also suggests that regulation doesn’t consider the risks to the employee.
A/2: Higher Wages

**Argument:** Many tech companies are able to underpay their workers due to their market dominance.

**Warrant:** Uber workers went on strike to protest low wages.

Dubal, Veena. “Why the Uber strike was a triumph.” Slate. 5/10/19.  
https://slate.com/technology/2019/05/uber-strike-victory-drivers-network.html

Did the Uber strike “work”? Following Wednesday’s action by Uber and Lyft drivers across the world, some commentators wondered what the workers were trying to achieve, since they could not possibly stop Uber’s debut as a publicly traded company on Friday. Others lamented that “only hundreds” of drivers were in attendance at strike protests in the United States. Parents (many of them white-collar tech workers) outside my children’s school in suburban Silicon Valley asked me, “Was it a success? Did the drivers get what they wanted yesterday?” They seemed surprised when I told them I thought it was a triumph.

No, drivers’ commissions were not raised in response. And no, neither Uber nor Lyft implemented just-cause deactivation or recognized a grassroots worker organization as a legitimate bargaining unit. But as a labor scholar (and former taxi-worker organizer) who has researched the so-called gig economy for more than a decade, I appreciate—almost viscerally—that Wednesday’s strike was a huge, unprecedented victory for service workers in the on-demand platform economy. Politicians (including presidential candidates), consumers (even those in wealthy Silicon Valley suburbs!), civil rights advocates, labor organizers, and drivers around the world stood together in a coordinated, organized direct action and collectively rejected an economic system built on human exploitation. **Even those who did not physically participate in strikes joined**
on social media (at one point, three different Twitter hashtags related to the global strike were trending in the U.S.) and through in-person conversations. Taken together, millions of people participated in the first-ever international picket and made the difficult recognition that despite its consumer conveniences, the so-called Uberization of the service economy must be defeated.

**Warrant:** Amazon workers were dramatically underpaid, leading them to strike on black Friday.


“The conditions our members at Amazon are working under are frankly inhuman. They are breaking bones, being knocked unconscious and being taken away in ambulances. We're standing up and saying enough is enough, these are people making Amazon its money. People with kids, homes, bills to pay — they're not robots,” GMB General Secretary Tim Roache wrote in a . “Jeff Bezos is the richest bloke on the planet; he can afford to sort this out. Working people and the communities Amazon operates in deserve better than this. That's what we're campaigning for.”

Another union , UNI Global, says over 2,000 of its members are demonstrating throughout Europe. An reports Amazon managers have had to do the jobs of warehouse workers and pack items due to the number of employees striking. Amazon warehouse workers in Germany and Spain are planning to strike for at least , Reuters reports.

**Analysis:** When most think of the tech industry, they think of cushy high-paying jobs in casual yet upscale office spaces. In reality, the average worker isn’t always working behind a desk. Many who are employed by tech companies like Amazon and Uber aren’t guaranteed living wages, and are unable to find other work in comparable fields due to their market dominance.
CON: Tech giants aren’t creating any barriers to entry

**Argument:** Tech giants do not need to be further regulated because they are not excluding new market competitors. Additionally, given the nature of tech industries, it is relatively easy for new competitors to startup businesses.

**Warrant:** The mergers that some politicians are trying to outlaw are spurring innovation, not stifling the market


She calls out Google for allegedly killing off its competitors by burying them in its searches. It’s not obvious that Google actually does this, although its search business inherently involves constantly making choices to try to best serve what people want to see. No government regulator is going to make Google’s searches better, or is qualified to even try. Warren’s proposal is obviously formulated without taking any account of the interests of users and consumers, who are the ones who made the tech companies so large in the first place. Why does Google provide a tool without which it’s impossible to imagine contemporary life — and has opened up vast vistas of readily available information — for free? Because it can monetize it with advertising. Without the advertising revenue, which Warren insists should be a separate business, Google has no incentive to devote engineers to constantly improving its search engine. By the same token, it’s not going to help anyone to have iPhones that no longer come with or sell Apple apps. And would people really appreciate having to go to two different Amazons, one just a platform, one selling Amazon products? This is all silly, as are the mergers that Warren pledges to break up, including Amazon’s acquisition of Whole Foods. Under what theory is something untoward? Amazon doesn’t have anything close to a
monopoly in food retail. Rather than taking over the sector, it’s spurring investment and innovation. The nation’s largest supermarket chain, Kroger was founded in 1883. It was slated to increase its spending on investment 200 percent in 2018, developing a self-checkout app and robot delivery, precisely because the space is so competitive.

