# eu 1nc

## fw

#### I value morality as the ought in the res implies moral obligation.

#### The standard is maximizing expected well being. Prefer –

#### 1] Only pleasure and pain are intrinsically valuable – all other frameworks collapse.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281]

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

### T-Reduce

#### 1] Interpretation – “Reduce” means to annul.

Black’s Law 90 Black’s Law Dictionary 2ND ED. “Reduce” <https://dictionary.thelaw.com/reduce/> //Elmer

In Scotch law. **To rescind or annul**.

#### That means the Aff has to cancel IP protections in their entirety, they can’t just modify it.

Black’s Law 90 Black’s Law Dictionary 2ND ED. “Annul” <https://thelawdictionary.org/annul/>

//Elmer

**To cancel**; **make void ; destroy.** To annul a judgment or judicial proceeding is to **deprive it of all force and operation**, either a6 initio or prospectively as to future transactions. Wait v. Wait, 4 Barb. (N. Y.) 205; Woodson v. Skinner, 22 Mo. 24; In re Morrow’s Estate, 204 Pa. 484, 54 Atl. 342.

#### 2] Violation – They don’t remove the IP, the Trade Secret still has the same protection under law, it cannot be disclosed unless disclosure is in the public interest – the Aff only shifts who has to prove that NOT the actual protection (that’s their own abazi evidence)

#### 3] Standards –

#### a] Limits – Allowing the Aff’s to deal with the enforcement of IP rather than the actual protection explodes the topic – Affs can modify court proceedings, specify which courts hear the cases, how long those proceedings last, which agencies pursue legal action, etc. – it gets rid of a predictable stasis by shifting the debate away from IPP good/bad.

#### b] Neg Ground – Shifting the topic to enforcement means DAs like Biotech, innovation, Politics no longer apply since the Aff doesn’t have to reduce anything related to the IPP itself

#### 4] TVA – eliminate Trade Secret protection of Pharma to eliminate deterrent litigation against whistle-blowers since there’s no longer a legal basis for enforcement.

**D] Paradigm Issues –**

**1] T is DTD – A] their abusive advocacy skewed the debate from the start B] DTA is incoherent because we indict their advocacy**

**2] Comes before 1AR theory -- A] If we had to be abusive it’s because it was impossible to engage their aff B] T outweighs on scope because their abuse affected every speech that came after the 1AC C] Topic norms outweigh on urgency – we only have a few months to set them**

**3] Use competing interps on T – A] topicality is a yes/no question, you can’t be reasonably topical B] only our interp sets norms -- reasonability is arbitrary and invites judge intervention C] reasonability causes a race to the bottom of questionable argumentation**

## t- states

#### Interp and violation: "The member nations" denotes the totality of member nations in the WTO. The aff may not defend a subset of WTO member nations ought to reduce IP protections for medicines.

Sharvy 80 [Richard Sharvy, philosopher. "A More General Theory of Definite Descriptions on JSTOR," The Philosophical Review, Vol. 89, No. 4, Oct. 1980, accessed 8-22-2021, https://www.jstor.org/stable/2184738] HWIC

