Submission for: U.S. FTC Fall 2018 Hearings on "Competition and Consumer Protection in the 21st Century"
Topic #2: *"Competition and Consumer Protection in Communication, Information, and Media Technology Networks"* FTC Project # P181201

The Unfair and Deceptive Online-Offline Playing Field of Divergent U.S. Competition and Consumer Protection Policy

Internet policy* has been the determinative dynamic of U.S. competition and consumer protection in the 21st Century. Government exemptions/immunities evidently heavily favor regulatory arbitrage over free market competition, and drive the evident divergent reality where most of U.S. competition and consumer protection problems occur online not offline.

**U.S. Internet industrial policy in the 1996 Telecom Act effectively exempts only Internet companies from: all U.S. communications law, regulation, and public responsibilities; most non-communications Federal/State regulation; and civil liability for whatever happens via their platforms and business models.*

August 7, 2018

By **Scott Cleland**

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The views expressed in this presentation are the author's; see Scott Cleland's full biography at: www.ScottCleland.com.
Precursor LLC is an internetization consultancy serving Fortune 500 clients, some of which are Internet Platform competitors.
NetCompetition® is a pro-competition e-forum supported by broadband interests.

Executive Summary

- **The change that has caused the most competition and consumer protection problems since the Pitofsky hearings, was U.S. Internet industrial policy,** *not* the advent of the Internet, technology, or innovation.
- America's twenty-year-old, Internet Industrial-policy has exempted and immunized Internet platforms from most civil law, regulation, and accountability that their competitors must obey. This exceptional distortion of America's free market competition, has resulted in upside-down competition and consumer protection outcomes, where the distribution networks with the most scale, scope, reach, network effects, market power, and competition complaints, have enjoyed the least competition and consumer protection scrutiny from the DOJ and FTC.
- This FTC filing spotlights **the *policy* problem of anticompetitive asymmetric accountability**, where only Internet companies are exempted from: all U.S. communications law, regulation, and public responsibilities; most Federal and State regulation; and most civil liability for whatever happens on their platforms.
- Regulating similar "communication, information, and media technology networks" oppositely, massively favors regulatory arbitrage strategies over free market competition. This is especially problematic because arbitrage is generally unproductive, speculative, or parasitic activity, and not generally economic investment, real value creation, or consumer welfare enhancing activity.
- **This analysis offers innovations in the economic methods of understanding Internet competition in the 21st Century.** It includes a first-of-its-kind **causation model** for asymmetric accountability, that shows how unfair and deceptive Internet policy incents arbitrage, generates predetermined winners and losers, and distorts the process of competition. It also includes a first-of-its-kind **cost-estimation model for quantifying the evident effects**.
- Next this analysis explains the various major effects of encouraging regulatory arbitrage, i.e. harms to: 1) consumer welfare; 2) free market forces; 3) the process of competition from Google, Facebook, and Amazon's bottleneck distribution control over offline supply and online demand; and 4) economic growth.
- Finally the **recommended solution is new legislation that ensures equal accountability under the law**, with one consumer centric, and technology-neutral, communications standard and one equal accountability policy; and one antitrust enforcement policy that ensures no real or implied antitrust immunity for Internet platforms.

Contents

PROBLEM: Asymmetric Accountability

U.S. Internet Policy:

1. Exempts only Internet firms from all FCC, laws, regs, costs, and duties;
2. Exempts only Internet firms from most Federal and State regulation in Section 230; and
3. Immunizes Internet firms from liability for harms on their platform or from their biz model, under Section 230.
   - Note: The Internet Association's 2016 Policy Platform explained that section 230 provides "*essential liability protections that have allowed Internet platforms to scale and diversify*" via a "*shield… from liability*" that affords no "*requirements to police their users actions.*"

IMPORTANT – Antitrust laws are explicitly unaffected by the exemptions and immunities above in the 1996 Telecommunications Act and section 230 .

- "Section 601… (b) ANTITRUST LAWS.— (1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), **nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.**" [Bold added for emphasis.]

Problem: Unfair and Deceptive Competition and Consumer Protection Policy

Competition & Consumer Protection Problem:

Pre-1996	Unregulated Information Technology Firms	INTERNET ENABLES CONVERGENCE	FCC-Regulated Communications/Media Firms
1996 Telecom Act	Info-tech firms picked to win EXEMPTED/IMMUNIZED from normal accountability & consumer protection responsibilities	INTERNET POLICY DIVERGES U.S. Internet Policy Is Asymmetric Accountability	Communications firms picked to lose NOT exempted/immunized from normal accountability & consumer protection responsibilities
1996-2018	Unregulated info-tech communications services **Wild West Internet** **WINNER-TAKE-ALL**	INTERNET OFFERINGS CONVERGE All can offer same services to consumers Asymmetric Accountability **ANTICOMPETITIVE ARBITRAGE** **MOST CONSUMER HARMS ONLINE**	FCC-regulated services communications & info-tech **Unfair Playing Field** **LOSER-LOSES-LOTS**

2018 - ?

Competition & Consumer Protection Solution:

ACCOUNTABILITY CONVERGENCE

Same Rules of the Game and Level Playing Field

Problem: Regulating Similar Distribution Networks Oppositely Begs Reg-Arbitrage & Monopolization

Why do distribution networks with most scale, scope, reach, network effects & market power; get the least regulatory/antitrust scrutiny?

Communication Distribution Networks Are FCC-Regulated

Radio, Telecom, TV, satellite, cable, wireless, & broadband firms

Are, or Can Be, Subject to Legacy FCC Public Interest Duties & Laws

Competition Enforcement

US Ownership limits for cable, TV, radio & newspaper firms

Mergers reviewed by DOJ/FTC & the FCC public interest test

Competitive measures/performance determine regulation

National Security/Law Enforcement

Must comply with FBI-CALEA/FISA-national security warrants

Must comply with state & local law enforcement authorities

Public Safety Duties

Subject to homeland security, emergency preparedness regs

Privacy Enforcement

Subject to wiretap, telecom, wireless, video privacy/data regs

Public Interest Obligations

Subject to FCC indecency, EEO, localism, and children regs

FCC election ad discount, reporting, & transparency duties

Subject to reasonable network & non-discrimination duties

Infrastructure rights of way and local franchise obligations

Internet Distribution Networks Are Unregulated by FCC

Google, Facebook, Amazon, & Internet Association are unregulated

& Section 230-Immunized from FCC accountability to public

No Competition Enforcement

No ownership/partnership limits to ensure diversity of views

Only FTC reviews mergers with implied section 230 immunity

No behavior, performance, or action risks FCC enforcement

No National Security/Law Enforcement

Claim immunity from FBI-CALEA/FISA-national security duties

Claim immunity from state/local law enforcement authorities

No FCC Public Safety Duties

Claim immunity for hosting unsafe, illegal, & terrorist content

No FCC Privacy Enforcement

Ignore wiretap/privacy laws, immunized recording/using data

No FCC Public Interest Obligations

No FCC indecency, EEO, children/consumer protection duties

No election ad discount, reporting, & transparency duties

No reliability, reasonable network, non-discrimination duties

No cloud infrastructure rights of way or local franchise duties

Cause: Asymmetric Accountability Arbitrage Causation Model

Asymmetric Game Rules and Playing Field Incent Arbitrage, Generate Unfair Predetermined Winner & Loser Outcomes.