We’ve seen the same effect in retail. Falling behind Amazon, Target invested massively on improving across the board, and in one quarter in 2018, had its best sales growth in more than a decade. This past holiday season it sought to one-up Amazon by offering free two-day shipping. This is the market working, not getting short-circuited.

Warrant: Google, for example, has not monopolized the search engine market

David Balto, Huffington Post, "In Antitrust Probe, Google’s Critics Have it Wrong", 06/24/11, https://www.huffpost.com/entry/post_b_884283

Google has never tended to destroy competition. In fact, in most of the markets it has entered, it has stimulated competition, reenergized markets and created more consumer choice, not less. Witness: search. When Google entered it, Yahoo! was sitting on a big lead as the incumbent. Google had built a better mousetrap, and within a year, built its leadership in the marketplace through providing a better product. It is important to remember how Google did this — through a search interface that was easier to use and more accurate. Google critics conveniently jump directly to the present time, saying the company uses the massive scale of searches it processes to protect its lead, while ignoring how Google achieved popularity in the first place. Additionally, consumers have the ability to walk away from Google at any time. Google’s own browser and mobile operating system allow consumers to change the default search engine to either Yahoo! or Bing at any time. This is hardly the kind of “lock in” that would bar consumer choice that antitrust law is designed to deal with. The competition is just a click away.
**Warrant:** Large companies don’t erect barriers to entry, government regulations do


Barriers to entry are created by government, not private businesses. When a company advertises, lowers prices, improves quality, adds features or offers better service, it discourages rivals. But it cannot bar them from the marketplace. True barriers arise from government misbehavior, not private power — misbehavior like special-interest legislation or a misconceived regulatory regimen that protects existing producers from competition. Instead of using antitrust laws to limit the aggressiveness of incumbent firms, the government should do away with the barriers it erected that keep competitive newcomers from entering the marketplace.

**Impact:** Anti-trust remedies would reduce the quality of products

Raghuram Rajan, Barron's, "Big Technology Companies are Modern Monopolies, but Don’t Break Them Up", 03/09/19, https://www.barrons.com/articles/big-tech-companies-modern-monopolies-google-facebook-51552076382

But there are many factors that make data monopolies harder to regulate than the traditional kind. And there are many reasons why data-driven companies thrive on size. First, access to vast amounts of data allows platforms to train their products to become more effective—think of Waze, which can give more accurate directions the more data it collects. That obviously gives Waze owner Google a leg up with its Maps app, as well. Second, online platforms like Facebook enjoy network effects; in other words, the platform becomes more valuable the more people use it. Yes, both of these dynamics make it harder for competitors to challenge the platform; but they also allow
the platform to offer a better product. Traditional anti-trust remedies, such as breaking up the platform, are less desirable because they may reduce the quality of the customer experience. We need different remedies.

Analysis: This argument is strategic because it shows that tech firms are not intentionally monopolizing or stifling competition. In fact, the market has seen large amounts of innovation and the proposal of anti-trust policies would just harm consumers by stifling this growth.
A/2: Tech giants aren’t creating any barriers to entry

Response: Competition is not probable in these markets

Warrant: These companies have monopolies over the market

Per Strömbäck, Netopia, "Digital Myth: Competition is Only One Click Away", 08/23/16, https://www.netopia.eu/competition-one-click-away/