3. Definite Plural Descriptions. Phrases like 'the sheep in New Zealand' and 'the people in Auckland' are also ordinary and common definite descriptions, and they do denote. But because their contained predicates are plural predicates like 'are people in Auckland', which apply to more than one object, such expressions are not subject to a Russellian analysis. There is no such thing as (ax \* x are people in Auckland), since a number of distinct items satisfy the predicate-the men in Auckland are people in Auckland, and so are the women in Auckland and the children in Auckland. The definite plural description 'the people in Auckland' designates the sum or totality of all the people in Auckland. This is the sum of all that to which the predicate 'are people in Auckland' applies: the sum of all the items such as the women in Auckland, the children in Auckland, etc., that satisfy the plural predicate 'are people in Auckland'. What sort of entity is the denotation of a definite plural description such as 'the children in Auckland'? A first attempt might be to say that such expressions denote sets or classes. Then a sum of such items would be the union of such classes. Russell would insist on calling the people in Auckland a "class as many" (1903, pp. 68-72, 76-77). But if the predicate 'are people in Auckland' is taken to apply to x just if x is a set of people in Auckland,5 then the definite plural description 'the people in Auckland' refers to the union of these sets: U {x: x is a set of people in Auckland). So let us first consider set-theoretic union as a candidate for the sort of sum needed here in the analysis of definite plural descriptions. This might seem more complicated than '{x: x is a person in Auckland)', which refers to the same class. But the former expression has the advantage of preserving the predicate as a plural predicate, as it appeared in the original definite plural description. A standard definition of union is U a = {x: (ay) (x ecy .y E a)) (cf. Quine 1963, p. 53). In my notation this would be written: Ua = {x:xe(Qy yEa)) -the x's that are a member of some member of a. Quine observes 5I do not say 'nonempty' simply because it would be redundant: no class of people is empty. I do include the singletons, so that {Sharvy} are people in Auckland. This might seem odd. However, the instances or instantiations of 'all men are mortal' include sentences like 'Sharvy is mortal' along with sentences like 'the men in Auckland are mortal'; thus, the plural does include the singular. Notice that 'all men are mortal' should be symbolized '(x) (x are men D x are mortal)'; logic students are generally wrongly taught to write '(x) (x is a man D x is mortal)', which is more properly a symbolization of 'every man is mortal', which has the singular subject 'every man'. 616 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions DEFINITE DESCRIPTIONS that if everything is a class, this definition implies that the union U {x} of a singleton is its member x; this effect is preserved for an apparent nonclass by identifying it with its own unit class. So with this convention, if G applies to exactly one object, then U {x: Gx} = ( 7x . Gx ). So the Russellian definite singular description again emerges, here as a species of definite plural description.6 This would occur with, e.g., 'the men in this room' if there were exactly one man in the room. Notice also that plural predicates, like mass predicates, are cumulative: any sum of parts which are cats are cats. So 'G(the G)' holds for any instantiated plural predicate when 'the G' is defined as such a sum: the men in Auckland are men in Auckland, the poor are poor, etc. The analysis of definite plural description as union is not entirely satisfactory. One reason is that it explicitly uses the mechanism of class abstraction and the membership relation in a way that requires that such definite plural descriptions do denote classes. Now there is no problem about what 'the people in Auckland' denotes: it denotes the people in Auckland. Whether the people in Auckland are a set or class is an ontological question that should be discussed elsewhere. (Indeed, ontological questions generally should be independent of a theory of descriptions: we should be able to explain phrases like 'the first symphony of Beethoven' without discussing the ontological nature of symphonies.) My aim here is simply to explain plural definite descriptions like 'the people in Auckland' in a way that remains neutral on that ontological question by avoiding explicitly settheoretic notions. Another reason to turn away from the above analysis of 'the C as 'U {x: Gx}' is that it lacks generality. It lets in too much 6 I thank W. V. Quine for calling my attention to this passage. 