

---

**MEASURING THE NEW ANTITRUST REVOLUTION***Bernardo Mueller*<sup>1</sup>DOI: [10.5281/zenodo.14522429](https://doi.org/10.5281/zenodo.14522429)

**Abstract:** For over four decades, Chicago School antitrust principles - centered on consumer welfare and the presumed efficiency of market behavior - have dominated U.S. antitrust policy. Recently, there has been a growing movement toward a new antitrust revolution inspired by Neo-Brandeisian ideals. This emerging framework advocates for multiple objectives, including the promotion of democracy, labor rights, and the protection of small businesses, alongside more assertive enforcement against anti-competitive practices. In this paper, I employ natural language processing to analyze the evolving beliefs and attitudes of American antitrust agencies - the Federal Trade Commission and the Department of Justice - over time. My findings reveal a gradual shift in these agencies' expressed views from Chicago School to Neo-Brandeisian thinking. However, as demonstrated through a political economy spatial model of strategic interaction, the antitrust agencies alone cannot drive this new revolution. To address this, I also assess the beliefs of other key actors: the President, congressional committees, the Supreme Court, and business lobbying groups. While some of these actors have begun to embrace Neo-Brandeisian perspectives, others have not, indicating that the full transition to a Neo-Brandeisian antitrust policy may hinge on whether these resistant beliefs can be altered or overcome.

**Keywords:** Antitrust; Chicago School; Neo-Brandeisian; Natural Language Processing; Text as data.

**Resumo:** Por mais de quatro décadas, os princípios antitruste da Escola de Chicago - centrados no bem-estar do consumidor e na suposta eficiência do comportamento do mercado - dominaram a política antitruste dos EUA. Recentemente, houve um movimento crescente em direção a uma nova revolução antitruste inspirada pelos ideais neobrandeisianos. Essa abordagem emergente defende a inclusão de objetivos adicionais, incluindo a promoção da democracia, direitos trabalhistas e a proteção de pequenas empresas, juntamente com uma aplicação mais assertiva contra práticas anticompetitivas. Neste artigo, utilizo o processamento de linguagem natural para analisar a evolução das crenças e atitudes das agências antitruste americanas - a *Federal Trade Commission* e o Departamento de Justiça (DOJ) - ao longo do tempo. Os resultados revelam uma mudança gradual dessas agências de abordagens típicas da Escola de Chicago para o pensamento neobrandeisiano. No entanto, conforme demonstrado por meio de um modelo espacial de economia política de interação estratégica, as agências antitruste não tem como realizar essa nova revolução de maneira unilateral. Avalio, portanto, as crenças de outros atores-chave em antitrust que também influem na mudança de abordagem: o presidente, comitês do Congresso, a Suprema Corte e grupos de lobby empresarial. Embora alguns desses atores tenham começado a adotar perspectivas neobrandeisianas, outros não o fizeram, indicando que a transição completa para uma política antitruste neobrandeisiana pode depender da possibilidade de alterar ou superar essas crenças resistentes.

---

<sup>1</sup> Prof. Dr. Bernardo Pinheiro Machado Mueller - Formação e principais áreas de pesquisa: PhD – University of Illinois (EUA), Desenvolvimento econômico, Complexidade, Instituições e Economia política. Departamento de Economia - Universidade de Brasília – Brasília - DF. Contato: [bmueller@unb.br](mailto:bmueller@unb.br).

**Palavras-chave:** Antitruste; Escola de Chicago; Neo-Brandeisiano; Processamento de Linguagem Natural; Texto como dados.

**Summary:** 1 Introduction; 2 Who Controls Antitrust?; 3 Measuring Beliefs and Attitudes Through Text; a) The Antitrust Agencies; b) Merger Guidelines; c) Merger Guidelines; d) Supreme Court; d) Senate Judiciary Committee; e) The President (Council of Economic Advisers); f) U.S. Chamber of Commerce; g) Placebo Test; 4 Conclusions: A New Antitrust Revolution?; 5 Bibliographic References.

## 1 Introduction

In the late 1970s, U.S. antitrust policy underwent a remarkable revolution. Historically, the nation harbored a deep-seated suspicion of large corporations and monopolies, a sentiment reflected in early antitrust legislation such as the Sherman Act of 1890 and the Clayton Act of 1914. This suspicion drove proactive enforcement against anticompetitive behavior during the New Deal era and up to the late 1970s. The revolution that followed was spearheaded by ideas originated in the Chicago School of economics, which successfully dismantled much of the intellectual foundation that had underpinned the previous antitrust regime. While academic ideas alone rarely incite revolutions, in this instance, the Chicago School's emphasis on consumer welfare as the primary objective of antitrust policy and its presumption of market efficiency - placing the burden of proof on those seeking to block or intervene in corporate behavior - resonated widely. Politicians in Congress and the Executive Branch, responding to the interests of large business lobbies that had begun to recognize the importance of shielding themselves from antitrust interventions, tightened their oversight of antitrust agencies.<sup>2</sup> Simultaneously, the courts embraced Chicago School doctrines, finding in them a rigorous and coherent framework that was easily applicable to a complex area of law often criticized for its lack of clear criteria and standards.

Recently, the antitrust regime established by the Chicago School revolution has come under increasing scrutiny. Critics, particularly those associated with the Neo-Brandeisian or 'hipster antitrust' movement, argue that several troubling economic trends can be traced to the failure of competition agencies and courts to effectively enforce antitrust laws and prevent anticompetitive behavior. According to these critics, markets have become increasingly

---

<sup>2</sup> LANCIERI, Filippo; POSNER, Eric A.; ZINGALES, Luigi. The Political Economy of the Decline of Antitrust Enforcement in the United States. **NBER Working Paper Series n.º 30326**. Cambridge – MA: National Bureau of Economic Research, aug. 2022. Available at: [https://www.nber.org/system/files/working\\_papers/w30326/w30326.pdf](https://www.nber.org/system/files/working_papers/w30326/w30326.pdf). Access em: 4 dec. 2024.

concentrated, resulting in higher prices for consumers and stifled innovation. Moreover, this concentration has granted firms greater monopsony power, enabling them to suppress wages and impose harsher working conditions. The accumulation of higher profits has, in turn, translated into increased political influence and lobbying power, which critics claim has further weakened antitrust enforcement and poses a threat to democratic institutions. While these concerns are most evident in the context of Big Tech firms, given the winner-takes-all nature of their markets, they are also directed at other sectors such as healthcare, pharmaceuticals, media, financial services, and agriculture. The foundational document of this movement is Lina Khan's 2017 article 'The Amazon Antitrust Paradox,' which has since sparked a surge of books and publications advocating for a significant transformation of antitrust policy.<sup>3</sup>

In 2021, the Biden Administration appointed Lina Khan as chair of the Federal Trade Commission (FTC) and Jonathan Kanter, another staunch Neo-Brandeisian, as the Assistant Attorney General for the DOJ Antitrust Division. These appointments marked a significant shift, moving the Neo-Brandeisian movement from the realm of social media and academic discourse into the arena of actual policymaking. This shift has created realistic conditions for challenging the four-decade dominance of Chicago School ideas in antitrust. Is this the start of a new antitrust revolution?

It may be too early to tell. Since the Neo-Brandeisians have assumed key positions, antitrust - traditionally an esoteric and staid area of interest - has gained increased visibility in the public sphere. Several high-profile cases have been initiated, and efforts to introduce new legislation have been pursued, such as the 2023 Merger Guidelines and the FTC's 2024 ban on noncompete agreements in labor markets. However, tangible accomplishments remain limited, as both the courts and Congress may continue to obstruct the major changes sought by the Neo-Brandeisian-led agencies. For instance, the FTC's ban on non competes was promptly met with an injunction from a federal court in Texas, even before the rule could take effect. This will likely lead to significant delays and could ultimately be decided by the Supreme Court, where Chicago School principles still hold considerable influence.

---

<sup>3</sup> KHAN, Lina M. Amazon's Antitrust Paradox. *The Yale Law Journal*, v. 126, n. 710, p. 710-805, 2017. Available at: [https://www.yalelawjournal.org/pdf/e.710.Khan.805\\_zuvfyeh.pdf](https://www.yalelawjournal.org/pdf/e.710.Khan.805_zuvfyeh.pdf). Access in: 4 dez. 2024. For a discussion of recent Neo-Brandeisian literature see KOVACIC, William E. Root and Branch Reconstruction: The Modern Transformation of US Antitrust Law and Policy? *Antitrust*, v. 35, n. 3, p. 46-56, 31 jul. 2021. Available at: [https://www.americanbar.org/groups/antitrust\\_law/resources/magazine/2021-summer/root-and-branch/](https://www.americanbar.org/groups/antitrust_law/resources/magazine/2021-summer/root-and-branch/). Access in: 4 dez. 2024.

Predicting whether the Neo-Brandeisian movement's legacy will be a significant chapter in history or merely a footnote is challenging.<sup>4</sup> On the surface, antitrust enforcement might appear straightforward: identify and punish anticompetitive behaviors by firms that harm consumers. In practice, however, this process is anything but simple. Even at the theoretical level, deep disagreements persist over seemingly straightforward practices, such as predatory pricing. While the field of antitrust is rich in data, with numerous empirical studies of past practice, these do little to resolve the underlying controversies.<sup>5</sup> For instance, retrospective merger studies, which in theory should clarify the effectiveness of antitrust enforcement, generally fail to do so. This is largely due to the difficulty of establishing counterfactuals and the challenge of uncovering causality, except under very narrow and specific circumstances. Amid the sharp rise in political polarization in recent years, longstanding antitrust controversies have been amplified, driving the debate between Chicago School and Neo-Brandeisian perspectives into increasingly acrimonious territory.

In this paper, I introduce a novel tool for assessing antitrust policy by leveraging text data from speeches, reports, blog posts, judicial opinions, and other sources to quantify the beliefs and attitudes of various participants in the antitrust process using natural language processing techniques. This approach is not intended to replace traditional metrics, such as market concentration indices, price-cost margins, elasticities, patent analyses, or specific industry case studies. Rather, it offers a complementary method to uncover insights and patterns embedded in the vast amounts of written and spoken content produced by key figures in antitrust, including FTC and DOJ commissioners, Supreme Court justices, Congressional committee members, industry analysts, and academics. Specifically, I develop a classifier that assigns an index value between zero and one to each text, representing the spectrum from Chicago School to Neo-Brandeisian perspectives. This classifier is trained on a hand-curated sample of texts from antitrust participants representing these two extremes. The resulting index provides a valuable tool for analyzing the magnitude, timing, and dynamics of antitrust evolution.