Or Google, where 90% of online searches in Europe are conducted, and with a video platform where 300 hours of material is uploaded every minute. Is anyone going next door for a competing offer? The choice is there in theory, but in practice user habit, brand recognition and lock-in effects keep us coming back. Maybe these companies won’t live forever, but today they successfully monopolize their respective niches and consumer power is a mirage. The power of networks contributes to this – it makes more sense to have one auction site than many, one listed ads service, one online retailer. Metcalfe’s law states that ‘the value of a telecommunications network is proportional to the square of the number of connected users of the system’, which also applies to other networks, such as social media, and this effect serves to maintain the dominance of the few. It may be a long time before any of them implode like MySpace did. A dominant position in one niche can seep into neighbouring services, like zero-cost subscription plans for particular online services, or mail-order plug-ins in your webmail or browser.

Warrant: Data disparities make competition improbable

Doug Aley, Entrepeneur, "It's Hard to Compete With Tech Giants Like Google and Ama
If software is eating the world, then data is gobbling up the tech business. There's a growing disparity between the data haves (the FAANG companies and niche players fortunate enough to have collected vast amounts of data that they can use to better market to their users) and the data have-nots. The latter are not only behind the eight ball, they have no real hope of catching up. This has created a not-so-brave new world in which tech startups must think defensively at the outset -- that is, what can they do to build and monetize a critical mass of data that will allow them to gain a leg up in some corner of the market that doesn't appear to fit Google or Amazon's strategy, at least not yet. (Yelp and Foursquare are two companies that come to mind in navigating these turbulent waters.) This dynamic has turned the storied Silicon Valley narrative on its ear. It used to be that dominant companies had reason to fear the kids in the garage who were striving to disrupt them. Now those kids have a very hard time taking on companies that are running away with the data.

Analysis: This is a good response because it shows that even if the pro wins that these companies are not taking explicit actions to solidify monopolies of the market competition is being excluded anyway. This would give the pro access to benefits of anti-trust laws without having to win that large tech companies are themselves willing participants in this exclusionary phenomenon.

Response: Large companies have intentionally shut out cut out competition

Warrant: Amazon has done this

That is already happening. One of the anti-competitive complaints about Amazon is that it prohibited its merchants from selling more cheaply elsewhere. That prevented a new platform from underselling Amazon and gaining a competitive edge. Amazon ended this practice in Europe six years ago, but it continued in the United States. Senator Richard Blumenthal, a Democrat from Connecticut, asked for regulators to investigate in December. Last week, Amazon confirmed that it had dropped the requirement. Antitrust talk emboldens competitors as well. Google controls much of the market for online ads in Australia, just as it does elsewhere. That presents a big problem for News Corporation, which owns eight of the 10 largest papers in the country.

**Warrant:** Google has restricted competition in mobile apps


Just as Microsoft used its monopoly in PC operating systems to exclude competition in internet browsers, Google used its monopoly in mobile operating systems to exclude competition in mobile apps. The European Commission fined Google $5 billion in July for requiring phone makers using Android to pre-install Google's apps and not competitors' apps. The Commission said 80% of smart phones in Europe and worldwide run on the system. By closing the gates of competition, Google cemented its monopoly in mobile search. The Commission ordered Google to stop its anticompetitive conduct, but many question whether it's too little too late. Google has appealed.
Analysis: This is a good response because it turns the negative’s argument and shows that large tech firms have, in fact, used their power to restrict competition and solidify their monopoly.
CON: The new FTC task force is ineffective

Argument: The primary determinant of anti-trust policy and enforcement, the FTC, is not particularly effective. Also, the unique circumstances facing tech industries make the new task force likely to be ineffective as well.