'one object' means 'one class'. Consider the predicate 'are men and women in this room', and suppose the room contains just one man, m, and one woman, w. Then only one object, {m,w} satisfies that predicate, and U {a: a are men and women in this room) = U {{m,w}} = {m,w} = (7a a are men and women in this room). See note 8 also. Consider the definite description 'the square root of 2'. This is ordinarily used to refer to the positive square root of 2. My theory explains this; if real numbers are defined in the usual way as lower cuts of rationals (cf. Russell 1903, ch. 33), the positive root is the union of the negative and positive roots. 617 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions RICHARD SHARVY when applied to a singular definite description whose contained predicate applies to more than one object: 'the author of PM' would denote {Whitehead, Russell). This was Frege's convention (?1 1), but it is clearly artificial; 'the author of PM' should fail to denote. And finally, 'U {x: Gx)' just doesn't look enough like the analysis given earlier of definite mass descriptions. Mass terms and plural terms are alike in numerous ways, and it would be nice if their uses in forming definite descriptions had analyses that reflected this similarity. Specifically, we should express summation without using the membership relation e, which has no analogue in the semantics of mass terms. The solution is to observe that there is a part of relation available: the men in Auckland are part of the people in Auckland. (This relation looks very much like the relation of being a nonempty subset of.) Writing it as '<', we may then define 'the G' for plural predicates as (4) above: sm G that all G are part of. The requirement in (4) that x satisfy G is useful for distinguishing the definite plural description 'the authors of PM' from the definite singular description 'the author of PM'. The former denotes Whitehead and Russell, as it should.7 Without the requirementhat x satisfy G, using (1) or simply union, so would the latter. But although Whitehead and Russell are authors of PM, they are not an author of PM. That requirement also leads to the intuitively correct results for expressions like 'the Wilmington Ten' and 'the five men in this room'. If there are only four men in this toom, the description 'the five men in this room' fails to denote because the predicate 'are five men in this room' applies to nothing. If there are six men in this room, then that description also fails to denote-not because that predicate applies to more than one item (i.e., to every part of the six containing just five men), but because it fails to apply to their sum. A word of caution about part is needed here. I am taking it in what I think is its plain and ordinary sense. However, Goodman, Quine, and other writers on the theory of parts (mereology) have used it in an extended sense which is not appropriate here. 7 But it does not denote Whitehead, and it does not denote Russell. The property of being denoted by an expression is not dissective. I may refer to something without referring to each of its parts. 618 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions DEFINITE DESCRIPTIONS The difference is that these writers combine mereology with a kind of materialism. (An exception is Foradori.) Thus Quine writes, "there are parts of water, sugar, and furniture too small to count as water, sugar, furniture" (1960, p. 99). Here, by 'parts of furniture' he means something like 'spatiotemporally determined parts of the material constituting the world's furniture'; by 'parts of water' he means 'spatiotemporally determined parts of the world's water'. However, in the ordinary sense of 'part', the parts of water are hydrogen and oxygen. In the ordinary sense of part, shrimp is a part of shrimp salad. Here, the words 'shrimp' and 'shrimp salad' refer to types or kinds, and not to the world's shrimp and the world's shrimp salad. Indeed, the world's shrimp is not part of the world's shrimp salad. Now, my furniture is part of the world's furniture, and the chair in my billiard room is part of my furniture. But is a leg of that chair part of my furniture? I doubt it. In a distinguishable sense of 'part', a leg of my chair is a part of that chair and a part of my furniture. In the plural of that same sense, the legs are parts of my furniture. But those legs are not part of my furniture. The matter of the legs is part of the matter of the furniture; also, the