---

<sup>4</sup> This sentence is inspired on the title of a contribution by Auer and Radic (2024) to a debate published in the *Network Law Review* on "The Future of the Neo-Brandeisian Movement." AUER, Dirk; RADIC, Lazar. *The Legacy of Neo-Brandeisianism: History of Footnote?* **Network Law Review**, 9 jul. 2024. Available at: <https://www.networklawreview.org/auer-radic-brandeisianism/>. Access in: 4 dez. 2024.

<sup>5</sup> For a recent discussion of the empirical literature see SHAPIRO, Carl; YURUKOGLU, Ali. *Trends in Competition in the United States: What Does the Evidence Show?* **NBER Working Paper Series n. 32762**. Cambridge – MA: National Bureau of Economic Research, aug. 2024. Available at: [https://www.nber.org/system/files/working\\_papers/w32762/w32762.pdf](https://www.nber.org/system/files/working_papers/w32762/w32762.pdf). Access in: 4 dez. 2024.

To motivate the utility of these results, the next section introduces a simple spatial model of antitrust policy that emphasizes the interaction between preferences (or beliefs) and institutions in shaping policy decisions. In Section II, I present empirical estimates of the antitrust beliefs of various participants in the policy process, highlighting how these beliefs differ across key players and how they have evolved as the antitrust debate has intensified. Finally, in Section III, I provide examples of how these findings can inform the likelihood that recent changes will lead to a new Antitrust Revolution.

## 2 Who Controls Antitrust?

In 1983, Barry Weingast and Mark Moran published a seminal paper in the *Journal of Political Economy* that examined the then unfolding Chicago School Antitrust Revolution to address the question: who controls the regulators?<sup>6</sup> They contrasted the theory of bureaucratic discretion - where agencies are effectively free to pursue their own interests - with the theory of Congressional Dominance, which posits that Congress exerts substantial control over regulatory agencies. Their analysis of the shift in antitrust enforcement of the late 1970s, from a highly interventionist approach to a more hands-off stance, demonstrated that the timing of this shift was best explained by the changes in the composition of the Congressional antitrust oversight committees, rather than the independent choices of regulators. This paper was a key contribution to a broader revolution in political economy literature, which introduced the use of rational choice theory, game theory, and principal-agent models to an area that had previously lacked rigorous analytical frameworks. This new approach inspired researchers to systematically model and measure how strategic interactions are shaped by preferences and the formal and informal institutions that define the rules of the game. They also popularized spatial models which provide useful ways to analyze and present the interaction between the many parties in a policy area.

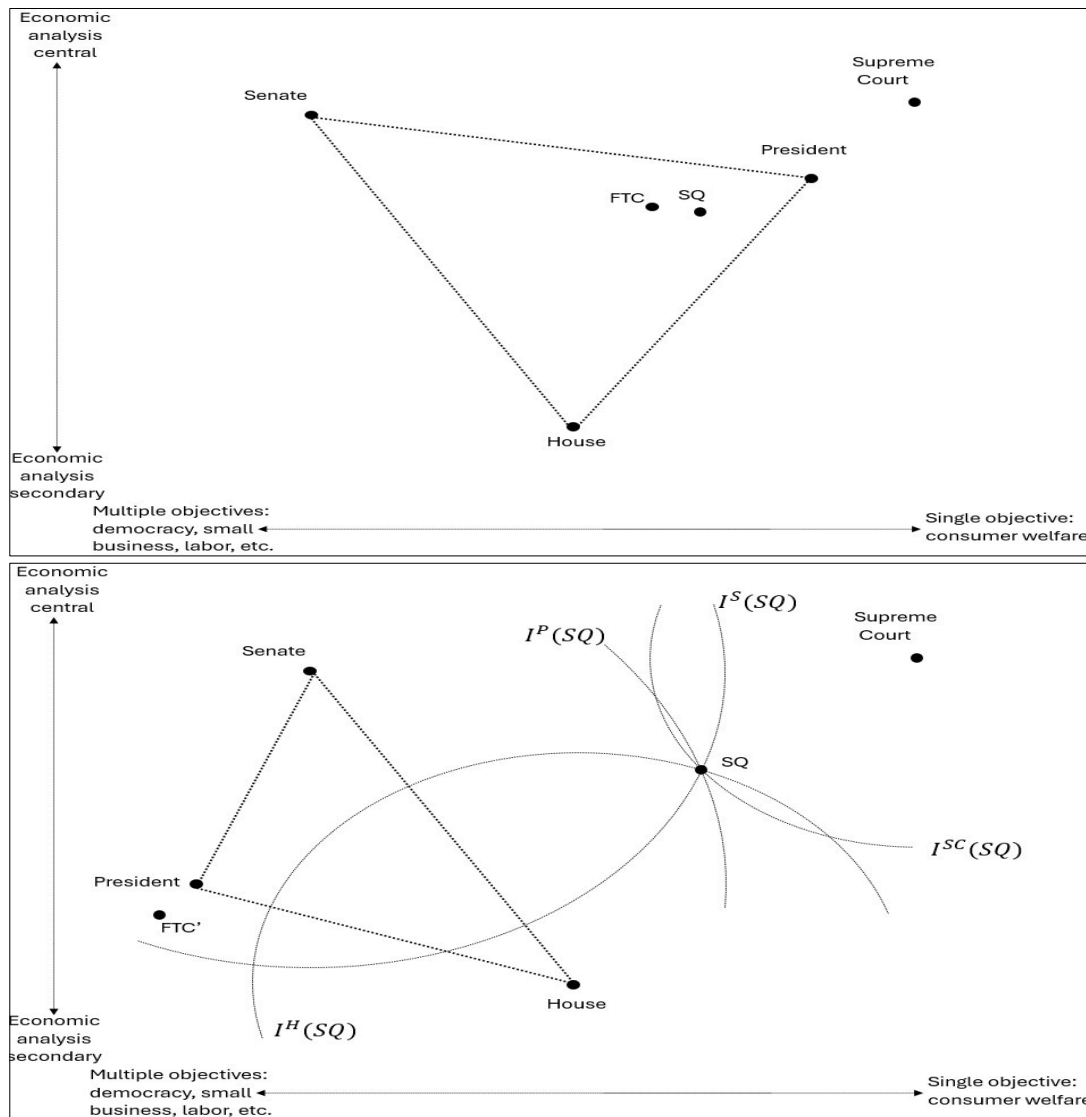
In Figure 1 I introduce a simple model that illustrates the roles of beliefs and institutions in the potential emergence - or failure - of a policy revolution, such as the one considered in this paper. The top panel in Figure 1 depicts a policy plane defined by two key

---

<sup>6</sup> WEINGAST, Barry R.; MORAN, Mark J. Bureaucratic discretion or congressional control? Regulatory Policymaking by the Federal Trade Commission. *Journal of Political Economy*, University of Chicago Press, v. 91, n. 5, p. 765-800, oct. 1983. Available at: [https://www.researchgate.net/publication/24108272\\_Bureaucratic\\_Discretion\\_or\\_Congressional\\_Control\\_Regulatory\\_Policymaking\\_by\\_the\\_Federal\\_Trade\\_Commission](https://www.researchgate.net/publication/24108272_Bureaucratic_Discretion_or_Congressional_Control_Regulatory_Policymaking_by_the_Federal_Trade_Commission). Access in: 4 dez. 2024.

dimensions of antitrust policy. The vertical axis measures the emphasis placed on economic analysis in policymaking and enforcement decisions, while the horizontal axis represents the extent to which antitrust objectives prioritize multiple simultaneous criteria versus primarily consumer welfare. For simplicity, the model is confined to these two dimensions, though in practice, multiple other dimensions - such as the reliance on per se rules versus the rule of reason - are also significant. Within this framework, Chicago School antitrust policy occupies the upper right-hand region of the graph, reflecting its focus on rigorous economic theory and its prioritization of consumer welfare as the paramount objective. In contrast, Neo-Brandeisian policy is positioned in the lower left-hand region, emphasizing a broader array of goals and a more critical stance towards reliance on economic theory.

**Figure 1 – Strategic interaction over antitrust policy**



**Source:** Created by the author.

The figure illustrates the preferred antitrust policies of several key players, with the current policy represented by the status quo point ( $SQ$ ). When deciding whether to support a new policy to replace  $SQ$ , each player prefers the option closest to their ideal point, or ‘bliss point.’ In the configuration shown in Figure 1, the FTC, the President, and the Supreme Court are relatively satisfied with the status quo, which lies within the Chicago School region of the graph. In contrast, the Senate and the House, while not fully Neo-Brandeisian, would favor a policy shift - more leftward for the Senate and lower down for the House. This configuration of preferences, though illustrative, loosely aligns with the dynamics observed in U.S. antitrust policy over the past decades.

The triangle formed by the President and both chambers of Congress represents the contract curve between each pair of actors. Any point outside this triangle has a corresponding policy point within or on the triangle that all three actors would prefer. Therefore, we can predict that antitrust policy is likely to fall somewhere within this triangle. As depicted, with  $SQ$  positioned near the FTC’s preferred point, it suggests that the agency is currently able to implement policies that align with its preferences. This does not imply that the FTC operates free from political oversight, but rather that there is sufficient political alignment to support policies within this region of the policy space.

Now, imagine an electoral shift brings in a new President who swiftly alters the FTC’s commissioner majority, leading to the new configuration shown in the bottom panel of Figure 1. This scenario loosely mirrors the Neo-Brandeisian shift within the FTC and DOJ that began under the Biden Administration in 2021. In this new configuration, the FTC finds itself far from the status quo policy point and seeks to move policy closer to its new position in the Neo-Brandeisian region of the graph. However, its ability to achieve this shift depends heavily on how political institutions allow other players to intervene - or not - in these changes.

Given these institutional powers, we assume that in the second panel of Figure 1, the House, Senate, and Supreme Court each have the ability to veto any change from the status quo ( $SQ$ ). Under these circumstances, it would be naive for the new FTC administration to attempt to shift policy from  $SQ$  to its ideal point,  $FTC'$ . The indifference curves illustrate the range of policies each actor prefers over the status quo. For instance, the House prefers any policy within the circle defined by  $I^H(SQ)$  over those outside it, meaning it would block a shift from  $SQ$  to  $FTC'$ . Similarly, the Supreme Court would oppose such a change. In contrast, the President and the Senate would support the shift. In these circumstances, a strategic FTC would not go as far’ as  $FTC'$ , rather it would choose a point as close as possible to  $FTC'$  that would not trigger a

response from the Court or the House.