Warrant: The Federal Trade Commission has launched a new task force to regulate tech companies


The Federal Trade Commission will be launching a task force to monitor competition in the US’s technology markets, commissioners announced today. The task force will include current officials working in the agency’s Bureau of Competition in order to “enhance the Bureau’s focus on technology-related sectors of the economy, including markets in which online platforms compete.” It will also include 17 staff attorneys who will be tasked with investigating anti-competitive behavior in the tech industry. “The role of technology in the economy and in our lives grows more important every day,” FTC Chairman Joe Simons said. “As I’ve noted in the past, it makes sense for us to closely examine technology markets to ensure consumers benefit from free and fair competition.” “TECHNOLOGY MARKETS ... RAISE DISTINCT CHALLENGES FOR ANTITRUST ENFORCEMENT” The new task force comes amid growing pressure for antitrust action against large tech companies like Facebook and Google. Earlier this month, it was reported that FTC officials have been looking to levy a multibillion-dollar fine on Facebook for repeatedly violating a privacy agreement the two bodies came to back in 2011. A coalition of advocacy groups argued that a fine would not be enough to
incentivize Facebook to be more cautious with consumer data and asked the FTC to force the company spinoffs, Instagram and WhatsApp, back into their own entities once again. The groups argued that Facebook was too big for it to adequately care for user data for all three major apps. Discussion over retroactive merger reviews that may result in companies divesting previously approved assets has been heating up over the last few months. The Democratic-led House Judiciary Committee has been reportedly beefing up its antitrust arm and hiring on big names like Lina Khan in the academic sphere.

**Warrant:** The new task force may not be as effective as it sounds


The FTC’s Bureau of Competition announced that the new task force, which will consist of approximately 17 staff attorneys from within the Bureau’s various divisions, will be dedicated to investigating potential anticompetitive conduct in technology markets, as well as working with other FTC staff reviewing both prospective and completed technology mergers. The FTC noted that the task force will include staff with expertise in online advertising, social networking, mobile operating systems and apps, and platform business markets. While some consumer advocates hailed the announcement as a first step toward a move to undo prior acquisitions that have created such technology behemoths as Facebook and Alphabet, the agency’s creation of the task force through the reassignment of current FTC attorneys, rather than the hiring of additional staff, has led to skepticism that the announcement may be more show than substance. It remains to be seen whether the new task force reflects a significant change in course for the FTC as it combines its resources to reinvigorate and
The FTC—an agency that has traditionally taken a cautious and incremental approach to antitrust enforcement—is about to embark on a campaign to break up leading technology companies through the systematic reversal of years-old mergers. The announcement does suggest, however, that the FTC is seeking to become more nimble in administering an antitrust enforcement regime that has struggled to keep up with industry innovation. The result could be an increase in challenges to technology mergers as well as in investigations of potentially anticompetitive conduct.

**Warrant:** FTC control raises very important questions about whose needs matter most in the face of rising regulation

Robert A. Levy, Cato Institute, "The Case Against Antitrust", 11/17/04,
https://www.cato.org/publications/commentary/case-against-antitrust

**Antitrust remedies are designed by lawyers who typically do not understand how markets work.** When government moves forward in the name of correcting market failure, regulators commonly ignore the more likely possibility of “government failure” — poorly made government regulations and policies that harm consumers. **Indeed, an elite corps of government experts thinks it knows consumer interests better than consumers do, and that it can regulate consumer activities to satisfy those interests better than the market does.** The real issue, however, is who gets to make product choices. Will it be consumers, declaring their preferences by purchases in the market, or specialists in the antitrust agencies of government?

**Impact:** The strategies of the past will not be effective when applied to tech companies
The question, however, is whether the approach that worked with industrial barons is also the best for dealing with the internet barons. Clearly, a more active review of mergers is necessary, even when the acquired company is comparatively small. However, the other prong of antitrust policy, the physical breakup of dominant companies, may not be the only path to competition in a world where the tools of dominance are virtual rather than physical. Breaking up the digital companies into smaller clones may reduce their size, but each new company will still possess the virtual assets that enabled their parents’ anticompetitive activities in the first place: the databases full of information about you and I. Break open that hoard of digital information, make it available to innovators and competitors, and the marketplace can function. Requiring competitive interconnection to databases would have the effect of an “internal break up” by going after the source of its market control.