Unfair Game Rules/Playing Field of Asymmetric Rules/Fuels/Tools:

RULES: Only U.S. Internet Policy:

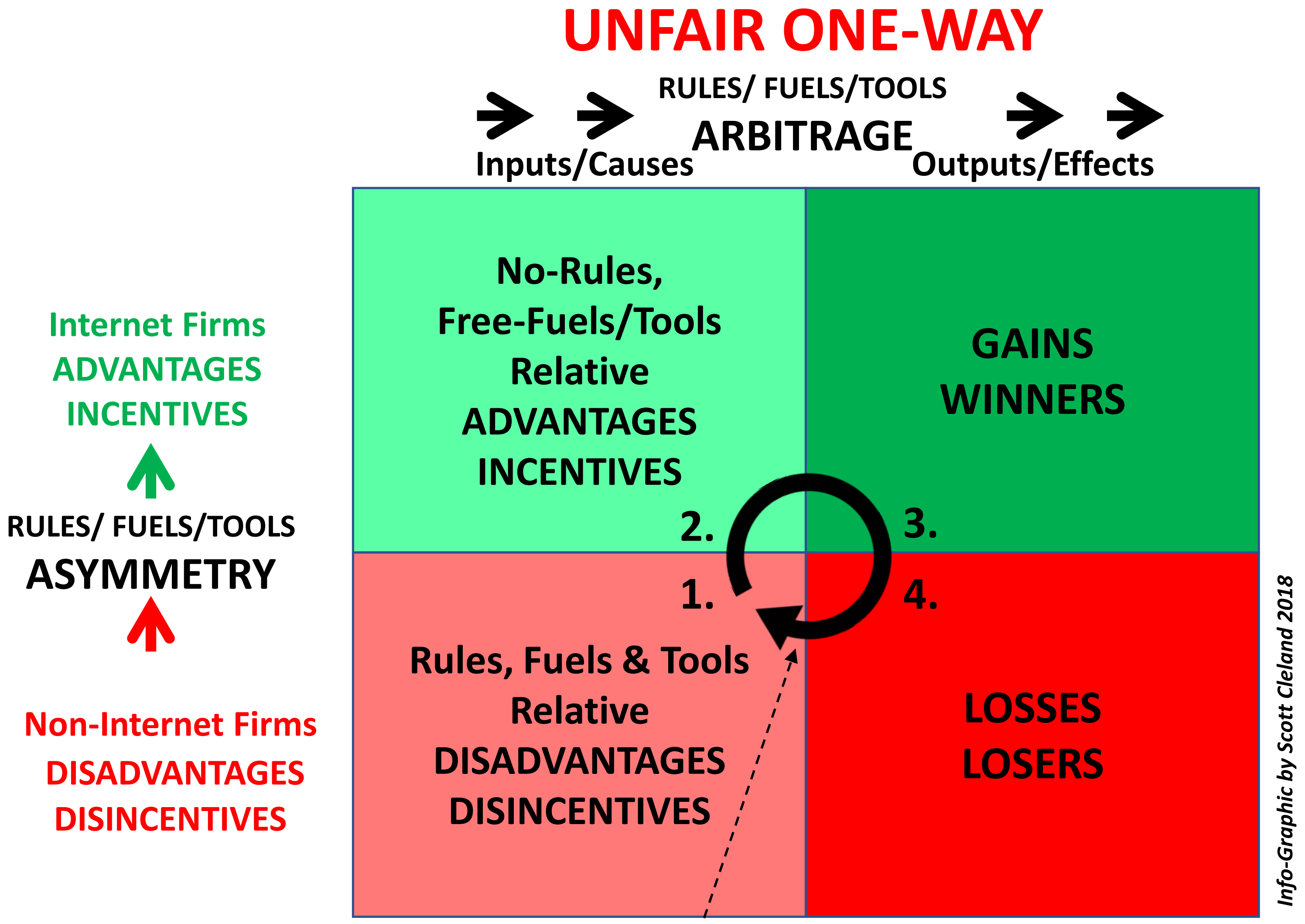
1. Exempts only Internet firms from all FCC laws, regs, costs, & duties;
2. Exempts only Internet firms from most Federal & State regulation;
3. Immunizes Internet firms from liability for harms on their platform or from their biz model;
4. Exempt only Internet firms from many taxes; public responsibility costs; & U.S. sovereign governance.

FUELS: Only Internet firms enjoy:

- Freedom from responsibility; no friction; network effects, fixed-price of zero; permissionless use of private data/property; unlimited scale/scope/reach; etc.

TOOLS: Only interactive computer services:

- Enjoy unaccountable technologies:
- Non-transparent intermediary algorithms; crypto-currencies; blockchain; AI; AR; data surveillance and collection; encryption; etc.



The Un-Virtuous Circle of Accountability Arbitrage

Cause: Asymmetric Accountability Arbitrage Distorts the Process of Competition

Government-sanctioned rule arbitrage enables winner-take-all capitalization of benefits and socialization of costs, in a ~trillion dollar Government wealth transfer from non-Internet firms, consumers, and taxpayers, to Internet firms.

A Rigged Process of Competition Is Asymmetric Rules/Fuels/Tools:

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Internet Firms
ADVANTAGES
INCENTIVES

RULES/ FUELS/TOOLS
ASYMMETRY

Non-Internet Firms
DISADVANTAGES
DISINCENTIVES

The Un-Virtuous Circle of Accountability Arbitrage

Cause: Arbitrage Is Non-Productive & Value-Destroying Activity that Depresses Revenue Growth

Rule arbitrage fosters zero-sum revenue cannibalization, commoditization, concentration, & monopolization.

Non-Productive & Value Destroying Asymmetric Rules/Fuels/Tools:

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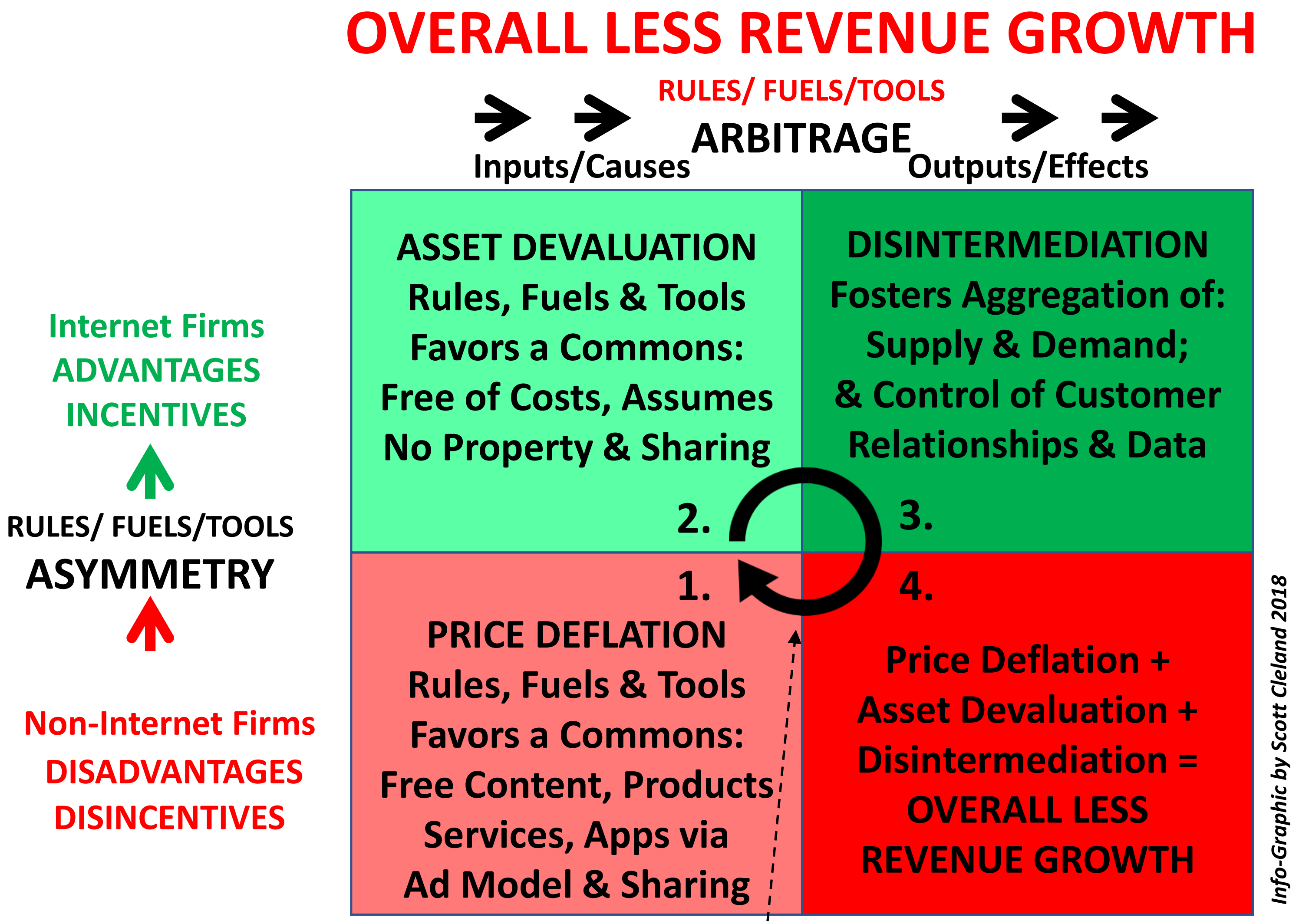


The Un-Virtuous Circle of Accountability Arbitrage

Effect: Asymmetric Accountability Destroys Market Competition's Promotion of Consumer Welfare

Immunization from government risk for harming consumers guts competitive incentives to protect consumer welfare.