The key takeaway here is not to replicate actual preference configurations or predict the new equilibrium but to highlight the crucial role of preferences and institutions in shaping policy and its evolution. Political institutions dictate how the game is played by defining which players can make which moves, under what circumstances, and in what sequence, thereby influencing how equilibria shift in response to different shocks. In this scenario, a strategic FTC might recognize that it is more advantageous to steer antitrust policy toward a position that falls within the overlapping indifference curves of the President and both chambers of Congress, rather than pursuing its ideal *FTC'* policy. This approach would likely neutralize opposition from the House, increasing the likelihood of a shift in a Neo-Brandeisian direction. However, the figure also underscores that, given the Supreme Court's strong alignment with Chicago School principles, any move from *SQ* toward *FTC'* would encounter significant resistance. The President and the Senate, on the other hand, would approve of the change.

Whether one is analyzing policy change using a spatial model like the one above, another formal model, or even relying on intuition, a significant limitation arises from the fact that preferences are not directly observable. Analysts are often forced to interpret each actor's preferences based on impressions formed from their past behavior, which can lead to misleading inferences. This is because observed choices may not accurately reflect actual preferences, as they are often shaped by political constraints and strategic considerations. In the next section, I introduce a method to overcome these limitations by using natural language processing to quantify beliefs and preferences in antitrust policy, drawing on speeches, written opinions, reports, and other text-based data.

### **3 Measuring Beliefs and Attitudes through Text**

Machine learning and natural language processing have revolutionized the quantitative analysis of vast amounts of information from text, speech, and image-based sources, enabling insights at a scale previously unattainable through direct human analysis. While these methods have been available for some time, their adoption has only recently gained significant momentum in the applied social sciences.

Here I employ a classifier algorithm trained on a carefully curated sample of data to assign a score or probability between zero and one to any text, indicating the degree to which



it aligns with Neo-Brandeisian versus Chicago School principles.<sup>7</sup> The NB Probability Index presented below takes on values closer to 1 the more the text adheres to Neo-Brandeisian ideas. The training set was composed of blog posts, articles, editorials, and other documents, selected to form two distinct subsets of approximately 250 observations each, representing the extremes of Chicago School and Neo-Brandeisian viewpoints. The human classification of the training set was straightforward due to the pronounced polarization along this ideological dimension in antitrust over the past decade. The trained classifier's ability to differentiate between the two schools of thought was validated using a separate subset of the data, achieving precision and recall scores exceeding 81% for both Chicago School and Neo-Brandeisian texts. In the following sections, I present the results of applying this classifier to speeches, opinions, and other documents produced by the key antitrust actors discussed in the model in the previous section.

### a) The Antitrust Agencies

Figure 2 presents the NB Probability Index, estimated by analyzing speeches delivered by FTC commissioners, DOJ Assistant Attorneys for Antitrust, and EU Commissioners for Competition Policy. The dataset includes 1,656 speeches from the FTC (spanning 1915 to 2023), 632 speeches from the DOJ (1938-2023), and 806 speeches from the EU Commission (1995-2024). To highlight the evolution of these perspectives over time, Lowess (locally weighted scatterplot smoothing) was used, as this method is effective for capturing trends without being too sensitive to outliers. To validate the classifier and provide comparability, four benchmark texts were added to the graph. The algorithm places two texts by Lina Khan, including her 2017 manifesto, near the top of the graph, reflecting strong Neo-Brandeisian sentiment. In contrast, a text by Robert Bork, a key figure in early Chicago School thought, and another by Joshua Wright, known for his Chicago School credentials, are positioned towards the bottom of the graph, demonstrating the algorithm's effectiveness in distinguishing between these two ideological dimensions.

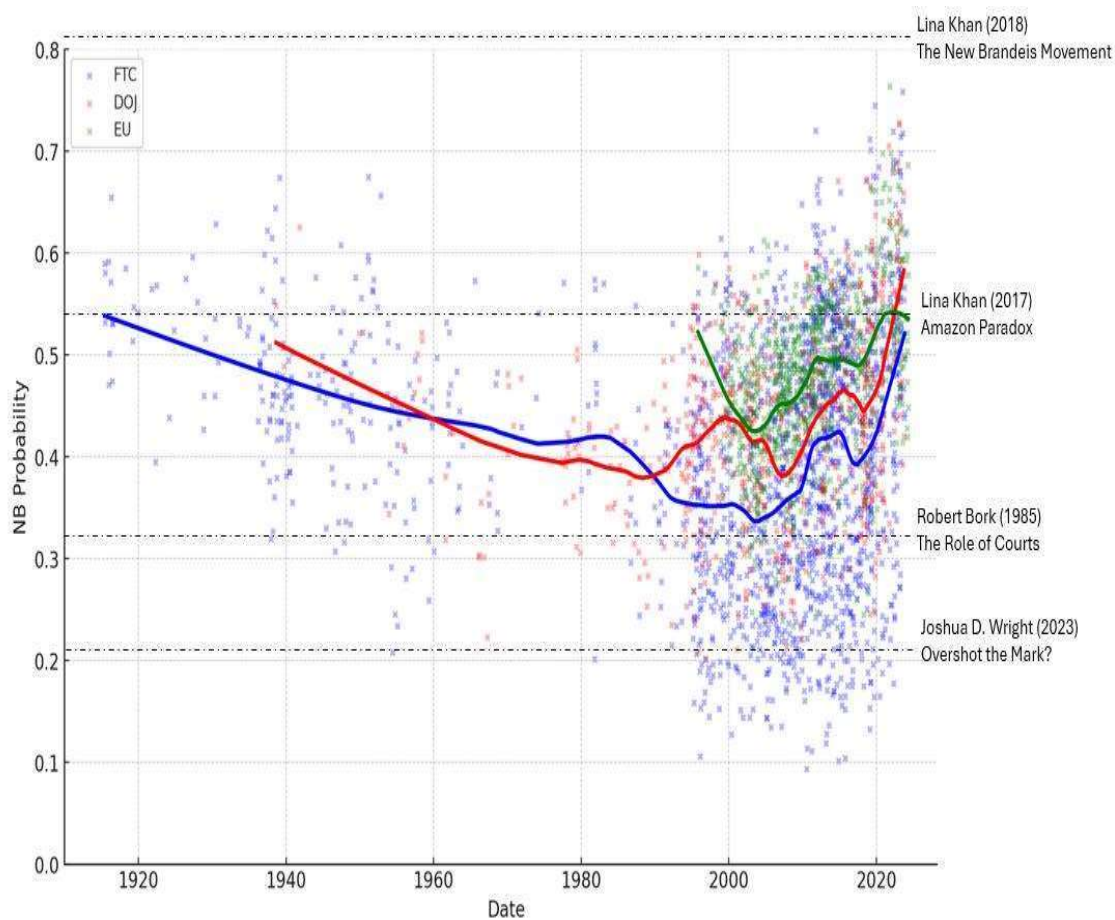
Figure 2 illustrates the trajectory of antitrust policy in the United States, showing that both the FTC and DOJ exhibited higher levels of the NB Probability Index during the active

---

<sup>7</sup> For discussion of deep learning and classifiers in Economic applications, see DELL, Melissa. *Deep Learning for Economists*. **NBER Working Paper Series n. 32768**. Cambridge - MA: National Bureau of Economic Research, aug. 2024. Available at: [https://www.nber.org/system/files/working\\_papers/w32768/w32768.pdf](https://www.nber.org/system/files/working_papers/w32768/w32768.pdf). Access in: 4 dez. 2024.

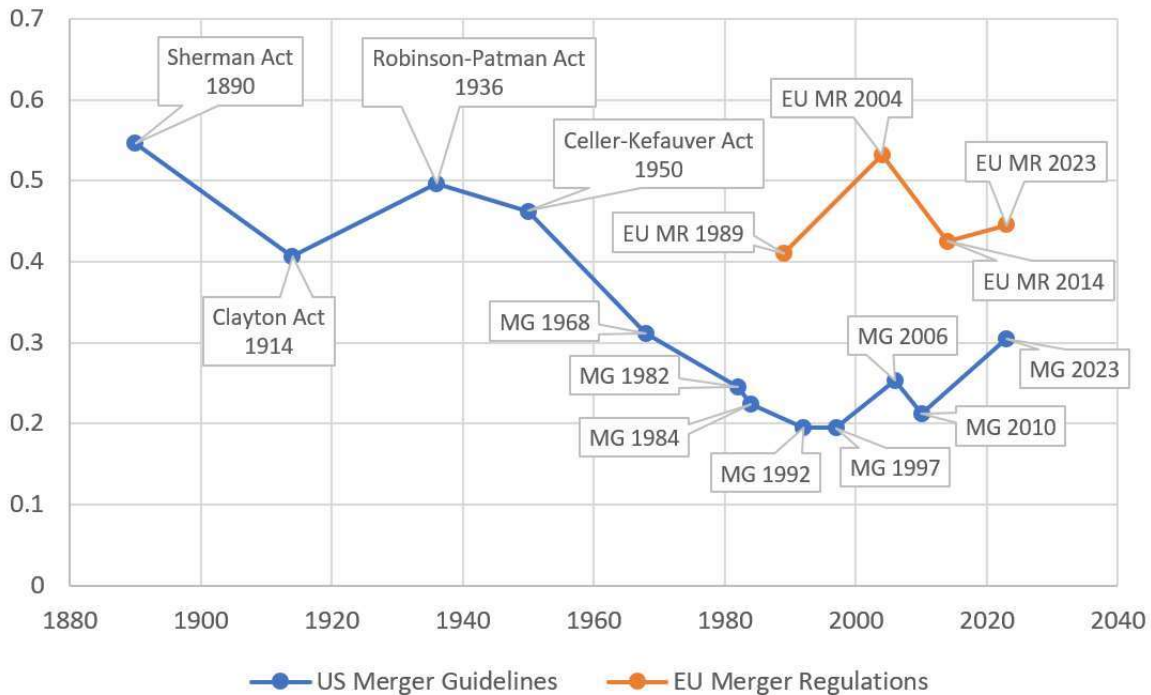
antitrust era leading up to the 1960s. This is followed by a marked decline in the late 1970s and early 1980s, coinciding with the rise of the Chicago School era. The resurgence of Neo-Brandeisian thinking, beginning in the 2000s and becoming more years, is also evident. While this shift alone does not constitute an antitrust revolution — I will explore the beliefs of other key players below—it is likely a necessary condition.

**Figure 2 – Evolution of antitrust beliefs - FTC, DOJ and EU Commission pronounced in recent**



**Source:** Created by the author using speeches by FTC commissioners (<https://www.ftc.gov/news-events/news/speeches>), DOJ Assistant Attorney General Antitrust Division and staff (<https://www.justice.gov/atr/speech/competition-advocacy-and-international-trade-new-role-antitrust-policy>), EU Commissioners (<https://www.justice.gov/atr/speech/competition-advocacy-and-international-trade-new-role-antitrust-policy>).

The graph further confirms the well-established fact that European antitrust policy has been more proactive than its U.S. counterpart in recent decades.