**Analysis:** This is a good argument because it shows that antitrust legislation should not be enforced by an ineffective agency. Given how ineffective the FTC has proven to be, enforcing antitrust on tech companies is not a reliable way to improve the market in the long term.
A/2: The new FTC task force is ineffective

Response: The new FTC task force will be effective

Warrant: The new task force centralizes attention on the tech industry, allowing them to be able to follow the nuances of the laws and the tech companies subject to them

Kadhim Shubber and Kiran Stacey, Financial Times, "New FTC task force to tackle competition in tech sector", 02/26/19, https://www.ft.com/content/2801ced2-39f7-11e9-b856-5404d3811663

The top US consumer protection agency has taken the unusual step of setting up a task force dedicated to looking at competition in the technology sector, as antitrust officials worldwide step up their scrutiny of online platforms. The Federal Trade Commission said on Tuesday that the team would be staffed with 17 lawyers, including attorneys with expertise in online advertising, mobile operating systems and social networking. The task force will review previous acquisitions in the sector, including deals where large firms snapped up small, fast-growing rivals. Bruce Hoffman, director of the FTC’s bureau of competition, said technology markets had posed “distinct challenges” for antitrust enforcement. The task force was not starting with any specific investigation or deal in mind, he added. “By centralizing our expertise and attention, the new task force will be able to focus on these markets exclusively — ensuring they are operating pursuant to the antitrust laws, and taking action where they are not,” he said in a statement.

Warrant: The task force will do much needed research on the unique factors impacting the tech industry and how best to regulate it
The technology sector has posed a challenge for US antitrust enforcers, who typically assess deals on whether prices have increased for consumers. In the tech industry, where many products are given away for free, this is often not the case. Joseph Simons, the FTC’s chairman, said in a tweet that the task force would bring “a sharpened focus on merger analysis and enforcement in the tech sector”. He called the new group “a long-desired goal”. The task force will not be responsible for reviewing new acquisitions in the tech industry, according to Mr Hoffman, who said it would advise and assist the FTC units that ordinarily handle such deals. He told reporters it would investigate the numerous theories of competitive harm in the tech sector raised in academic articles and the press in recent years, but did not identify any specific conduct. “There are a number of possibilities that we want to explore,” he said.

Analysis: While the negative argues that the FTC has been ineffective, the new task force is what uniquely allows them to analyze the intricacies of the tech industry so that it may be better regulated in the future. This means that the creation of this task force makes now the best time in recent history to enforce antitrust laws on tech companies.

Response: The public is calling for stricter regulations, and the FTC has a case for them

Warrant: Groups are pushing for an intervention with Facebook

Makena Kelly, The Verge, "Advocacy groups are pushing the FTC to break up Facebook", 12/24/19, https://www.theverge.com/2019/1/24/18195959/facebook-advocacy-groups-ftc-break-up-cambridge-analytica-scandal-data-breach
Groups like Open Market Institute, Color of Change, and the Electronic Privacy Information Center wrote to the Federal Trade Commission today requesting a major government intervention into how Facebook operates. The letter outlined several moves the FTC could take, including a multibillion-dollar fine, reforming the company’s hiring practices, and most importantly, breaking up one of the most powerful social media companies for abusing its market position. “ADVOCATES ARE PUSHING FOR MUCH STRONGER PENALTIES” Last week, it was reported that the Federal Trade Commission could seek a record-setting fine from Facebook after the company violated a 2012 government agreement, requiring it to properly disclose how a user’s personal and private information was obtained and used by the company and third parties. Facebook has acknowledged that user data was improperly obtained by Cambridge Analytica last year, violating that agreement. But advocates are pushing for much stronger penalties for Facebook. Last week’s reporting said that the FTC could push for a fine larger than the $22 million it penalized Google with in 2012, after regulators found that the company had continued to track Apple’s Safari users after disclosing that it wouldn’t. According to organizations like Open Market Institute and Color of Change, Facebook should be required to give up $2 billion and divest ownership of Instagram and WhatsApp for failing to protect user data on those platforms as well. “Given that Facebook’s violations are so numerous in scale, severe in nature, impactful for such a large portion of the American public and central to the company’s business model, and given the company’s massive size and influence over American consumers,” the letter reads, “penalties and remedies that go far beyond the Commission’s recent actions are called for.”