1. **Winner-Take-All Monopolization Forces:** Accountability arbitrage favors monopolization over competition.
2. **Minimal Cybersecurity Market Forces:** Since Internet policy matured, there are no longer market forces, or government incentives, duties, or expectations to: write secure computer code; make secure equipment, devices, software, or apps, to protect American consumer welfare; or prevent online recruitment of terrorists.
   - Consequently, no consumer computer, device, network, or entity is safe from hacking.
   - NSA, CIA, DOD, DOJ, DHS, OPM, White House, Google, Facebook, Amazon, Apple, Microsoft, Equifax, et al have all been hacked; and hackers can hack planes in flight, vehicles on the road, and ships at sea.
3. **Minimal Market Forces for Consumer Online Privacy, Safety, & Security:** There are no longer competitive market forces or government responsibilities to minimally protect the online privacy, safety, and security of Americans, and their children, identities, privacy, data, and property.
4. **Minimal Market Forces to Protect Minors Online:** The minimal online government accountability undermines market forces to curate for age appropriate content, products, services, apps, and platforms.
5. **Compromised Anti-Fraud Protection:** Minimal government and competitive accountability enables and fuels rampant: fake news, fake ads, fake video, fake likes/clicks, fake comments, fake etc., robocalls, etc.
6. **Minimal Government Online Consumer Protection Authority:** U.S. consumer protection agencies -- FTC, FCC, CPSC, CFPB, SEC, and CFTC – don't have legal authority to protect Americans from Internet-originated harms.
7. **Compromised Democracy Processes & Public Polarization by Design:** The integrity, civility, trustworthiness, and accountability of America's key democracy processes -- elections, news, journalism, social media, and digital advertising – are harmed seriously by minimal governmental and competitive accountability.
8. **Addiction & Individual Manipulation By Design:** Minimal governmental accountability enables purposeful design of addicting/manipulative social media and video services without regard to consumer/minor welfare.

Effect: How Immunized Internet Platforms Undermine Free Market Economics & Competition

Google, Facebook, & Amazon disintermediate, and non-transparently and unaccountably govern much of U.S. economy – uneconomically.

FREE MARKET/INVISIBLE HAND Scarce Interactivity Based on Supply and Demand Is an Inherent Competitive Growth Dynamic	vs. IMMUNIZED INTERNET PLATFORMS Universal Interactivity Based on Algorithmic Disintermediation Is an Inherent Uneconomic Deflation Dynamic
1. Purpose: Revenue/Profit Growth	1. Purpose: Interactivity Efficiency & Growth
2. Optimize Function: Value Creation	2. Optimize Function: Input/Asset Utilization
3. Supply-Demand Pricing Efficiency	3. Technology/Interactivity Efficiency
4. Pricing Above Cost	4. Pricing Delinked From Cost or Is Fixed Free
5. Profit-Driven	5. Cost-Savings & Market-Share-Driven
6. Economic Growth Multiplier	6. Cost-Reduction & Network Effect Multiplier
7. Longer-Term Focus	7. Immediate-Term Focus
8. Investment-Return Driven	8. Arbitrage-Spread Driven
9. Direct Customer Relationships	9. Disintermediated Customer Relationships
10. Differentiated Competitive Choice	10. 1 Maximally-Efficient Free Commodity
11. Competitive Innovation	11. Process Automation Innovation
12. 3-4+ Competitors Comprise Market	12. Winner-Take-All Monopoly Market-Maker

Effect: Accountability Arbitrage Fosters a Winner-Take-All Bottleneck Distribution Economy

How Google, Facebook, and Amazon Anti-Competitively Abuse their Bottleneck Control of Most U.S. Consumer Supply and Demand

Note: Google, Facebook, and Amazon do not compete directly with each other in their core consumer supply businesses: search, social, and ecommerce.

1. OFFLINE SUPPLY

Is ~65% of U.S. GDP

Monopolizing key supplier processes:

- **GOOGLE ~90% of Mobile Search Advertising**
- **FACEBOOK ~90% of Social Advertising**
- **AMAZON ~90% of eCommerce Platform Fees**

Intermedia monopolizing power can dictate prices suppliers pay to sell to which consumers; facilitates winner-take-all piracy, self-dealing, fee/tax arbitrage

Winner-take-all harms to suppliers:

- **Can't compete with "the house" that: extracts a monopoly toll to reach online consumers; is exempt from 10-25% platform fees; abuses platform customer confidentiality to pirate, self-deal, and deny access to data necessary to market and compete.**
- **Commoditizes brands, products, and services by devaluing offline brand's safety, recognition, differentiation, and loyalty;**
- **Disintermediates suppliers from customers, so suppliers must negotiate price/terms with platform not customer -- deflating prices, destroying value creation.**

3. BOTTLENECK DISTRIBUTION

Google, Facebook, and Amazon are the Intermedia that are *in between* most everyone for most everything online:

Interrupting competition and market forces
Intercepting inside information/trade secrets
Interjecting discrimination & self-dealing
Interfering with branding and selling

Toll-Keeper Pricing Power

Gate-Keeper Entry Power

2. ONLINE DEMAND

Is ~6% of U.S. GDP

Monopsonizing key demand processes:

- **GOOGLE ~90% of Digital Info Access & Services**
- **FACEBOOK ~90% of Social Sharing Services**
- **AMAZON ~90% of eCommerce Platform Services**

Intermedia monopsonizing power can drive what consumers find and buy from which suppliers; favors winner-take-all discrimination, little privacy/security

Winner-take-all harms to consumers:

- **Hyper-concentrated aggregation of consumer demand means consumers get presented with the top one, or few, self-favored: results, clicks, apps, products, services that reinforce winner-take-all outcomes at the expense of competitive choice, quality, diversity, differentiation, and innovation;**
  - **Consumers are not Google/Facebook's customers but the product that's sold to advertisers, so users' privacy, security, and best interests are low priority.**