**Figure 3 – Neo-Brandeisian sentiment of antitrust legislation and guidelines**

**Source:** Calculated by the author from original texts.

## b) Merger Guidelines

Antitrust agencies operate under established legislation and are subject to judicial interpretation and regulatory oversight. A key tool these agencies have to try to shape antitrust enforcement is the issuance of merger guidelines. The first set of U.S. merger guidelines was introduced in 1968, with seven subsequent revisions, the most recent in 2023. Although merger guidelines are not legislation, they serve as a way for agencies to communicate the methodologies, criteria, and strategies they will employ when reviewing mergers. While not legally binding, these guidelines are typically developed through extensive consultation to ensure their credibility and adoption. Courts have often referenced merger guidelines in antitrust cases, making them a significant influence on antitrust policy as a whole.<sup>8</sup>

Figure 3 presents the evolution of the U.S. Merger Guidelines by analyzing their content through the NB probability algorithm, tracing changes across each revision since the first guidelines in 1968. For comparison, the analysis also includes four key antitrust statutes,

<sup>8</sup> SHAPIRO, Carl; SHELSKI, Howard. Judicial Response to the 2010 Horizontal Merger Guidelines. **Review of Industrial Organization**, The Industrial Organization Society, v. 58, n. 1, p. 51-79, feb. 2021. Available at: [https://ideas.repec.org/a/kap/revind/v58y2021i1d10.1007\\_s11151-020-09802-x.html](https://ideas.repec.org/a/kap/revind/v58y2021i1d10.1007_s11151-020-09802-x.html). Access in: 4 dez. 2024.

beginning with the Sherman Act of 1890. Additionally, the European Commission's horizontal merger guidelines are examined to highlight differences in merger regulation perspectives between U.S. and European antitrust approaches.

The results reveal a trajectory of antitrust sentiment in U.S. merger guidelines and legislation that closely mirrors the trends observed in FTC and DOJ speeches shown in Figure 2. Starting in the late 1960s, there is a notable shift toward alignment with Chicago School principles, a trend that continues in the ensuing decades. However, the most recent guideline review, proposed under the Neo-Brandeisian leadership appointed by the Biden administration to the FTC and DOJ, marks a shift towards a more proactive antitrust stance. The current guidelines still fall significantly below the NB probability level of the original antitrust statutes, indicating that the latest review may represent not the agencies' ideal outcome, but rather a strategic compromise based on what was achievable within the broader antitrust landscape.

Figure 3 also confirms the known fact that European antitrust policies, at least in the realm of merger guidelines, are more aggressive than those in the U.S.

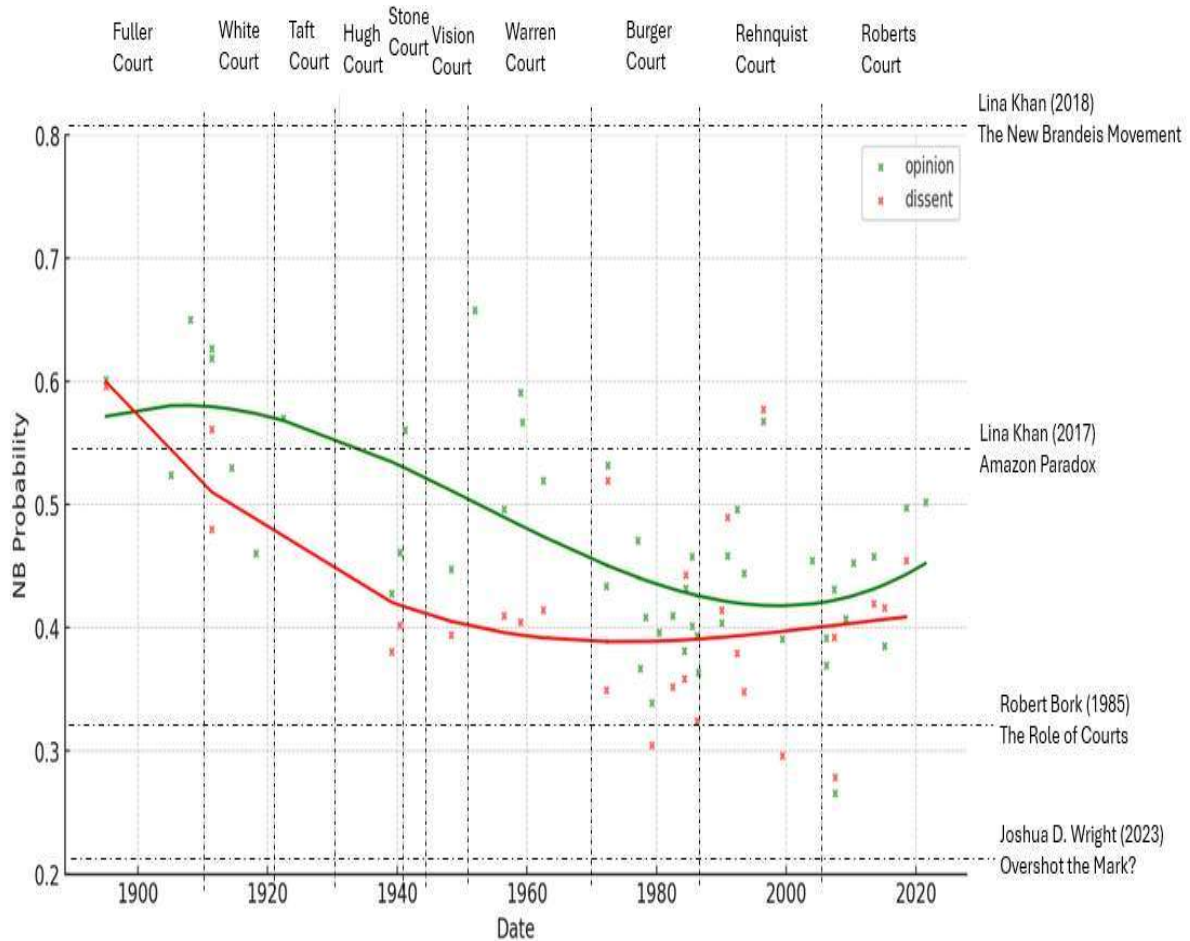
### **c) Supreme Court**

A crucial factor in the success of the Chicago School antitrust revolution in the late 1970s and early 1980s was the judiciary's full embrace of its tools and doctrine. Had judges not been persuaded to adjudicate antitrust cases according to these principles, it is unlikely that agencies could have sustained the hands-off consumer welfare-based approach so effectively. As suggested by the model in the previous section, for a new antitrust revolution to steer policy in a Neo-Brandeisian direction, a corresponding shift in the courts' perspective would likely be necessary. To assess whether such a shift is underway, I analyzed 48 Supreme Court decisions on antitrust issues since 1895. The findings, which differentiate between majority opinions and any dissents, are presented in Figure 4.

The results reveal a distinct shift in the Supreme Court's antitrust perspective, particularly after the 1980s, reflecting the growing use of Chicago School terms and thinking in both majority opinions and dissents. For comparison, the same four benchmark texts from Figure 2 are included. Note that Warren Court, known for its progressive rulings, is recognized by the algorithm as having some of the most (neo) Brandeisian opinions. Although the polynomial trendline fitted to the opinions appears to curve upwards in recent years, this is insufficient to conclude that the Court has begun a transition toward Neo-Brandeisian

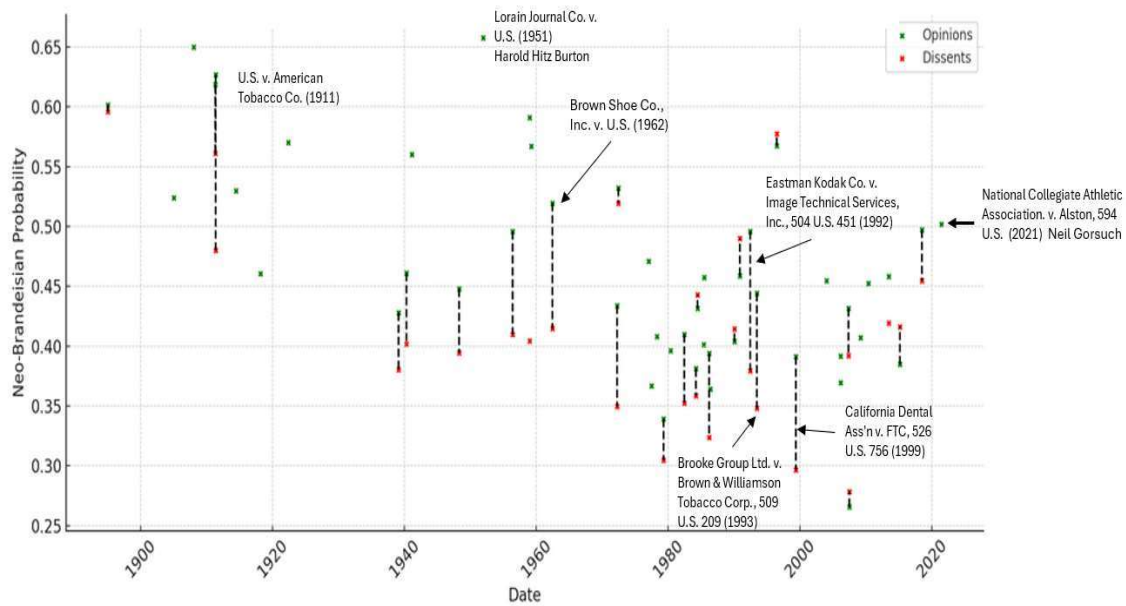
principles. A more definitive assessment would require examining more recent cases and potentially expanding the analysis to include lower courts.

**Figure 4 – Antitrust sentiment in Supreme Court opinions and dissents**



**Source:** Text data from <https://supreme.justia.com/cases-by-topic/antitrust/>. Fitted curves are polynomials instead of Lowess, due to smaller number of observations.

Figure 5 plots the same points but highlights selected cases and provides an indication of the level of disagreement between the majority opinion and the dissent. For cases in which there is a dissent, the level of disagreement seems to have reduced in the past 20 years. Also, dissents usually lean more toward Chicago School principles than opinions. The high disagreement in the *Brown Shoe Co. Inc. vs. U.S.* 1962 case matches this case’s prominence in antitrust discussions.