chairs in my billiard room are part of my furniture. But the legs of the chairs are not part of the furniture. The men in Auckland are part of the men and women in Auckland, but the arms of the men in Auckland are not part of the men and women in Auckland. The explanation is not that the arms fail to satisfy the contained predicate 'are men and women in Auckland', for the men in Auckland also fail to be men and women in Auckland. Rather, the explanation is that x are part of y in this ordinary sense just if x are some ofy. Notice the difference between 'some' and 'some of. It's true that some of the men and women in Auckland are men, but false that some men and women in Auckland are men. It's true that some of the whiskey-and-water inmy glass is water, but false that some whiskey-and-water inmy glass is water. 'part of' and 'some of' seem to be synonymous here; examples like these occur with mass and plural predicates that are not dissective. The legs of my chair are not part of my furniture, because 619 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions RICHARD SHARVY it's false that they are some of my furniture. Given our understanding of 'part' then, being furniture and being men in Auckland are dissective properties; it is compounds like 'are men and women' that fail to be dissective. So only articles of furniture count as part of my furniture. It is a totally distinct feature of Goodman's system that causes his notion of 'part' to be broader than mine, so that, e.g., the chair legs are also part of my furniture. That feature is a sort of materialism. The set of my tables # the set of my table tops and legs; but the matter of my tables = the matter of my tops and legs. If we remove this materialism from mereology, we have a purer theory of part and whole, and consequently of sum. The mereological sum, then, of my articles of furniture is my furniture, and not the matter of my furniture. With this ordinary and intended sense of 'part', then, the expressions 'the counties of Utah' and 'the townships of Utah' will have distinct denotations, as they should. Without the distinction made above, they might appear to collapse into the same object, since the territory occupied by the counties is identical to that occupied by the townships; (px) (x is territory of (b.y) (y are counties, etc.) ) = etc. What sort of entity is denoted by the definite plural description 'the men in Auckland'? This question contains the mistaken implication that this phrase denotes a single entity. But the phrase 'the men in Auckland' obviously denotes the men in Auckland. One might ask, "What sort of entities are those?" But the answer is easy: they are entities that eat, drink, sleep, and are numerous. The error to avoid is an insistence on the singular. 'the men in Auckland' is not a singular term-it is a plural term. This should hardly need to be said. But some writers have gone astray by failing to see that plurals are plural, and so insisting that they must denote something singular. For example, Richard E. Grandy says that in the sentence 'Lions are widespread', " 'lions' must be a singular [sic] term denoting the class of lions" (p. 297). Given this, it will follow that a certain class is widespread (which does not seem as odd to me as it might to many). But what seems odd is that Grandy claims that it does not follow from his statement that any class is widespread; apparently 620 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions DEFINITE DESCRIPTIONS he prefers to give up the indiscernibility of identicals rather than the dogma that classes are "abstract." Now the words 'set' and 'class' have uses as dummy nominal measure words whose only function is the syntactic one of turning a plural into an apparent singular: the rational numbers are countable -- the set of rational numbers is countable. But no semantic consequences follow from such a use of the words 'set' and 'class'. The rational numbers are the set of rational numbers; the set of rational numbers is the rational numbers. The people in this room weigh 1000 kilograms; the set of people in this room weighs 1000 kg. The men in this room are not abstract; the set of men in this room is not abstract. We can avoid Grandy's contortions simply by taking the plural seriously as a plural, and abandoning the fetish for the singular that pervades contemporary decadent Western ontology. Along these same lines we can affirm that (i) 'the world's lions are widespread' and (ii) 'the world's lions are mammalian' do have the same logical form. In particular, the form of (ii) is 'Ml' and not '(x)(Lx D Mx)'; this is clear for (i). Question: how, then, does (ii), along with 'Aslan is a lion' imply 'Aslan is mammalian'? Answer: the implication is not a formal one at all, but depends on the fact that 'are mammalian' is dissective; 'are widespread' is not dissective. This situation is quite familiar: 'Ben weighs less than 60 kg' and 'Ben's nose is part of Ben' imply 'Ben's nose weighs less than 60 kg'. But again, the implication is not formal-it is not due to the logical form of these statements (this is easily seen by putting 'more' for 'less'). Rather, the implication holds because 'weighs less than 60 kg' is dissective. 