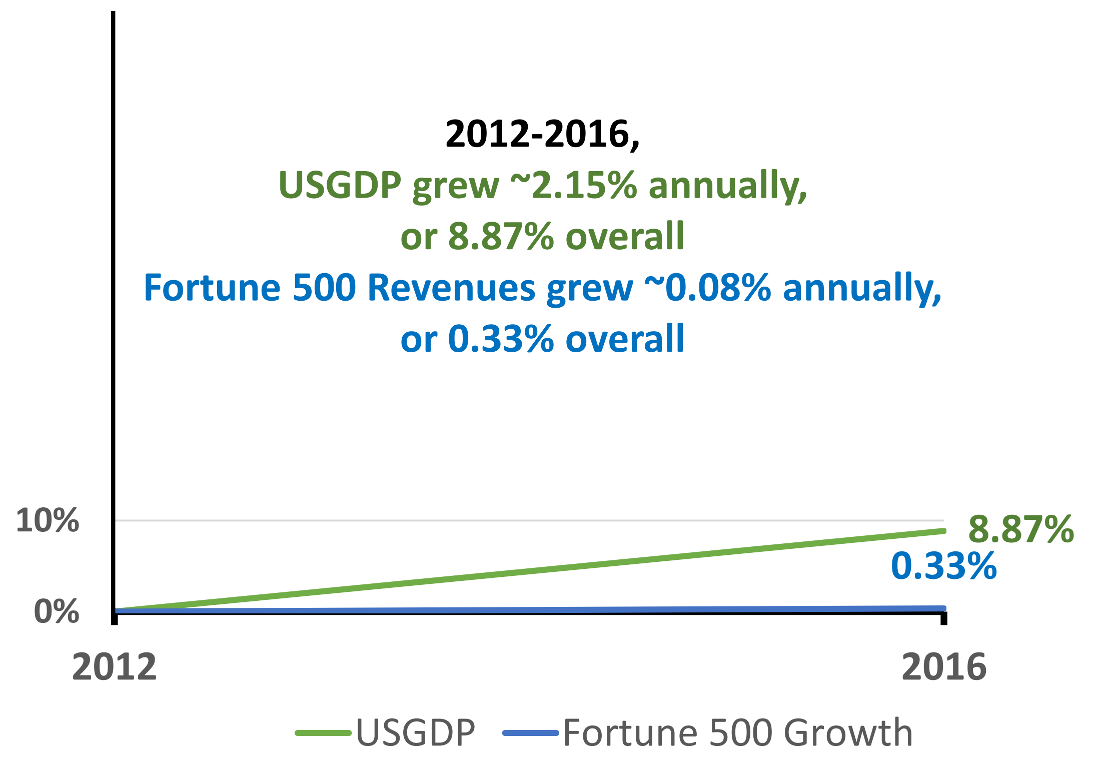
4. BOTTLENECK HARMS

Winner-Take-All
Unaccountability
No-Transparency
Forced Price Deflation
Depressed Growth

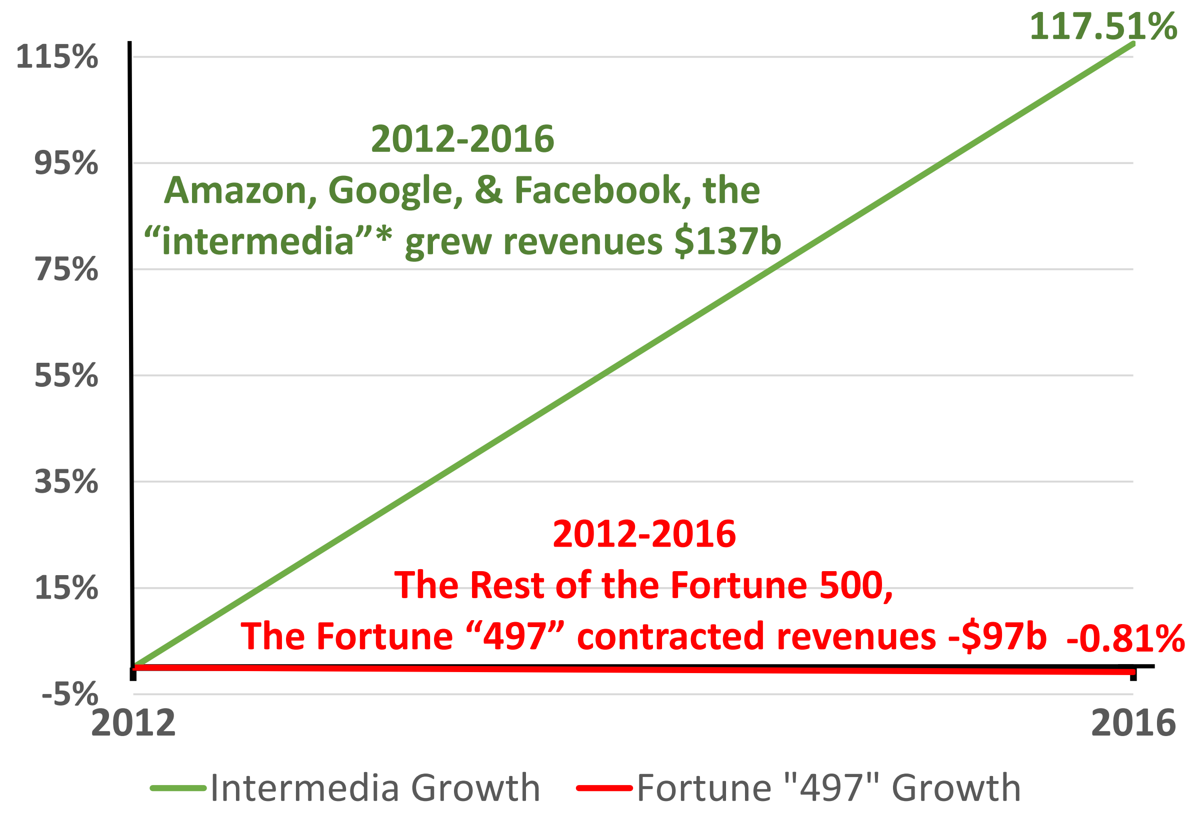
Effect: Asymmetric Accountability Creates Asymmetric Growth Results

Favoring regulatory arbitrage over free market competition fosters distortion of competition, economic forces, and growth.

The 2012-2016 offline economy growth recession: slow-growth U.S. GDP grew ~25 times faster than flat Fortune 500 revenues, that comprise 65% of USGDP



2012-2016, Amazon/Google/Facebook's winner-take-all capture of all Fortune 500 overall revenue growth depressed Fortune 497 revenues that comprise 64% of USGDP



Sources: U.S. Bureau of Economic Analysis and Fortune 500 public data.

**The "intermedia" are the dominant online intermediary platforms – Amazon, Google, & Facebook -- which enjoy special government intermediary immunity from liability for activity on their platforms.*

SOLUTION: Equal Online-Offline Accountability Under the Law (Including Antitrust)

1. **One Communications Standard:** Establish in a new law, one unified, consumer-centric, technology-neutral, communications regulatory standard -- for 21st century, national security, public safety, and consumer protection -- since convergence means unregulated Internet communications can do everything FCC-regulated communications do.
2. **One Equal Accountability Standard:** Establish a new 21st century U.S. communications policy and law of equal accountability under the law standard that ensures no individual, entity, or technology, is considered: immune from accountability; above the rules; or outside the law.
3. **One Antitrust Enforcement Standard:** In the meantime, DOJ and FTC should publicly affirm that Section 230 confers no implied or real antitrust immunity for Internet platforms, or Internet freedom to act anticompetitively in any way that would be illegal if done by any other industry or technology.

Conclusion:
Understanding the Rigged Game of Unfair and Deceptive Internet Policy

Imagine a sports league where only one team, "*Internet Platforms*,"

1. Is exempt from playing by the rules of the game;
2. Has immunity to harm opponents and fans; and
3. Can play, referee, and run the league at the same time.

Which team will always win it all?

Competitive leagues are fair and honest with same rules same accountability.

Appendix 1:

Internet Platform Corporate Welfare and Leechonomics

The Huge Hidden Public Costs (>$1.5T) of U.S. Internet Industrial Policy*

SUMMARY: Sweeping Government exemptions/immunities from risks and costs overwhelmingly favor zero-sum, parasitic policy arbitrage and corporate welfare, which perversely fosters unproductive "leechonomics." U.S. Internet policy most incents platform business that maximizes arbitrage spreads, i.e. taking maximal societal risk that un-immunized competitors can't take, where the benefits can be capitalized by platforms, and the costs socialized to the public (>$1.5T), because the government has only exempted and immunized platforms from normal accountability/responsibility for consumer welfare.

Note: This white paper introduces a new cost-estimation model for corporate welfare generated by the arbitrage effects of U.S. Internet Policy; it builds upon a previous Precursor causation model that explains and predicts the anticompetitive arbitrage effects of asymmetric accountability to the public.