**Figure 5 – Level of disagreement between majority opinion and dissent**

**Source:** Text data from <https://supreme.justia.com/cases-by-topic/antitrust/>.

#### d) Senate Judiciary Committee

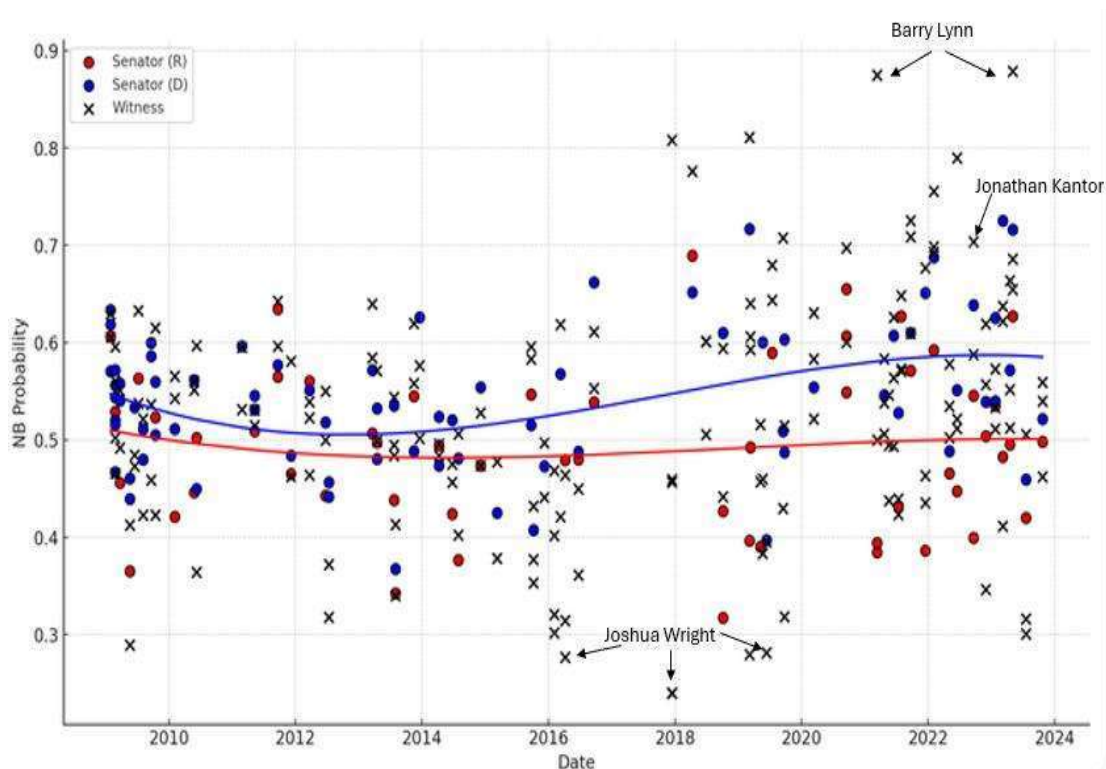
While courts and judges influence antitrust policy enforcement by the FTC and DOJ by defining legal standards, setting precedents, and reviewing appeals, Congress exerts more direct control over these agencies. In the U.S., this oversight is primarily exercised by the Judiciary Committees in both the House and Senate, particularly through their respective subcommittees on Antitrust and Consumer Rights. To a lesser degree, other committees and subcommittees, often those related to commerce, also play a role in addressing competition-related issues.

Congressional committees wield a powerful array of tools that are used to reward and punish antitrust agencies, effectively controlling their behavior. Key pressure points include: (i) the ability to approve or block executive appointments to critical positions in confirmation hearings; (ii) control over legislative appropriations, including how agency budgets are allocated and used; (iii) the power to enact new laws that can alter the agencies' mandates; and (iv) conducting periodic oversight hearings that demand significant time and resources from

agency leadership.<sup>9</sup> According to the theory of Congressional Dominance these powers enable effective control of agency behavior by Congress.

To analyze shifts in antitrust beliefs and attitudes within Congress, I examine 72 hearings of the U.S. Senate Committee on the Judiciary that addressed antitrust issues from 2009 to 2023. For each hearing, I analyze the opening speech of the presiding Senator and the subsequent speech from a senator of the opposing party. Additionally, I include the testimony or responses of two witnesses or invited experts for each hearing. The results are presented in Figure 6, which distinguishes senators from each party and marks witnesses with crosses. The figure also highlights a few witnesses with well-known antitrust positions to serve as benchmarks.<sup>10</sup>

**Figure 6 – Antitrust beliefs in the Senate Judiciary Committee**



**Source:** Speech transcripts from <https://oversight-index.thelugarcenter.org/committee-be88fc65-d2bb-43b0-be95-5eb18b5a4b2d/>

<sup>9</sup> KOVACIC, William E.; WINERMAN, Marc. The Federal Trade Commission as an independent agency: Autonomy, legitimacy, and effectiveness. *Iowa L. Rev.* **2085**, v. 100, n. 5, 15 may 2015. Available at: <https://ilr.law.uiowa.edu/print/volume-100-issue-5/the-federal-trade-commission-as-an-independent-agency-autonomy-legitimacy-and-effectiveness>. Access in: 4 dez. 2024.

<sup>10</sup> Jonathan Kantor is the DOJ attorney general for antitrust in the Biden Administration, Barry Lynn is liberal journalist that pioneered many of the ideas that were later taken on by the Neo-Brandeisians, and Joshua Wright is a former FTC commissioner and critic of Neo-Brandeisian ideas.

As anticipated, Republican senators generally delivered speeches more aligned with Chicago School principles compared to their Democratic counterparts, though the difference was minimal until 2014. Since then, there has been a slight widening of the gap. Notably, the estimated antitrust beliefs of Republicans on the committee have remained stable throughout the entire period; the observed divergence is entirely due to Democrats adopting more Neo-Brandeisian views. This shift primarily occurred between 2015 and 2021, a period during which Republicans held the Senate majority. Given the majority party's agenda-setting and other significant powers<sup>11</sup>, these findings underscore the crucial impact of majority control of the House and Senate on the consolidation of the Neo-Brandeisian revolution in antitrust.

#### **e) The President (Council of Economic Advisers)**

The President has multiple avenues to influence antitrust policy. By appointing the heads of the FTC and the Assistant Attorney General for the Antitrust Division of the DOJ, the President can place individuals with a preferred perspective on antitrust issues in these critical roles. This power is subject, however, to Senate confirmation, which can act as a constraint. Similarly, the President's authority to submit an annual budget, including funding allocations for the FTC and DOJ, can be altered by Congress. Additionally, the President shapes the interpretation of antitrust laws by appointing federal judges and can further influence policy by proposing or vetoing legislation. Other tools at the President's disposal include issuing executive orders that direct agencies to prioritize specific aspects of antitrust enforcement and using public statements and advocacy to sway public debate and guide the focus of enforcement efforts.

There is no recurring set of speeches or statements by the President on antitrust as there are for the antitrust agencies, judges, and congressional committees. The State of the Union Address could be examined but is not an ideal vehicle for our purpose given its generality and the absence of mentions of antitrust. Instead, I use the yearly Economic Reports of the President which are produced by the Council of Economic Advisers (CEA). The CEA reports directly to the President on economic issues and is composed mostly of renowned academic economists. The 2016 report contained a chapter celebrating the 70<sup>th</sup> anniversary of the council where Charles Schultze is quoted as noting that the "CEA regularly supported antitrust policies under

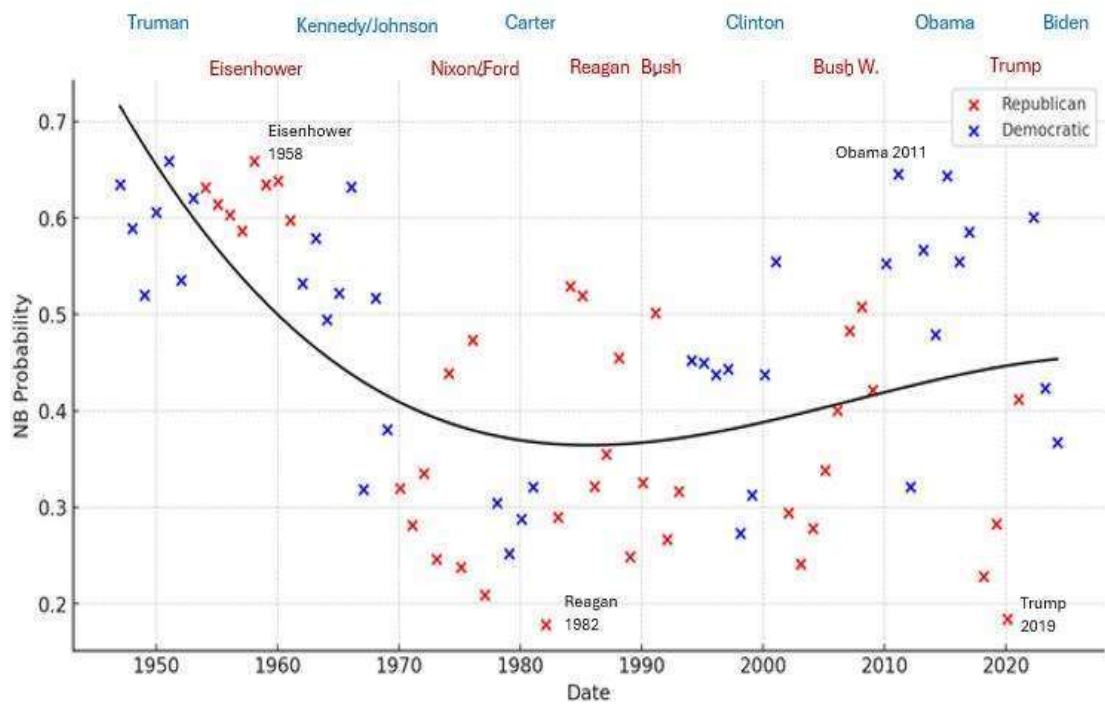
---

<sup>11</sup> COX, Gary W.; MCCUBBINS, Matthew D. **Legislative Leviathan: Party Government in the House**. 2.<sup>nd</sup> ed. Cambridge – MA: Cambridge University Press, 2010.



Eisenhower, Kennedy, Ford, and Nixon Administrations, but that its support for such policies waned during the 1980s as the economics profession's views shifted [...] in recent years, growing evidence of 'economic rents' has led CEA, along with many in the profession, to increasingly emphasize the importance of fostering more competitive markets as a means to address inequality and raise real incomes."<sup>12</sup>

**Figure 7 – Antitrust sentiment in the Economic Report of the President and CEA**



**Source:** Economic Report of the President – Council of Economic Advisers <https://www.presidency.ucsb.edu/documents/presidential-documents-archive-guidebook/the-economic-report-the-president-from-truman>.