4. Conclusion. For any given predicate G there is an appropriate part of or some of relation ? on the extension of G.8 Notice that 8The structure <{x: Gx},?) is often a mereology, i.e., a model of the so-called calculus of individuals. But it may fail to be a mereology. Idefine a quasi-mereology to be any structure (S, ?) where ? partially orders S (reflexive, transitive, antisymmetric), and where the <-least upper bound of a is a member of S for every nonempty subset a of S. One interesting type of quasi-mereology results from taking the algebraic direct product of two 621 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions RICHARD SHARVY for most singular count predicates, < is just the identity relation: for 'is a shoe I own' < is the identity relation, for the extension of that predicate contains no two objects of which either is part of the other. Regardless of how many shoes I own, x - y only if x = y, for every x and y in that domain. In all such cases, '( px Gx )' defined as (4) comes out as desired, designating the gold in Zurich or the men in Auckland; and if I own just one shoe, '( pxS x is a shoe I own)' designates it, but otherwise that description fails. The analysis of 'the G' as (4) is therefore a general theory of definite descriptions, of which definite mass descriptions, definite plural descriptions, and Russellian definite singular count descriptions are species.9 full mereologies. (This description of the situation is due to Mark Nixon.) For example, (M, ) X <W. 5), where M is the set of sets of men and W is the set of sets of women, is isomorphic to (MW, 5), where MW is the set of sets of men and women, i.e., of sets containing at least one man and one woman. (MW, C ) is simply the corresponding quasi-mereology of the predicate 'are men and women'; this predicate is satisfied by the people in Auckland (they are men and women), but not by the men in Auckland. The structure fails to be a mereology because it is not properly closed under subtraction: there are sets a, b, each of which are men and women, and where a - b is not null yet fails to be men and women; a - b might just be men. However, we can combine the mereologies (M, C) and <W, 5) so that a mereology results. Add the null element to each, take the direct product, and then remove the null element: ((M U {4}, 5) X (W U {4}, 5))- ((4,4), 5). This is isomorphic to the mereology corresponding to the predicate 'are adults', i.e., to the set of nonempty subsets of the set of all men and women, under subset: V(P(U (M U W)) - {4}, C). 9 We have an account of the generic 'the' along these same lines. The New Zealand Flag is a New Zealand flag to which every New Zealand flag bears a certain relation ?. This seems a little more natural if we add the syllables 'akes' or 'icipates' to the word 'part' in reading '<' here: the New Zealand Flag is that New Zealand flag in which every New Zealand flag participates. The fact that it participates in itself does not lead to a "third man" regress, because participation in, as a variant of the part of relation, is not used to explain predication; predication remains primary. Of course, nothing in my discussion requires that there be such an entity (nor does anything here count against it). My theory is quite neutral. If there is such an entity, '( px x is a New Zealand flag)' picks it out. If there is no such entity, but merely a number of flags none of which bears ? to anything but itself, then ? is coextensive with the identity relation on those flags, and the situation is the same as for 'my shoe'. John Bacon, however, claims 622 This content downloaded from 92.63.104.30 on Sat, 28 Jun 2014 13:35:30 PM All use subject to JSTOR Terms and Conditions DEFINITE DESCRIPTIONS With this analysis and some thought about examples of definite mass descriptions and definite plural descriptions, we see that the primary use of 'the' is not to indicate uniqueness. Rather, it is to indicate totality; implication of uniqueness is a side effect.