Warrant: The FTC has clear grounds for this intervention

Makena Kelly, The Verge, "Facebook could be fined millions by US regulators for privacy violations", 12/18/19, https://www.theverge.com/2019/1/18/18188597/facebook-fine-millions-ftc-
Federal Trade Commission officials have discussed imposing a record-setting fine on Facebook after a year of major data breaches and revelations of improper data sharing, according to the Washington Post. Facebook may have violated a 2012 agreement with the government to protect users’ data and make clear statements about their privacy. If imposed, this would be the first major fine Facebook has faced in the US after it was revealed last spring that the personal data of over 87 million users had been given to Cambridge Analytica, a political consulting firm, without their explicit permission. Last October, United Kingdom officials fined Facebook £500,000 as a result of Cambridge Analytica, but that amount pales in comparison to what US regulators are reportedly debating now. According to the Post, the fine could be larger than the $22.5 million one the FTC imposed on Google in 2012 after regulators found that the company had tracked users of Apple’s Safari web browser, despite saying it wouldn’t. In 2012, Facebook entered a consent decree with the FTC agreeing that it deceived its users by telling them that certain information would be kept private, when it was not. The company had made information, like lists of friends and published posts, available to the public and capable of being shared without the consent of its users. This is likely the agreement the FTC regulators now believe Facebook has violated.

Analysis: This is a good response because even if the FTC was ineffective in the past, new developments with companies like Facebook give it clear grounds to enforce regulations. Additionally, with many organizations supporting this move the new task force has few barriers to being effective.
CON: Antitrust laws have been used for political ends

**Argument:** Antitrust regulations have long been used by politicians to achieve desirable political ends. These policies with tech giants are no different.

**Warrant:** Criticizing industry giants has always been more about political gain than anything else


One key political step was that Elizabeth Warren took up the cause in a June 2016 keynote address at New America. Warren was, of course, a longtime critic of concentration in the financial services industry. Banking was one of several major industries where concentration was historically constrained by New Deal legislation other than antitrust law. Until the early 1980s, for example, commercial banks could not operate branches in more than one state. And until the late 1990s, commercial banks couldn’t merge with insurance companies or investment banks. The rationales for these rules always had more to do with political and economic power than with consumer prices, and as an advocate for bringing back that style of regulation, Warren was in many ways a natural to call for turning the same philosophy loose on the whole economy. These same kinds of ideas ended up being influential in the 2016 Democratic Party platform, were picked up by Hillary Clinton’s campaign in October, and would likely have been a substantial focus of her transition team had she won the election. The Better Deal is essentially a sign that Clinton’s low-key flirtation with antitrust revisionism is now real doctrine. “The party’s been moving in this direction for a few years now, and Clinton’s concentration agenda was very good,” says Stoller, “but she just didn’t talk about it.” Suddenly, Democrats want to talk about it.
**Warrant:** Current meetings held by the Justice Department are the result of political motives and the arguments they are discussing would likely not stand up in court.

Leandra Bernstein, ABC, "Does the government have an antitrust case against Amazon, Google and Facebook?", 09/10/18, https://wjla.com/news/nation-world/does-the-government-have-an-antitrust-case-against-amazon-google-and-facebook

After years of taking a hands-off approach, there are signs that the government is taking the threat of digital monopolies seriously, Miller said. "We are seeing legitimate concerns about the anticompetitive practices of these platforms both on the left and the right at a time when there is not a lot of agreement on policy issues." The danger is in politicizing the issue, she warned. In the current antitrust debate, there are two separate tracks. One through the Federal Trade Commission, which is largely insulated from political pressures, and the other through the Department of Justice. According to Berin Szoka, president of Tech Freedom, the Justice Department's scheduled meeting this month to address social media companies "hurting competition and intentionally stifling the free exchange of ideas" is political and will have a hard time standing up in court. "Sessions may be invoking competition and alluding to antitrust laws but that is not what this is about," he said. "This is pure political theater prompted by the president's tweets." The attorneys general invited to the meeting have a history of complaining about anti-conservative bias on social media platforms. Sessions has reportedly not invited a single Democrat to attend. Szoka also took issue with the argument that the tech giants should be broken up or penalized because of their size. "Having market power alone is not an antitrust violation," he stressed. There has to be evidence that they are using that power to skew the market and suppress competition.
Warrant: These decisions dictated by political maneuvering are not always best for consumers