Rather than submitting the entire report to the algorithm I selected the sections that deal specifically with issues of antitrust, competition and consumer protection. The results, presented in Figure 7, reveal once again the arc of antitrust. High Neo-Brandesian (NB) scores are evident in the 1950s and 1960s, followed by a decline from the 1970s through 2010, with an upward trend emerging thereafter. The figure also indicates that President Trump's 2017-2020 Council of Economic Advisers (CEA) was strongly aligned with the Chicago School on

<sup>12</sup> ECONOMIC REPORT OF THE PRESIDENT. **Together with the Annual Report of the Council of Economic Advisers – Transmitted to Congress February**, p. 328, 2016. Available at: <https://www.govinfo.gov/content/pkg/ERP-2016/pdf/ERP-2016.pdf>. Access in: 4 dez. 2024.

antitrust issues. This alignment suggests that, despite Trump's suspicion of big tech firms, a second term would likely offer resistance to the Neo-Brandeisian antitrust movement.

#### f) U.S. Chamber of Commerce

What is the key determinant of beliefs and preferences over antitrust? One prevalent hypothesis regarding what ultimately shapes the antitrust objectives of bureaucrats and politicians is that large businesses can influence their actions through lobbying and other forms of interest group pressure. This argument was recently articulated by Lancieri, Posner, and Zingales, who examined several different data sets to demonstrate that the decline in antitrust enforcement since the late 1970s cannot be attributed to elected officials or voter demand.<sup>13</sup> Instead, they conclude that “the major reason why the Chicago School prevailed and its dominance persisted for forty years is that business co-opted and promoted Chicago School thinking as a useful tool to advance its interests” (p. 4). The authors identify a 1971 memo to the U.S. Chamber of Commerce by corporate lawyer Lewis Powell, who later became a Supreme Court justice, as a pivotal moment when big business shifted from a more passive stance to investing heavily in lobbying public officials and politicians. Data on federal lobbying by McCarty and Shahshahani (2023), focusing on the top twenty spenders from 1999 to 2017, places the U.S. Chamber of Commerce at the top and includes several large firms with a clear interest in antitrust policy, such as AT&T (4th), General Electric (6th), Verizon (7th), Boeing (12th), Northrop Grumman (15th), Lockheed Martin (16th), Comcast (17th), ExxonMobil (19th), and Southern Company (20th).<sup>14</sup> More recent data from 2023 lists Meta and Amazon in the top positions, with Google in eighth, highlighting the growing influence of big tech in federal lobbying.<sup>15</sup>

While this paper does not aim to determine the extent to which business lobbying shapes antitrust policy, it is nonetheless of interest to estimate the Neo-Brandeisian (NB) score of communications from the U.S. Chamber of Commerce. Figure 8 presents three sets of data

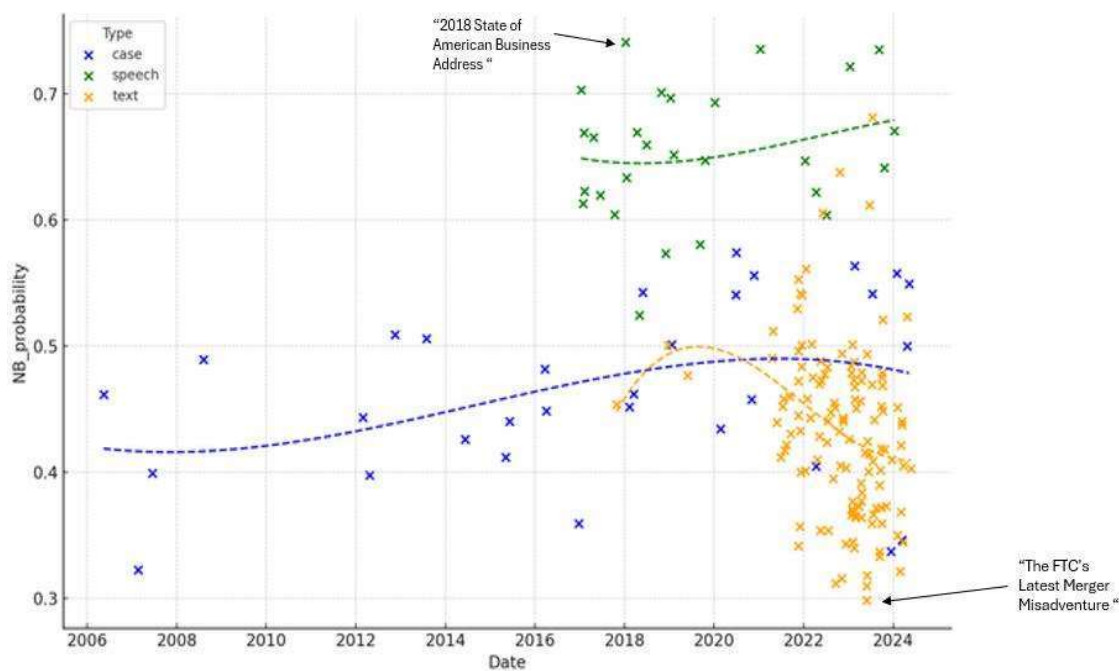
<sup>13</sup> LANCIERI, Filippo; POSNER, Eric A.; ZINGALES, Luigi. The Political Economy of the Decline of Antitrust Enforcement in the United States. **NBER Working Paper Series n.º 30326**. Cambridge – MA: National Bureau of Economic Research, aug. 2022. Available at: [https://www.nber.org/system/files/working\\_papers/w30326/w30326.pdf](https://www.nber.org/system/files/working_papers/w30326/w30326.pdf). Access em: 4 dec. 2024.

<sup>14</sup> SHAHSHAHANI, Sepehr; MCCARTY, Nolan. Testing Political Antitrust. **New York University Law Review**, v. 98, n. 1169, **Fordham Law Legal Studies Research Paper n.º 4363447**, 1.º nov. 2023. Available at: <https://ssrn.com/abstract=4363447>. Access in: 4 dez. 2024.

<sup>15</sup> QUIVER QUANTITATIVE. **Corporate Lobbying Dashboard**. Available at: <https://www.quiverquant.com/lobbying/>. Access in: 4 dez. 2024.

from the Chamber's communications: blog posts on antitrust-related issues (2017-2024), the Chamber's participation as amicus curiae in regulatory litigation (2006-2024), and speeches delivered by the Chamber's President at various events (2017-2024). Interestingly, these speeches exhibit high Neo-Brandeisian scores, maybe because they do not focus specifically on antitrust issues. The Chamber's amicus curiae briefs align more closely with Chicago School principles, though they have shown a slight increase in Neo-Brandeisian alignment in recent years. It is in the antitrust blog posts that the Chamber's opposition to Neo-Brandeisian ideas is most apparent. These blog posts have become increasingly acrimonious and aligned with Chicago School thought, particularly in response to the rise of Neo-Brandeisian leadership within the FTC and DOJ. This trend suggests that the lobbying power of big business may pose a significant obstacle to the continuation of the new antitrust movement.

**Figure 8 – Blogposts, speeches and amicus brief by the U.S. Chamber of Commerce**



**Source:** U.S. Chamber of Commerce <https://www.uschamber.com/>.

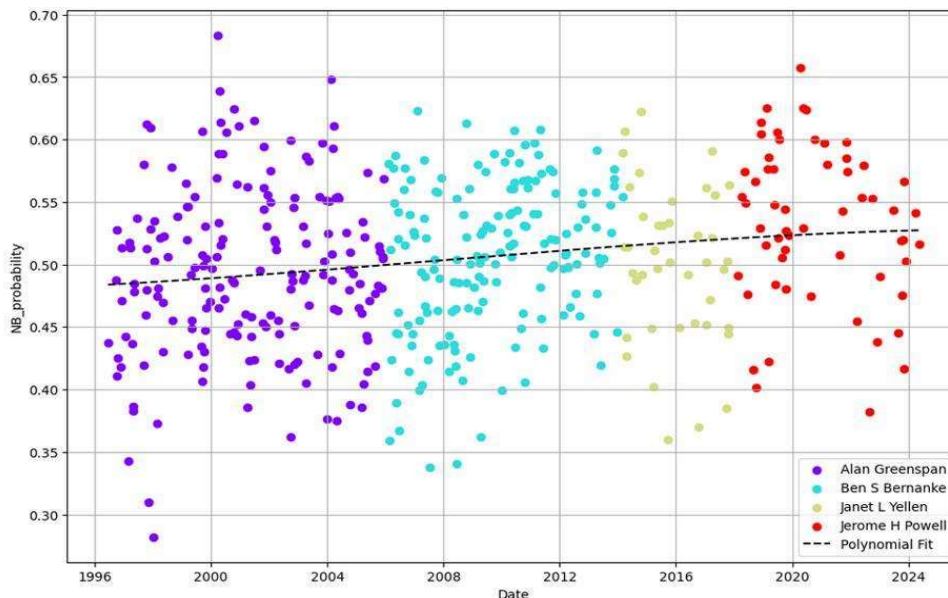
### g) Placebo Tests

Validation of the estimates presented in this paper has been conducted in two ways. First, the estimates have been compared against known historical events, such as the timing of the Chicago School antitrust revolution in the late 1970s and found to align closely with these

ground truths. Additionally, benchmark texts from key figures in antitrust, such as Robert Bork and Lina Khan, as well as prominent cases like the Brown Shoe opinion, have been analyzed and shown to conform to expectations, further supporting the accuracy of the estimates in capturing beliefs and preferences toward antitrust policy.

In this subsection, I present additional validation through placebo tests, where I estimate the NB-score of speeches that focus on areas outside of antitrust. If the algorithm employed here accurately measures antitrust beliefs, rather than capturing broader ideological cleavages, such as liberals versus conservatives or Republicans versus Democrats, then the estimates for these non-antitrust speeches should not exhibit the same patterns observed in the antitrust-specific data.