#### The resolution is generic: 1] "nations ought to reduce IPP for medicines" doesn't imply political bodies ought to b/c there might not be an obligation for terrorist groups or the UN 2] "nations generally ought to reduce IPP for medicines" doesn't substantially change the meaning

**1] Limits: there are over 22k affs accounting for combinations of countries, exploded by "reduce" not implying complete elimination and "medicines" allowing specification – unlimited topics incentivize obscure affs that negs won’t have prep on – limits are key to reciprocal prep burden**

**D] c/a paradigmn issues**

## Innovation DA

#### Strong current IP guarantees causes massive Pharma innovation.

Stevens and Ezell 20 Philip Stevens and Stephen Ezell 2-3-2020 "Delinkage Debunked: Why Replacing Patents With Prizes for Drug Development Won’t Work" <https://itif.org/publications/2020/02/03/delinkage-debunked-why-replacing-patents-prizes-drug-development-wont-work>

The **Current System** Has **Produced a Tremendous Amount of Life-Sciences Innovation** The frontier for biomedical innovation is seemingly limitless, and the challenges remain numerous—whether it comes to diseases that afflict millions, such as cancer or malaria, or the estimated 7,000 rare diseases that afflict fewer than 200,000 patients.24 And while certainly citizens in developed and developing nations confront differing health challenges, those challenges are increasingly converging. For instance, as of this year, analysts expect that **noncommunicable** diseases such as cardiovascular disease and diabetes will account for 70 percent of natural fatalities **in developing countries**.25 Citizens of low- and middle-income countries bear 80 percent of the world’s death burden from cardiovascular disease.26 Forty-six percent of Africans over 25 suffer from hypertension, more than anywhere else in the world. Similarly, 85 percent of the disease burden of cervical cancer is borne by individuals living in low- and middle-income countries.27 To develop treatments or cures for these conditions, novel biomedical innovation **will be needed from everywhere**. Yet tremendous progress has been made in recent decades. To tackle these challenges, the global pharmaceutical industry invested over **$1.36 trillion in R&D** in the decade from 2007 to 2016—and it’s expected that annual R&D investment by the global pharmaceutical industry will reach $181 billion by 2022.28 In no small part due to that investment, **943 new active substances have been introduced** globally over the prior 25 years.29 The U.S. Food and Drug Administration (FDA) has approved more than **500 new medicines since 2000** alone. And these medicines are getting to more individuals: Global medicine use **in 2020 will reach 4.5 trillion doses**, up 24 percent from 2015.30 Moreover, there are an estimated 7,000 new medicines under development globally (about half of them in the United States), with 74 percent being potentially first in class, meaning they use a new and unique mechanism of action for treating a medical condition.31 In the United States, over 85 percent of all drugs sold are generics (only 10 percent of U.S. prescriptions are filled by brand-name drugs).32 And while some assert that biotechnology companies focus too often on “me-too” drugs that compete with other treatments already on the market, the reality is many drugs currently under development are meant to tackle some of the **world’s most intractable diseases**, **including cancer and Alzheimer’s**.33 Moreover, such arguments miss that many of the drugs developed in recent years have in fact been first of their kind. For instance, in 2014, the FDA approved **41 new medicines** (at that point, the most since 1996) many of which were first-in-class medicines.34 In that year, 28 of the 41 drugs approved were considered biologic or specialty agents, and 41 percent of medicines approved were intended to treat rare diseases.35 Yet even when a new drug isn’t first of its kind, it can still produce benefits for patients, both through **enhanced clinical efficacy** (for instance, taking the treatment as a pill rather than an injection, with a superior dosing regimen, **or better treatment** for some individuals who don’t respond well to the original drug) and by generating competition that exerts downward price pressures. For example, a patient needing a cholesterol drug has a host of statins from which to choose, which is important because some statins produce harmful side effects for some patients. Similarly, patients with osteoporosis can choose from Actonel, Boniva, or Fosomax. Or take for example Hepatitis C, which until recently was an incurable disease eventually requiring a liver transplant for many patients. In 2013, a revolutionary new treatment called Solvadi was released that boosted cure rates to 90 percent. This was followed in 2014 by an improved treatment called Harvoni, which cures the Hepatitis C variant left untouched by Solvadi. Since then, an astonishing six new treatments for the disease have received FDA approval, opening up a wide range of treatment options that take into account patients’ liver and kidney status, co-infections, potential drug interactions, previous treatment failures, and the genotype of HCV virus.36 “If you have to have Hepatitis C, now is the time to have it,” as Douglas Dieterich, a liver specialist at the Icahn School of Medicine at Mount Sinai Hospital in New York, told the Financial Times. “We have these marvellous drugs we can treat you with right now, without side effects,” he added. “And this time next year, we’ll have another round of drugs available.”37 Moreover, the financial potential of this new product category has led to multiple competing products entering the market in quick succession, in turn placing downward pressure on prices.38 As Geoffrey Dusheiko and Charles Gore write in The Lancet, “The market has done its work for HCV treatments: after competing antiviral regimens entered the market, competition and innovative price negotiations have driven costs down from the initially high list prices in developed countries.”39 As noted previously, opponents of the current market- and IP-based system contend patents enable their holders to exploit a (temporary) market monopoly by inflating prices many multiples beyond the marginal cost of production. But rather than a conventional neoclassical analysis, an analysis based on “innovation economics” finds it is exactly this “distortion” that is required for innovation to progress. As William Baumol has pointed out, “Prices above marginal costs and price discrimination become the norm rather than the exception because … without such deviations from behaviour in the perfectly competitive model, innovation outlays and other unavoidable and repeated sunk outlays cannot be recouped.”40 Or, as the U.S. Congressional Office of Technology Assessment found,

#### Trade Secrets are key to incentivize competitive innovation – specifically key to protect start-ups.

Gutfleisch 18, Georg. "Employment issues under the European Trade Secrets Directive: Promising opportunity or burden for European companies." European Company Law Journal 15 (2018): 175-181. (working as an Associate with Brandl & Talos Rechtsanwälte GmbH in Vienna, Austria, and recently studied in the LL.M. (International and European Business Law) program at Trinity College Dublin, Ireland.)//Elmer