**U.S. Internet-first, industrial policy in the 1996 Telecom Act, effectively exempts only Internet companies from: all U.S. communications law, regulation, and public responsibilities; normal non-communications Federal/State regulation; and normal civil liability for what happens via their platforms and business models.*

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Executive Summary: The Huge Hidden Public Costs (>$1.5T) of U.S. Internet Industrial Policy

- This white paper's estimation of the hidden public costs of U.S. Internet industrial policy shows that Internet platforms are far from free of public costs and risks to the consumer. It also shows that Internet platforms are not predicated on free market economics, but on a pernicious policy of corporate welfare and zero-sum, parasitic policy arbitrage that fosters unproductive "leechonomics."
- The evidence here *quantifies* how the online space is not what many think it is, a free market, but a favored market, where U.S. Government policy effectively stands on scales of competition to favor winner-take-all Internet platforms over everyone else.
- This initial estimate starts an ongoing estimation process of the hidden public costs of U.S. Internet policy, by just focusing first on America's best-known, dominant Internet platforms: Amazon, Google, and Facebook, to prove that they are not really as free, or as low cost to the public, as conventional wisdom has been led to believe.
- A conservative estimate of the hidden risks and costs that U.S. Internet policy affords Amazon, Google and Facebook to non-transparently and effectively offload to the public, consumers, taxpayers, competitors and suppliers, as hidden off-ledger, unacknowledged public liabilities, is roughly $1.5 trillion over the last two decades. That would be about $4,900 for every American, or the equivalent of over 70% of these platforms' 1-1-2018 market cap value. In short, U.S. Internet policy causes exceptional anticompetitive distortions in the economy.
- The public-fact baseline of the hidden $1,472b public cost estimate was: $1,544b in Amazon, Google, Facebook total cumulative revenues and $1,375b in total cumulative publicly booked costs; $2,058b in combined market capitalization on 1-1-2018; and U.S. consumer spending, i.e. ~.7 of USGDP.

$31b	Exemption from all FCC economic & public interest regulation as pure info services [2% of cumulative revenues]
$510b	Riskless disruptive innovation per immunity from civil liability (Sect. 230) [33% of cumulative revenues]
$755b	Socialized costs of platforms' uneconomic riskless disruptions (Sect. 230) [1% of '2012-17 U.S. consumer spending]
$103b	Government-granted anticompetitive asymmetric accountability advantages [5% of cumulative revenues]
$31b	Implicit government infrastructure subsidies [2% of cumulative revenues]
<u>$42b</u>	Systemic state and local sales and property tax arbitrage [5% of Amazon's cumulative revenues]
$1,472b	Estimated total special 1996-2018 Government benefits that shift platforms' risks-costs to consumers and taxpayers

- This is intended to be an initial, replicable, and conservative estimate, because it purposefully excluded the risk/cost impact of:
  - The 40 other companies in the Internet Association, most notably Uber and Airbnb, which pursued Section 230 arbitrage strategies; and
  - Disruptive: fintech, including, BitCoin, cryptocurrencies, blockchain, etc.; autonomous transportation; health-tech; robotization, AI; AR; etc.

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PROBLEM: U.S. Internet Policy's Asymmetric Accountability

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Asymmetric Accountability Arbitrage Causation Model

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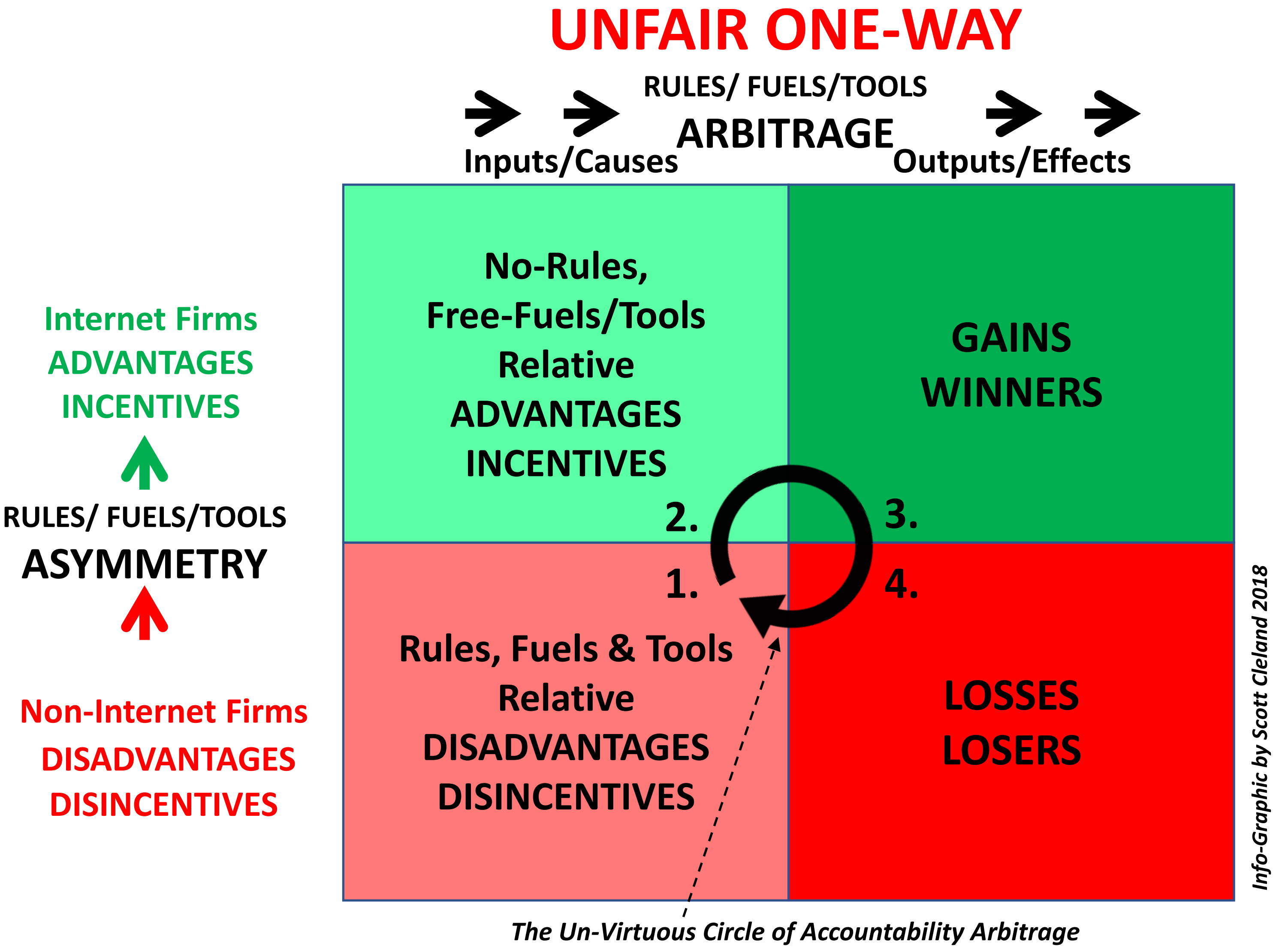

Asymmetric Accountability Incents Platform Risk Arbitrage & Creates Zero-Sum Leechonomics

Internet policy arbitrage incents parasitic riskless "disruptive innovation" of publicly accountable firms more than new productive innovation

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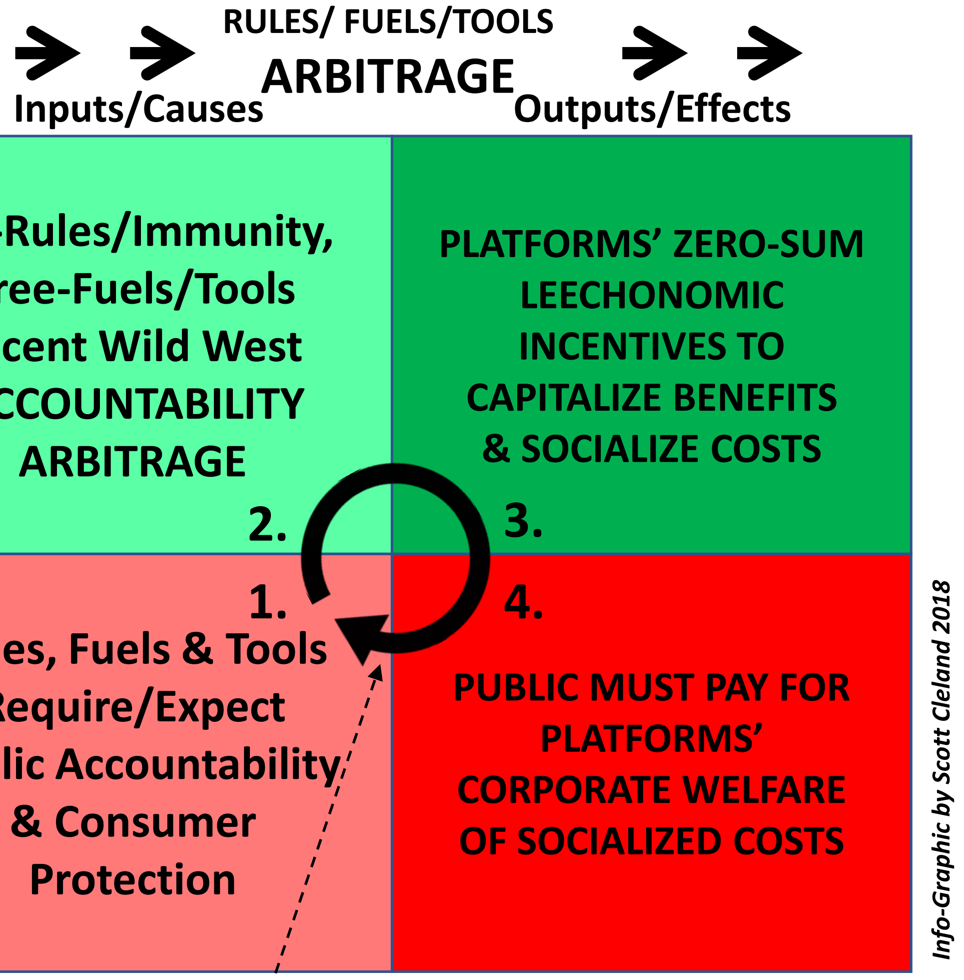
Internet Platforms
PUBLIC
UNACCOUNTABILITY