Andrea O'Sullivan, The Bridge, "Does the FTC Need a New Big Tech Task Force?", 03/21/19, https://www.mercatus.org/bridge/commentary/does-ftc-need-new-big-tech-task-force

The Task Force Could Target “Technology” Because of Politics “Technology companies” have developed bad reputations following privacy scandals and accusations of political bias. Support for the regulation of big tech is equal among Democrats and Republicans, with 46 percent of each agreeing that the federal government should regulate tech companies more. However, vague calls for “regulation” are not a mandate for trust-busting. Competition policy is neither privacy policy nor communications policy. The FTC task force should uphold the agency’s commitment to intervening in marketplaces only when consumer harms are clearly demonstrated. Ultimately what matters in competition policy is how consumers fare, and sometimes they are best served by big companies that wisely apply technologies. For decades, antitrust policy has been guided by what is called the “consumer welfare standard.” This is an economics-driven approach that studies prices to determine market health. If a company buys up its competition and raises prices on consumers, for example, that is destructive to the economy and should be stopped. But if a company buys another one to enhance its products or services and ultimately lower or maintain prices, that is a good thing for consumers. This metric brought rationality and objectivity to an antitrust process that had previously been marked by capricious political maneuvering.

Impact: The threat of abusive political power is worse than the threat of monopolization

Robert A. Levy, Cato Institute, "The Case Against Antitrust", 11/17/04,
Antitrust will inevitably be used by unprincipled politicians as a political bludgeon to force conformity by “uncooperative” companies. Former New York Times reporter David Burnham, in his 1996 book “Abuse of Power,” documented how powerful government officials routinely direct antitrust regulators to bend the rules in pursuit of political ends. In reality, the threat of abusive public power is far larger than the threat of private monopoly.

**Analysis:** This argument is strategic because it weighs well against most pro arguments. While some may argue that antitrust policies would benefit the economy or consumers, that’s unlikely if politicians’ motivations are simply to further political goals. Thus, giving them the power to punish certain corporations and assist others is a reason to negate.
A/2: Antitrust laws have been used for political ends

**Answer:** Other countries have already strengthened antitrust enforcement

**Warrant:** The UK found that these giants have limited competition


Tech companies like Google, Facebook, Amazon, Apple and Microsoft are stifling competition and innovation and should be subject to new antitrust rules, a new U.K. government report on Wednesday said. The 150-page document, commissioned by Britain’s finance minister, said the U.K.’s competition rules “must be updated for the digital age” to increase consumer choice and give users more control over their data. The report stopped short of calling for big tech companies to be broken up, an idea proposed last week by U.S. presidential candidate Sen. Elizabeth Warren. “The digital sector has created substantial benefits but these have come at the cost of increasing dominance of a few companies which is limiting competition and consumer choice and innovation,” said Jason Furman, former chief economic advisor to ex-President Barack Obama, who chaired the group behind the report.