**Figure 9 – Speeches by Chairs of the Federal Reserve, 1997-2024**



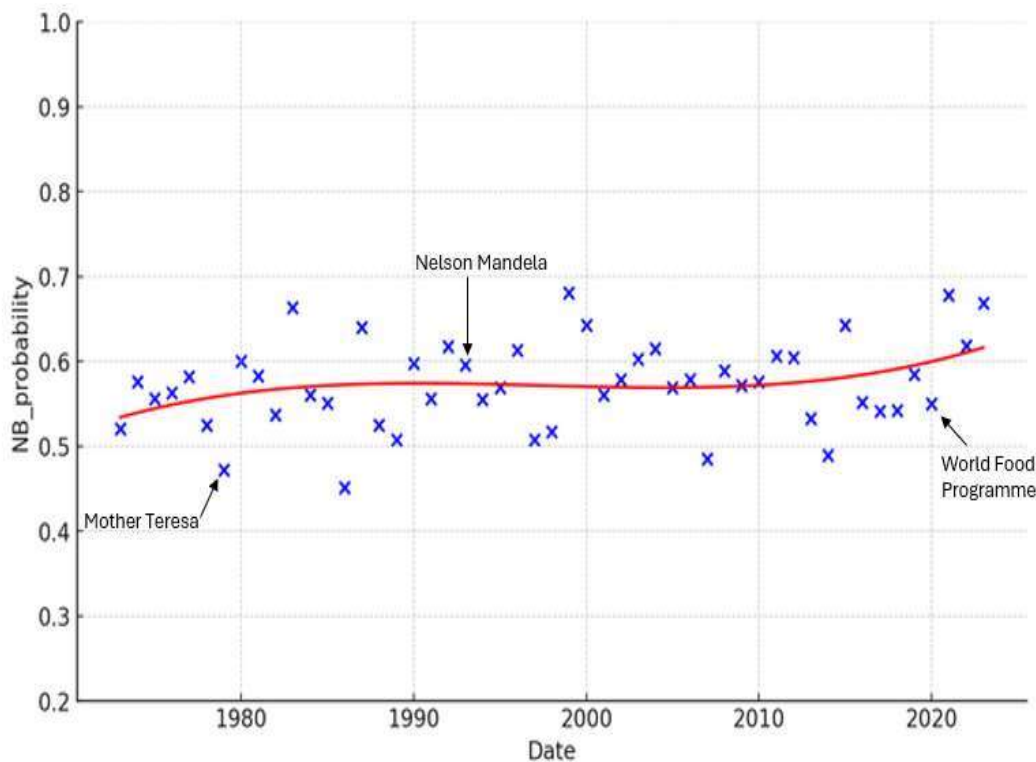
**Source:** Speeches of Federal Reserve Officials  
<https://www.federalreserve.gov/newsevents/speeches.htm>.

Figure 9 presents the estimates for speeches by the Chair of the Federal Reserve from 1997 to 2024. Although the Fed addresses economic issues that can occasionally overlap with antitrust - such as when lack of competition is cited as a factor in inflation - the two domains are distinct enough to make this comparison a nuanced placebo test. The results reveal a pattern that differs significantly from the antitrust-related data. This difference is not primarily in the average score, which shows a slight increase over the period, but rather in the high variance observed even within the same Chair's tenure. Even the speeches by Alan Greenspan, a

champion of free-market capitalism, are as likely classified as Neo-Brandeisian as they are Chicago School. This suggests that the algorithm is indeed capturing something specific to antitrust beliefs rather than general economic or political ideology.

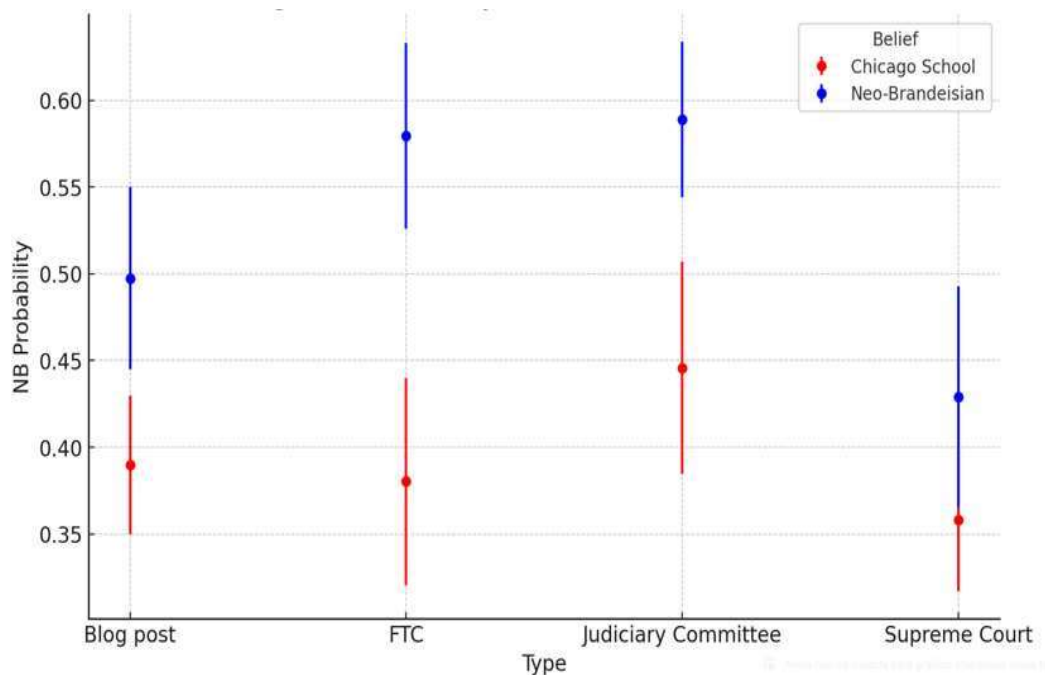
Figure 10 provides a non-economic placebo test. It presents the NB score for all Nobel Peace Prize recipients' speeches since 1973. The word 'antitrust' does not appear in any of the speeches and even 'competition' is used only twice, but not to refer to markets or firms. The estimates are essentially flat across the period examined, even though the speakers' perspectives vary from Mother Teresa to Henry Kissinger, Mikhail Gorbachev and the European Union.

**Figure 10 – Speeches by Noble Peace Prize Recipients – 1973 to 2023**



**Source:** The Speeches from the Nobel Peace Prize: <https://www.nobelpeaceprize.org/>.

A different form of validation is presented in Figure 11. I employed three AI models (ChatGPT-4o, Bing, and Claude) to generate synthetic content representing blog posts, FTC commissioners, Senate Judiciary Committee members, and Supreme Court judges. Each synthetic actor was prompted to hold either extreme Chicago School or Neo-Brandeisian positions, and I requested ten blog posts, speeches, or case opinions from each.

**Figure 11 – Synthetic texts with extreme Chicago School or Neo-Brandeisian alignment**

**Source:** Created by prompting Chat GPT 4o, Bing, and Claude to produce ten synthetic speeches / blog posts / opinions with extreme Chicago School or Neo-Brandeisian alignment.

The results demonstrate that the algorithm can effectively distinguish between these synthetic antitrust participants, even with only ten observations per group. The confidence intervals would likely be narrower with sample sizes similar to those used in the actual data. The area where the algorithm was less effective was in distinguishing Supreme Court judges, as even the synthetic Neo-Brandeisians tended to fall within the Chicago School territory.

#### 4 Conclusions: A New Antitrust Revolution?

Weingast and Moran's analysis of the Chicago School antitrust revolution in the late 1970s highlighted the effectiveness of congressional control over the FTC in previous decades.<sup>16</sup> They observed that the system of oversight was so robust that it operated almost

<sup>16</sup> WEINGAST, Barry; MORAN, Mark J. Bureaucratic Discretion or Congressional Control? Regulatory Policymaking by the Federal Trade Commission. *Journal of Political Economy*, v. 91, n. 5, p. 765-800, 1983. Available at: [https://econpapers.repec.org/article/ucpjpolec/v\\_3a91\\_3ay\\_3a1983\\_3ai\\_3a5\\_3ap\\_3a765-800.htm](https://econpapers.repec.org/article/ucpjpolec/v_3a91_3ay_3a1983_3ai_3a5_3ap_3a765-800.htm). Access in: 4 dez. 2024.

autonomously, with minimal active intervention from oversight committees. This "automatic pilot" mode of control was so ingrained that active, day-to-day oversight was unnecessary. However, when an exogenous shock occurred - the electoral turnover of the Senate Judiciary Committee in 1977 - the new political principals found it necessary to assert their control. This led to acrimonious oversight hearings and threats of punishment in the appointment and appropriation processes. Once the agency's course was realigned with the new political principals, these forms of control receded into the background, allowing the system to return to its more subtle, yet effective, mode of operation.

Whether or not one agrees with Weingast and Moran's interpretation of how the Chicago School antitrust revolution unfolded, it begs the question if a similar situation has arisen in the current Neo-Brandeisian antitrust revolution. The model presented in Section II explored the strategic interdependence between the FTC, the President, Congress, and the Courts. It presented a comparative static analysis in which a shift in the President's preferences led to new leadership at the FTC, moving the agency's preferred position from a Chicago School to a Neo-Brandeisian region of the graph. Assuming that the preferences of other key actors remained unchanged, this shift resulted in both the House and the Supreme Court being made worse off by the FTC's efforts to alter antitrust policy from the old status quo to its new preferred position. While these theoretical movements are not intended to precisely mimic or predict recent developments in U.S. antitrust - such analysis lies beyond the scope of this paper—it is nonetheless intriguing to consider whether this shift has ignited reactions from aggrieved parties of the type witnessed in the Chicago School revolution.

The shift in presidential preferences is evident in the Biden administration's Executive Order on Promoting Competition in the American Economy, issued just a few months after taking office in 2021.<sup>17</sup> This order unequivocally stated that it is "the policy of my Administration to enforce the antitrust laws to combat the excessive concentration of industry, the abuses of market power, and the harmful effects of monopoly and monopsony." The order specifically targets a range of sectors for active antitrust enforcement, including labor markets, agricultural markets, Internet platform industries, healthcare markets, and repair markets. It also addresses the growing influence of foreign monopolies and cartels, the need to lower prescription drug prices, and for a review of occupational licensing, among other priorities. By

---

<sup>17</sup> BIDEN JR, Joseph R. **The White House. Executive Order on Promoting Competition in the American Economy**, 9 jul. 2021. Available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>. Access in: 4 dez. 2024.

appointing Neo-Brandeisian champions to head the FTC and the DOJ, the President indicated that this order was not just political cheap talk.

This paper has demonstrated how beliefs within the FTC have shifted markedly under Neo-Brandeisian leadership (Figure 2). The agency's actions have changed accordingly. A significant milestone was the revision of the Merger Guidelines. Although these revisions may not have fully realized the aspirations of Neo-Brandeisian leaders, they nevertheless significantly advanced their agenda. The agency proactively investigated or moved to block dozens of proposed mergers, resulting in numerous settlements or the abandonment of merger plans. Prominently, the FTC challenged Big Tech by initiating cases against Amazon, Meta, and Microsoft, while the DOJ launched an important case against Google. Additionally, the FTC enacted a broad ban of non-compete clauses between employers and their workers. In doing so it has taken a broad view of the agency's rule-making authority. These efforts have not only brought antitrust issues into the public eye and sparked widespread debate but have also inspired a new generation of law students and other young people to embrace a Neo-Brandeisian perspective on antitrust law.

Despite the assertive approach under new leadership, the implementation of this agenda has encountered significant resistance. The shift in leadership style has led to dissatisfaction within the FTC, resulting in decreased employee engagement. Disagreements over management practices and accusations of abuse of power by Chair Lina Khan have culminated in the resignation of the two Republican commissioners.<sup>18</sup> The FTC's push towards more aggressive antitrust enforcement has faced multiple setbacks, including high-profile defeats in court like the Microsoft-Activision Blizzard case and the attempt to block Meta's acquisition of Within Unlimited. These challenges underscore the difficulties the agency faces in pursuing cases grounded in Neo-Brandeisian principles rather than established legal precedent.