RULES/ FUELS/TOOLS
ASYMMETRY

Non-Internet Firms
PUBLIC
ACCOUNTABILITY

ZERO-SUM LEECHONOMICS



The Un-Virtuous Circle of Accountability Arbitrage

New Corporate Welfare Cost Estimation Model for Amazon, Google & Facebook

These platforms transparently capitalized benefits of $3.6 Trillion from 1995-2017, however, via U.S. Internet-policy, corporate-welfare, exemptions and immunities from their biggest risks and costs, they socialized and transferred more costs to the public ~$1.47T, than they booked as publicly-traded companies ~$1.37T

Amazon/Google/Facebook Transparent CAPITALIZED BENEFITS $ in billions	Amazon/Google/Facebook Hidden Corporate Welfare SOCIALIZED COSTS $ in billions	
$1,544		**COMPANIES' CUMULATIVE REVENUES:** AMZN $830b 1995-2017; GOOG $596b 2002-17; FB $118b 2007-17
$2,058		**COMPANIES' MARKET CAPITALIZATION:** as of 1-1-2018: AMZN $702b; GOOG $813b; FB $543b
$3,602		**TOTAL AMAZON/GOOGLE/FACEBOOK CAPITALIZED BENEFITS:** Cumulative Revenues + 1-1-18 Market Cap
		Estimated special 1996-2018 Government benefits that shift platforms' risks-costs to consumers/taxpayers
	$31	Exemption from all FCC economic & public interest regulation as pure info services [2% of cumulative revenues]
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	$31	Implicit government infrastructure subsidies [2% of cumulative revenues]
	$42	Systemic state and local sales and property tax arbitrage [5% of Amazon's cumulative revenues]
	$1,472	Total est. 1996-2018 Amazon/Google/Facebook risks/costs non-transparently transferred to consumers/taxpayers
		$4,486 U.S. per capita cost of Amazon/Google/Facebook corporate welfare [based on 328m Americans]

Note: *For explanation of the cost estimation methodology see page 12.*

Sources: *For companies historical cumulative revenues: www.Statista.com; for market caps by date: www.Finance.Yahoo.com; for consumer spending, used 70% of cumulative USGDP 2012-2017 per U.S. Bureau of Economic Analysis; for % estimates: Precursor LLC.*

An Initial List of How U.S. Internet Industrial Policy Transfers Big Risks/Costs From Internet Platforms, (Amazon/Google/Facebook) To the Public

i.e. consumers, taxpayers, competitors, & suppliers

Unfair Game Rules & Playing Field of Asymmetric Rules/Fuels/Tools:

RULES: Only U.S. Internet Policy:

1. Exempts only Internet firms from all FCC laws, regs, costs, & duties;
2. Exempts only Internet firms from most Federal & State regulation;
3. Immunizes Internet firms from liability for harms on their platform or from their biz model;
4. Exempt only Internet firms from many taxes; public responsibility costs; & U.S. sovereign governance.

FUELS: Only Internet firms enjoy:

- Freedom from responsibility; no friction; network effects, fixed-price of zero; permissionless use of private data/property; unlimited scale/scope/reach;

TOOLS: Only interactive computer services:

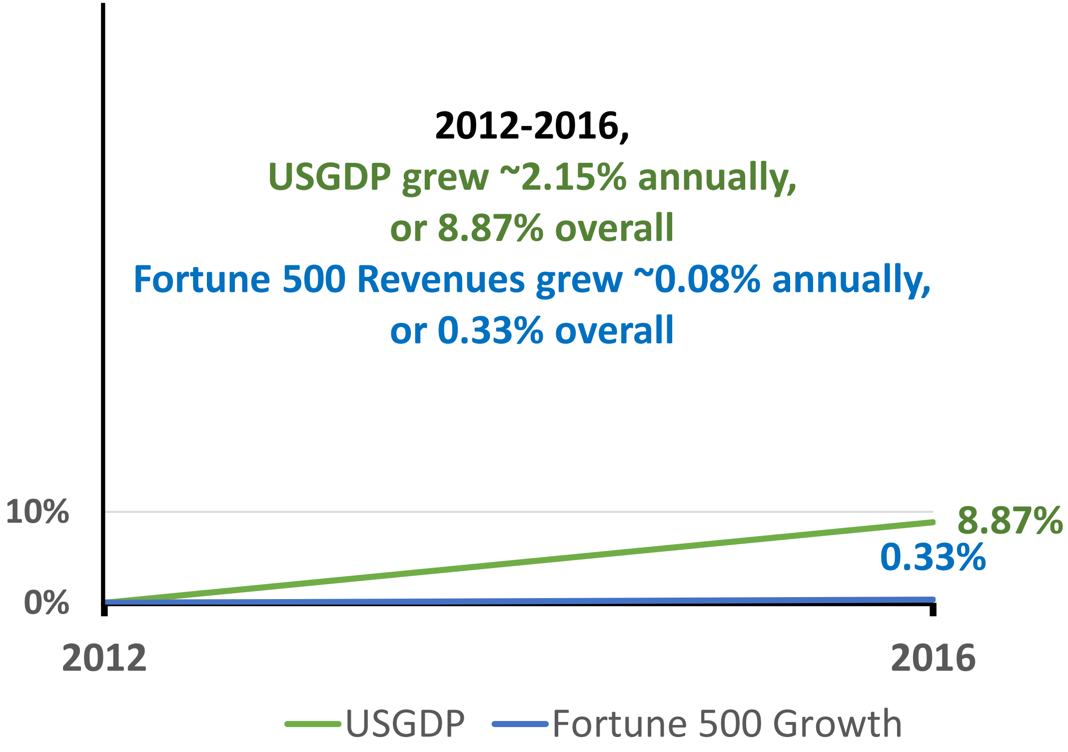
- Enjoy unaccountable technologies:
- Non-transparent intermediary algorithms; crypto-currencies; blockchain; AI; AR; data surveillance and collection; encryption; etc.