**Warrant:** Data from a UK report shows that competition is improbable against these tech giants

Liam Proud, Reuters, "Breakingviews - Britain shows United States how to fight Big Tech", 03/13/19, https://uk.reuters.com/article/us-global-technology-breakingviews/breakingviews-britain-shows-united-states-how-to-fight-big-tech-
“Break up Big Tech” could become a slogan in the U.S. 2020 presidential elections if Democratic hopeful Elizabeth Warren has her way. But a report for the British government on Wednesday proposed a smarter way to tackle the dominance of behemoths such as Facebook, Google and Amazon. Warren wants to prohibit tech giants from selling products through their own websites and apps, or owning companies that do. That could force Amazon, for example, to split its marketplace, which is used by third parties, from the unit that sells the company’s own products. The Democratic Senator has also proposed unwinding deals that stifle competition, such as Facebook’s acquisitions of rival social networks Instagram and WhatsApp. The new UK review – led by Jason Furman, who used to advise former U.S. President Barack Obama – agrees there’s a problem. It found that a few players, including Facebook, Apple and Google, control more than 90 percent of online searches, mobile operating systems and social media markets in Britain. These companies are so large, and have such a tight control over users’ information, that it’s almost impossible to launch competitor search engines or app stores.

Analysis: This is a good response because the politicians in the United States have no influence of those in other countries, proving that the conclusion that these giants needs to be regulated is unbiased. This also shows that these companies are going to be punished by other nations anyway, so, again, the individual motivations of politicians in the United States shouldn’t impact the debate too heavily.

Answer: Companies are deserving of antitrust enforcement no matter its motivation

Warrant: Facebook needs to be broken up

Russell Brandom, The Verge, "THE MONOPOLY-BUSTING CASE AGAINST
In some ways, Facebook is the most urgent case. It’s inescapable, opaque, and it wields immense power over the fundamental functions of our society. More than any other tech giant, Facebook’s power feels like an immediate threat and the most plausible first target for congressional action. Sen. Mark Warner (D-VA) has already laid out 20 different measures that would rein in Facebook and other tech giants, ranging from GDPR-style data portability requirements to more carveouts of Section 230. But while Warner’s measures focus on nudging Facebook toward more responsible behavior, a growing number of critics see the problem as Facebook itself. It may be that a social network with more than 2 billion users is simply too big to be managed responsibly, and no amount of moderators or regulators will be able to meaningfully rein the company in. For those critics, social networks are a natural monopoly, and no amount of portability requirements will ever produce a meaningful competitor to Facebook or a meaningful check on its power. If that’s true, a classical antitrust breakup (as some have suggested) would seem like the only option. The best example is the breakup of AT&T, which saw the telecom giant’s local phone business split into “baby bells,” each bound by serious geographical and regulatory restrictions. It’s the classic example of how to cut a giant company into smaller companies without disrupting service.

Warrant: Amazon needs to be regulated

Michael Lewitt, Forbes, "How Long Can Amazon's Ingenious Antitrust Avoidance Last?", 05/01/18,
https://www.forbes.com/sites/michaellewitt/2018/05/01/how-long-can-
Along with other tech giants like Facebook, Google and Apple, Amazon not only occupies an unusually large role in the economy and financial markets but also takes up an enormous amount of psychic space because its presence on the Internet renders it a large media company that enjoys a unique kind of access to and exercises a unique kind of influence over hearts and minds. Facebook is already paying a price for violating its customers’ privacy and for being forced to reveal that its business model is based on selling access to customers’ private data. Too much of anything is bad for you and too much tech is bad for society especially when it is managed by the morally oblivious. By all appearances, Amazon earned its success by outcompeting its rivals. But is that really the case or is it engaging in surreptitious anticompetitive behavior? I don’t know the answer but I would point to a very interesting law review article that addresses the subject in a comprehensive and thoughtful way. In 2017, Lina M. Khan published an article in the Yale Law Review entitled “Amazon’s Antitrust Paradox” (January 2017, Volume 126, Number 3, pp. 710-805) in which she argued that current antitrust law is inadequate to address the e-commerce giant’s threat to competition. Ms. Khan contends that “[w]e cannot cognize the potential harms to competition posed by Amazon’s dominance if we measure competition primarily through pricing and output...current doctrine under appreciates the risk of predatory pricing and how integration across distinct business lines may prove anticompetitive.” (p.710) Further, she argues that online platforms pose special challenges for antitrust law.

**Analysis:** This is a good response because even if the negative is correct that politicians have ulterior motives to enforce antitrust laws, the ends justify the means if these giants truly do need to be broken up.