The FTC's bold move to ban non-compete agreements has highlighted the challenges the Neo-Brandeisian agenda will face in advancing its new antitrust vision. The agency's ban swiftly faced a motion for a preliminary injunction in state court, and further legal challenges have since emerged.<sup>19</sup> This suggests that any resolution will likely be protracted, involving

---

<sup>18</sup> UNITED STATES. **Letter of resignation Christine S. Wilson** (Commissioner, U.S. Federal Trade Commission), 2 mar. 2023. Available at: [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p180200wilsonresignationletter.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p180200wilsonresignationletter.pdf). Access in: 4 dez. 2024.

<sup>19</sup> KONKEL, Mark A.; SEIDENBERG, Alex J. Not Dead Yet: Noncompetes Survive, the FTC Rule Doesn't (For Now). **Kelley Drye**, 9 jul. 2024. Available at: <https://www.kelleydrye.com/viewpoints/blogs/labor-days/not-dead-yet-noncompetes-survive-the-ftc-rule-doesnt-for-now>. Access in: 4 dez. 2024.



higher courts. Figure 4 suggests that the Supreme Court beliefs have not shifted in tandem with those of the antitrust agencies. The Supreme Court's 2024 decision to overturn the Chevron doctrine, for example, - which required courts to defer to federal agencies' interpretations of ambiguous laws - could undermine the FTC's authority to enact significant changes through its rule-making capabilities, closing an important tool for pushing forward the new antitrust revolution.<sup>20</sup>

Another important source of resistance to the FTC's efforts to reshape antitrust policy has been the House Judiciary Committee (see Figure 6), particularly since Republicans regained the House majority in 2022 (Democrats have held the Senate majority during this period). An oversight hearing in July 2023, where Chair Lina Khan testified, was notably contentious, characterized by allegations of mismanagement, ethical lapses, and accusations of obstruction and harassment. The FTC's recent track record in court cases was also ridiculed. Given the oversight committees' ability to reward or punish the FTC, these events highlight the strategic interdependence of antitrust policy on the preferences and powers of other institutional actors, who each possesses some means to obstruct or encourage block the agency's initiatives.

The evolution of antitrust beliefs estimated in this paper for key political actors involved in shaping antitrust policy suggests that, while the current alignment of preferences may not fully support a new antitrust revolution, a noticeable shift towards a Neo-Brandeisian stance is emerging among some of these actors. At present, the potential for a significant transition in antitrust policy appears to hinge on the evolving antitrust beliefs within the Judiciary and congressional oversight committees.

## 5 Bibliographic References

ASH, Elliot; CHEN, Daniel L.; NAIDU, Suresh. *Ideas Have Consequences: The Impact of Law and Economics on American Justice*. **NBER Working Paper Series n. 29788**. Cambridge - MA: National Bureau of Economic Research, 22 nov. 2024. Available at SSRN: <https://ssrn.com/abstract=4045366>. Access in: 4 dez. 2024.

AUER, Dirk; RADIC, Lazar. *The Legacy of Neo-Brandeisianism: History of Footnote?* **Network Law Review**, 9 jul. 2024. Available at: <https://www.networklawreview.org/auer-radic-brandeisianism/>. Access in: 4 dez. 2024.

BIDEN JR, Joseph R. **The White House. Executive Order on Promoting Competition in the American Economy**, 9 jul. 2021. Available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>. Access in: 4 dez. 2024.

---

<sup>20</sup> The Economist. What the Chevron ruling means for the next U.S. president. July 2024.

BORK, Robert H. The Role of the Courts in Applying Economics. **Antitrust Law Journal**, v. 54, n. 1, p. 21-26, 1985. Available at: <http://www.jstor.org/stable/40840819>. Access in: 4 dez. 2024.

COX, Gary W.; MCCUBBINS, Matthew D. **Legislative Leviathan: Party Government in the House**. 2.<sup>nd</sup> ed. Cambridge – MA: Cambridge University Press, 2010.

DELL, Melissa. Deep Learning for Economists. **NBER Working Paper Series n. 32768**. Cambridge - MA: National Bureau of Economic Research, aug. 2024. Available at: [https://www.nber.org/system/files/working\\_papers/w32768/w32768.pdf](https://www.nber.org/system/files/working_papers/w32768/w32768.pdf). Access in: 4 dez. 2024.

ECONOMIC REPORT OF THE PRESIDENT. **Together with the Annual Report of the Council of Economic Advisers – Transmitted to Congress February**, p. 328, 2016. Available at: <https://www.govinfo.gov/content/pkg/ERP-2016/pdf/ERP-2016.pdf>. Access in: 4 dez. 2024.

FORD, George S. **Dissatisfaction at the Federal Trade Commission: An Empirical Analysis of Size and Source**, 7 nov. 2022. Available at SSRN: <https://ssrn.com/abstract=4251566> or <http://dx.doi.org/10.2139/ssrn.4251566>. Access in: 4 dez. 2024.

KHAN, Lina M. Amazon's Antitrust Paradox. **The Yale Law Journal**, v. 126, n. 710, p. 710-805, 2017. Available at: [https://www.yalelawjournal.org/pdf/e.710.Khan.805\\_zuvfyeh.pdf](https://www.yalelawjournal.org/pdf/e.710.Khan.805_zuvfyeh.pdf). Access in: 4 dez. 2024.

KHAN, Lina M. The New Brandeis Movement: America's Antimonopoly Debate. **Journal of European Competition Law & Practice**, v. 9, n. 3, p. 131-132, mar. 2018. Available at: <https://academic.oup.com/jeclap/article/9/3/131/4915966>. Access in: 4 dez. 2024.

KONKEL, Mark A.; SEIDENBERG, Alex J. Not Dead Yet: Noncompetes Survive, the FTC Rule Doesn't (For Now). **Kelley Drye**, 9 jul. 2024. Available at: <https://www.kelleydrye.com/viewpoints/blogs/labor-days/not-dead-yet-noncompetes-survive-the-ftc-rule-doesnt-for-now>. Access in: 4 dez. 2024.

KOVACIC, William E. Root and Branch Reconstruction: The Modern Transformation of US Antitrust Law and Policy? **Antitrust**, Chicago, v. 35, n. 3, p. 46-56, 31 jul. 2021. Available at: [https://www.americanbar.org/groups/antitrust\\_law/resources/magazine/2021-summer/root-and-branch/](https://www.americanbar.org/groups/antitrust_law/resources/magazine/2021-summer/root-and-branch/). Access in: 4 dez. 2024.

KOVACIC, William E.; WINERMAN, Marc. The Federal Trade Commission as an independent agency: Autonomy, legitimacy, and effectiveness. **Iowa L. Rev.** 2085, v. 100, n. 5, 15 may 2015. Available at: <https://ilr.law.uiowa.edu/print/volume-100-issue-5/the-federal-trade-commission-as-an-independent-agency-autonomy-legitimacy-and-effectiveness>. Access in: 4 dez. 2024.

LANCIERI, Filippo; POSNER, Eric A.; ZINGALES, Luigi. The Political Economy of the Decline of Antitrust Enforcement in the United States. **NBER Working Paper Series n.º 30326**. Cambridge – MA: National Bureau of Economic Research, aug. 2022. Available at:

[https://www.nber.org/system/files/working\\_papers/w30326/w30326.pdf](https://www.nber.org/system/files/working_papers/w30326/w30326.pdf). Access em: 4 dec. 2024.

QUIVER QUANTITATIVE. **Corporate Lobbying Dashboard**. Available at: <https://www.quiverquant.com/lobbying/>. Access in: 4 dez. 2024.

SHAHSHAHANI, Sepehr; MCCARTY, Nolan. Testing Political Antitrust. **New York University Law Review**, v. 98, n. 1169, **Fordham Law Legal Studies Research Paper n.º 4363447**, 1.º nov. 2023. Available at: <https://ssrn.com/abstract=4363447>. Access in: 4 dez. 2024.

SHAPIRO, Carl; SHELANSKI, Howard. Judicial Response to the 2010 Horizontal Merger Guidelines. **Review of Industrial Organization**, The Industrial Organization Society, v. 58, n. 1, p. 51-79, feb. 2021. Available at: [https://ideas.repec.org/a/kap/revind/v58y2021i1d10.1007\\_s11151-020-09802-x.html](https://ideas.repec.org/a/kap/revind/v58y2021i1d10.1007_s11151-020-09802-x.html). Access in: 4 dez. 2024.

SHAPIRO, Carl; YURUKOGLU, Ali. Trends in Competition in the United States: What Does the Evidence Show? **NBER Working Paper Series n. 32762**. Cambridge – MA: National Bureau of Economic Research, aug. 2024. Available at: [https://www.nber.org/system/files/working\\_papers/w32762/w32762.pdf](https://www.nber.org/system/files/working_papers/w32762/w32762.pdf). Access in: 4 dez. 2024.

THE ECONOMIST. **What the Chevron ruling means for the next U.S. president?** Washington – DC: 4 jul. 2024. Available at: <https://www.economist.com/united-states/2024/07/04/what-the-chevron-ruling-means-for-the-next-us-president>. Access in: 4 dez. 2024.

UNITED STATES. **Letter of resignation Christine S. Wilson** (Commissioner, U.S. Federal Trade Commission), 2 mar. 2023. Available at: [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p180200wilsonresignationletter.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p180200wilsonresignationletter.pdf). Access in: 4 dez. 2024.

WEINGAST, Barry R.; MORAN, Mark J. Bureaucratic discretion or congressional control? Regulatory Policymaking by the Federal Trade Commission. **Journal of Political Economy**, University of Chicago Press, v. 91, n. 5, p. 765-800, oct. 1983. Available at: [https://www.researchgate.net/publication/24108272\\_Bureaucratic\\_Discretion\\_or\\_Congressional\\_Control\\_Regulatory\\_Policymaking\\_by\\_the\\_Federal\\_Trade\\_Commission](https://www.researchgate.net/publication/24108272_Bureaucratic_Discretion_or_Congressional_Control_Regulatory_Policymaking_by_the_Federal_Trade_Commission). Access in: 4 dez. 2024.

WRIGHT, Joshua D. Overshot the Mark? A Simple Explanation of the Chicago School's Influence on Antitrust, 31 mar. 2009. **Competition Policy International, Forthcoming, George Mason Law & Economics Research Paper no. 09-23**. Available at: <https://ssrn.com/abstract=1370641>. Access in: 4 dez. 2024.