$ In Billions	ESTIMATED SPECIAL GOVERNMENT BENEFITS THAT SHIFT PLATFORM RISK/COSTS TO CONSUMERS/TAXPAYERS
$31	**Exemption from all FCC economic & public interest regulation as pure info services** [2% of cumulative revenues]
	No national security, public safety, privacy, curation, EEO, or children/consumer protection responsibilities
	Free Over-the-Top (OTT) net-casting on public Internet with no public interest obligations
	Free OTT cable-like services with no proactive cable or broadcast curation costs, risks, duties, or responsibilities
$510	**Riskless disruptive innovation per sweeping immunity from civil liability (Sect. 230)** [33% of cumulative Revenues]
	Immunity from civil liability as interactive computer service; Internet firms to be unfettered by Fed/State regulation
	Internet Assoc: Sect. 230 has “essential liability protections that have allowed Internet platforms to scale and diversify”
$755	**Socialized costs of platforms' uneconomic riskless disruptions (Sect. 230)** [1% of '2012-17 U.S. Consumer Spending]
	Platforms' arbitrage of their asymmetric accountability to government is zero-sum and depresses revenue growth
	"Disruptive innovation" costs ($ & jobs) of US Internet industrial policy of riskless innovation for Internet platforms
	Amazon arbitraging online-offline asymmetric regs/taxes to "disrupt" retail, malls, real estate, place, transport, etc.
	Google/Facebook disrupting quality subscription/transaction content by forcing wholesale price of zero to reach users
	Google/Facebook/Amazon disrupting ~half of economy via bottleneck control of 90% of key supply & demand
	Disruption societal costs of addiction by design; polarization; incivility; fake news/ads; election manipulation, etc.
	Free and open devaluation of Intellectual property: copyrights, patents, trademarks, trade secrets & confidential info
	Disintermediation and loss of one's personal control over one's privacy, safety, security, identity & reputation
$103	**Government-granted anticompetitive asymmetric accountability advantages** [5% of cumulative revenues]
	Internet Assoc: Sect. 230 has “essential liability protections that have allowed Internet platforms to scale and diversify”
	Online economy consolidation has been allowed to become ~10x more concentrated than the offline economy
	No FCC media ownership limits of online social media, which Google, Facebook & Amazon vastly exceed
	No additional competition review for mergers & acquisitions under tougher FCC public interest standard
	Network effects reimagined to be pro-competitive consumer efficiencies for platforms, not an antitrust concern
	Price of zero always presumed to be a competive/free-market price under Internet consumer welfare standard
	Unfettered monopoly vertical-integrated intermediaries enables front-running, self-dealing & dishonest brokering
$31	**Implicit government infrastructure subsidies** [2% of cumulative revenues]
	USPS-Amazon variable delivery cost deal does not factor in fixed & newly created costs of higher % package mail mix
	Exempted from Universal Service, the requirement to contribute to cost for broadband for all Americans
	Free Spectrum -- Congress/FCC granted multi-fold increase in free unlicensed spectrum for platforms' use
	Free Downstream Traffic, 2015-17 FCC paid prioritization ban ensures consumers pay for platforms' distribution costs
	[Requested of FCC -- Free commercial use of competitors' © video content in '16 FCC Set-top Proceeding]
	[Requested by Amazon HQ2 state & local tax breaks and infrastructure subsidies and inducements]
$42	**Systemic state and local sales and property tax arbitrage** [5% of Amazon's cumulative revenues]
	Amazon's tax arbitrage has largely avoided collecting of state & local sales taxes from 1995 until 2017
	Amazon has paid and estimated 46x less US income taxes than Walmart 2008-17, $64b to $1.4b
$1,472	TOTAL CONSUMER/TAXPAYER SOCIALIZED COSTS TRANSFERRED FROM AMAZON/GOOGLE/FACEBOOK

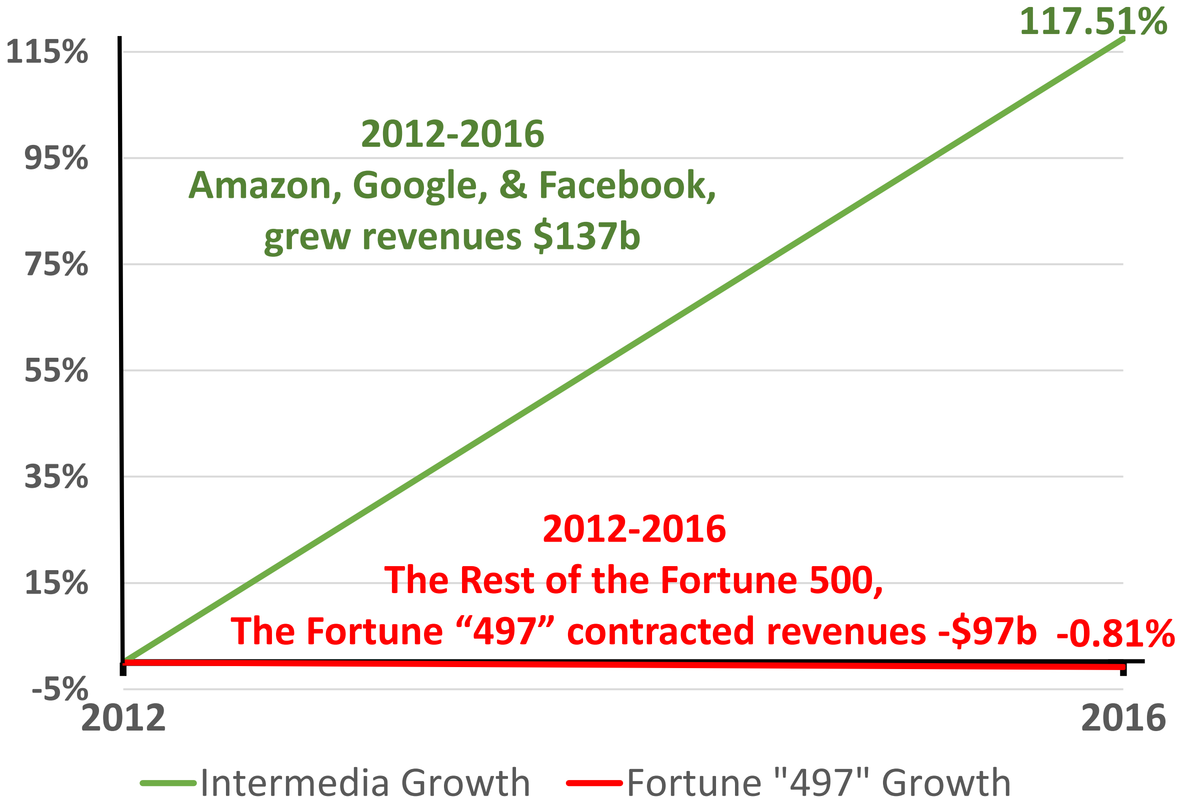
Evidence Asymmetric Accountability Creates Zero-Sum, Leechonomic Macro-Effects

Over a five-year period, why did the Fortune 500 with $12T in revenues have flat growth when the economy grew 9%?
Why from 2012-2016, did Amazon, Google, Facebook grow revenues $137b & the Fortune "497" contract revenues by $97b?

The 2012-2016 offline economy growth recession: slow-growth U.S. GDP grew ~25 times faster than flat Fortune 500 revenues, that comprise 65% of USGDP



2012-2016, Amazon/Google/Facebook's winner-take-all capture of all Fortune 500 overall revenue growth depressed Fortune 497 revenues that comprise 64% of USGDP



Sources: U.S. Bureau of Economic Analysis and Fortune 500 public data.
The dominant online intermediary platforms – Amazon, Google, & Facebook -- which enjoy special government intermediary immunity from liability for activity on their platforms.

Additional Socialized Risks and Costs to the Public from Platforms Parasitic Internet Policy Arbitrage

Immunization from government risk for harming consumers guts competitive incentives to protect consumer welfare.

1. **Winner-Take-All Monopolization Forces:** Accountability arbitrage favors monopolization over competition.
2. **Minimal Cybersecurity Market Forces:** Since Internet policy matured, there are no longer market forces, or government incentives, duties, or expectations to: write secure computer code; make secure equipment, devices, software, or apps, to protect American consumer welfare; or prevent online recruitment of terrorists.
   - Consequently, no consumer computer, device, network, or entity is safe from hacking.
   - NSA, CIA, DOD, DOJ, DHS, OPM, White House, Google, Facebook, Amazon, Apple, Microsoft, Equifax, et al have all been hacked; and hackers can hack planes in flight, vehicles on the road, and ships at sea.
3. **Minimal Market Forces for Consumer Online Privacy, Safety, & Security:** There are no longer competitive market forces or government responsibilities to minimally protect the online privacy, safety, and security of Americans, and their children, identities, privacy, data, and property.
4. **Minimal Market Forces to Protect Minors Online:** The minimal online government accountability undermines market forces to curate for age appropriate content, products, services, apps, and platforms.
5. **Compromised Anti-Fraud Protection:** Minimal government and competitive accountability enables and fuels rampant: fake news, fake ads, fake video, fake likes/clicks, fake comments, fake etc., robocalls, etc.
6. **Minimal Government Online Consumer Protection Authority:** U.S. consumer protection agencies -- FTC, FCC, CPSC, CFPB, SEC, and CFTC – don't have legal authority to protect Americans from Internet-originated harms.
7. **Compromised Democracy Processes & Public Polarization by Design:** The integrity, civility, trustworthiness, and accountability of America's key democracy processes -- elections, news, journalism, social media, and digital advertising – are harmed seriously by minimal governmental and competitive accountability.
8. **Addiction & Individual Manipulation By Design:** Minimal governmental accountability enables purposeful design of addicting/manipulative social media and video services without regard to consumer/minor welfare.

~$1.5T in Corporate Welfare Buys a Winner-Take-All Bottleneck Distribution Economy

How Google, Facebook, and Amazon Anti-Competitively Abuse their Bottleneck Control of Most U.S. Consumer Supply and Demand

***Note:** Google, Facebook, and Amazon do not compete directly with each other in their core consumer supply businesses: search, social, and ecommerce.*

3. BOTTLENECK DISTRIBUTION

Google, Facebook, and Amazon are the Intermedia that are *in between* most everyone for most everything online:

Interrupting competition and market forces
Intercepting inside information/trade secrets
Interjecting discrimination & self-dealing
Interfering with branding and selling

1. OFFLINE SUPPLY

Is ~65% of U.S. GDP

Monopolizing key supplier processes:

- GOOGLE ~90% of Mobile Search Advertising
- FACEBOOK ~90% of Social Advertising
- AMAZON ~90% of eCommerce Platform Fees

Intermedia monopolizing power can dictate prices suppliers pay to sell to which consumers; facilitates winner-take-all piracy, self-dealing, fee/tax arbitrage

Winner-take-all harms to suppliers:

- Can't compete with "the house" that: extracts a monopoly toll to reach online consumers; is exempt from 10-25% platform fees; abuses platform customer confidentiality to pirate, self-deal, and deny access to data necessary to market and compete.
- Commoditizes brands, products, and services by devaluing offline brand's safety, recognition, differentiation, and loyalty;
- Disintermediates suppliers from customers, so suppliers must negotiate price/terms with platform not customer -- deflating prices, destroying value creation.

Toll-Keeper
Pricing Power

Gate-Keeper
Entry Power

2. ONLINE DEMAND

Is ~6% of U.S. GDP

Monopsonizing key demand processes:

- GOOGLE ~90% of Digital Info Access & Services
- FACEBOOK ~90% of Social Sharing Services
- AMAZON ~90% of eCommerce Platform Services

Intermedia monopsonizing power can drive what consumers find and buy from which suppliers; favors winner-take-all discrimination, little privacy/security

Winner-take-all harms to consumers:

- Hyper-concentrated aggregation of consumer demand means consumers get presented with the top one, or few, self-favored: results, clicks, apps, products, services that reinforce winner-take-all outcomes at the expense of competitive choice, quality, diversity, differentiation, and innovation;
  - Consumers are not Google/Facebook's customers but the product that's sold to advertisers, so users' privacy, security, and best interests are low priority.

4. BOTTLENECK HARMS

Winner-Take-All
Unaccountability
No-Transparency
Forced Price Deflation
Depressed Growth

Cost Estimation Notes

1. **Why just Amazon, Google and Facebook?** This initial Internet policy risk/cost transfer estimation model focused on just them because:
   - Most people are familiar with Amazon, Google and Facebook; and their public effects;
   - Amazon, Google, and Facebook represent ~60% of Internet Association revenues, and ~70% of its market cap; and the Internet Association's members are the best proxy for the Section 230-driven economy;
   - It greatly simplified the analysis because they have the most readily available and checkable public data.
2. **Is this a conservative estimate?** It was intended to be a conservative estimate, because it purposefully excluded the risk/cost impact of:
   - The 40 other companies in the Internet Association, most notably Uber and Airbnb, which pursued Section 230 arbitrage business strategies; and
   - Fintech, including, BitCoin, cryptocurrencies, blockchain, etc.; autonomous transportation; health-tech; AI; AR; robotization; etc.
3. **Why cumulative revenues?** Cumulative revenues apparently are the best common, logical, company-proportionate, comparative proxy to macro-estimate the overall cost basis of FCC regulation for:
   - FCC regulated: telcos, cablecos, wireless-cos, satellite-cos broadcast-cos, and news-cos – and their edge company counterparts; and
   - Internet platforms and all other companies in the economy.
4. **Why percent of revenue estimates?** The overall costs of FCC regulation; cannot be captured in companies financial reporting, because that only captures recordable costs, it cannot capture the real constricting and debilitating effects on how a company must plan, operate, in time and process delays and uncertainties; and in creating risks and opportunities that are substantially worse than non-regulated companies face when addressing and assessing the same marketplace and information. The estimate of 2% is conservative because a 1% cost would be a de minimus competitive disadvantage; and it would not reflect the established experience in market and investment analysis that consistently values cash-flow valuation multiples for regulated companies significantly lower than non-regulated companies. This same type of logic was applied to the percent of revenue basis for estimates of: risk immunity; anticompetitive advantages; implicit infrastructure subsidies; and sales/property tax arbitrage.
5. **Why percent of U.S. consumer spending estimate?** That number, essentially ~70% of USGDP per the US Bureau of Economic Analysis is assumed to be the best estimate proxy basis available for estimating cumulative U.S. macroeconomic effects, risks and costs over a period of years.
6. **Is this cost estimation model replicable**? Yes it was constructed to be transparent and replicable. It is an initial rough-cut analysis that other researchers, analysts, economists can check, modify, re-estimate, and add to, to get a better and better sense of the macro risk/cost effects that U.S. Internet policy and its asymmetric accountability is having on the American economy, competition, taxpayers and consumer welfare. While others can be expected to come up with different estimates, what is evident from these models and estimates – the hidden transfer risks/costs here are massive.

SOLUTION: Equal Online-Offline Accountability Under the Law (Including Antitrust)

1. **One Communications Standard:** Establish in a new law, one unified, consumer-centric, technology-neutral, communications regulatory standard -- for 21st century, national security, public safety, and consumer protection -- since convergence means unregulated Internet communications can do everything FCC-regulated communications do.
2. **One Equal Accountability Standard:** Establish a new 21st century U.S. communications policy and law of equal accountability under the law standard that ensures no individual, entity, or technology, is considered: immune from accountability; above the rules; or outside the law.
3. **One Antitrust Enforcement Standard:** In meantime, DOJ and FTC should publicly affirm that Section 230 confers no implied or real antitrust immunity for Internet platforms, or Internet freedom to act anticompetitively in any way that would be illegal if done by any other industry or technology.

Appendix 2: Supporting Research

Appendix 3: Scott Cleland, President, Precursor® LLC

info@precursor.com;

- Scott Cleland is a proven thought leader and a leading Internet competition and policy expert. He was the first analyst to foresee that Google would become an increasingly problematic global monopoly and the first to discover that Google and Facebook abruptly stopped competing with each other in 2014 and evidently divided up the digital advertising market into a de facto digital ad cartel.
- Cleland has testified seven times before the Senate and House Antitrust Subcommittees on antitrust matters. Overall, eight different congressional subcommittees have sought his expert testimony a total of sixteen times. He served as Deputy U.S. Coordinator for International Communications & Information Policy in the George H. W. Bush Administration. And when he served as an investment analyst, *Institutional Investor* twice ranked him the #1 independent analyst in communications.
- He is President of Precursor LLC, an internetization consultancy specializing in Internetization -- how the Internet affects competition, markets, the economy, and policy -- for Fortune 500 companies, some of which are competitors to Internet platforms. He is also Chairman of NetCompetition, a pro-competition e-forum supported by broadband interests.
- Cleland authors the widely-read www.PrecursorBlog.com; and publishes www.Googleopoly.net. He also authored the book: "*Search & Destroy: Why You Can't Trust Google Inc.*"