The **protection of trade secrets** can be **considered** as a **prerequisite for the continuous growth and success of European companies as well as the** general (**technological) advancement and competitiveness of the European economy**.7 Trade secrets can basically be described as secret information that is of value for its owner because of its secrecy. Trade secrets must be differentiated from other (registered) intellectual property rights, such as patents, designs or trademarks. They are not publicly registered and do not grant the trade secret owner an exclusive right against third parties. Most legal systems rank trade secret protection as part of unfair-competition law rather than intellectual property law.8 However, trade secrets are nevertheless related to intellectual property rights. In particular, they could be considered as a **preliminary** step or by-product **to** the **i**ntellectual **p**roperty rights **creation**. Further, trade secrets could also be maintained as permanent alternative to (registered) intellectual property rights. They do not involve costs for the application or subsequent prolongations with the competent authorities and do not impose risks of disclosure during such proceedings.9 Especially **small- and medium-sized enterprises** and start-ups **in** the **research and engineering** business often **rely on the confidentiality of sensitive information as basis of their existence**.10 The **importance** **of** effective **trade secret protection** has been **acknowledged by lawmakers globally.** Back in 1994, the member states of the World Trade Organisation (WTO) entered into the international Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement),11 which mandates the WTO member states to ensure the protection of undisclosed information without consent in a manner contrary to honest commercial practices. In addition, the Paris Convention on the protection of industrial property of 20 March 1883 (CUP Agreement)12 provides another international legal framework, which some scholars argue does afford protection to trade secrets.13 However, the rather vague minimum requirements of the TRIPS Agreement and the CUP Agreement resulted in significant differences in the national levels of trade secret protection, especially within the member states of the European Union (EU).14 The European Commission acknowledged this situation and started to actively engage with the issue of trade secret protection in the EU. In November 2013, the European Commission introduced its proposal for the TSD (together with an impact assessment and implementation plan).15 The TSD was then enacted in June 2016 after further input from the European Economic and Social Committee16 and the European Parliament Committee on Legal Affairs.17 The TSD has been based on two main reasons.18 On the one hand, it has been argued that the different levels of protection in Europe caused companies to refrain from exchanging confidential information across borders and hindered the proper development of research and innovation. On the other hand, **European companies** regularly **faced** **competitive disadvantages when their trade secrets are misappropriated**.

#### Yes Link – the mere threat of a weakening IPR and Secret Protection deters investment.

Ezell and Cory 19, Stephen Ezell, Nigel Cory. 2019. "The Way Forward For Intellectual Property Internationally". Information Technology And Innovation Foundation. https://itif.org/publications/2019/04/25/way-forward-intellectual-property-internationally.

**IPR** reforms also introduce **strong incentives** for domestic innovation. Sherwood, using case studies from 18 developing countries, concluded that **poor provision** of intellectual property rights **deters local innovation** and risk-taking.47 In contrast, IPR reform has been associated with **increased innovative activity**, as measured by domestic patent filings, albeit with some variation across countries and sectors.48 For example, Ryan, in a study of biomedical innovations and patent reform in Brazil, found that patents provided incentives for innovation investments and facilitated the functioning of technology markets.49 Park and Lippoldt also observed that the provision of adequate **protection for IPRs** can help to **stimulate** local innovation, in some cases building on the transfer of technologies that provide inputs and spillovers.50 In other words, local innovators are introduced to technologies first through the technology transfer that takes place in an environment wherein **protection** of IPRs is **assured**; then, they may build on those ideas to create an evolved product or develop alternate approaches (i.e., to innovate). Related research finds that trade in technology—through channels including imports, foreign direct investment, and technology licensing—improves the quality of developing-country innovation by increasing the pool of ideas and efficiency of innovation by encouraging the division of innovative labor and specialization.51 However, Maskus notes that **without protection** from potential abuse of their newly developed technologies, foreign enterprises may be less willing to reveal technical information associated with their innovations.52 The protection of **patents and trade secrets** provides **necessary legal assurances** for firms wishing to reveal proprietary characteristics of technologies to subsidiaries and licensees via contracts. The relationship between IPR rights and innovation can also be seen in studies of how the introduction of stronger IPR laws, with regard to patents, copyrights, and trademarks, affect R&D activity in an economy. Studies by Varsakelis and by Kanwar and Evenson found that R&D to GDP ratios are positively related to the strength of patent rights, and are conditional on other factors.53 Cavazos Cepeda et al. found a **positive influence** of IPRs on the level of R&D in an economy, with each 1 percent increase in the level of protection of IPRs in an economy (as measured by improvements to a country’s score in the Patent Rights Index) equating to, on average, a 0.7 percent increase in the domestic level of R&D.54 Likewise, a 1 percent increase in copyright protection was associated with a 3.3 percent increase in domestic R&D. Similarly, when trademark protection increased by 1 percent, there was an associated R&D increase of 1.4 percent. As the authors concluded, “Increases in the protection of the IPRs carried **economic benefits** in the form of higher inflows of FDI, and increases in the levels of both domestically conducted R&D and service imports as measured by licensing fees.”55 As Jackson summarized, regarding the relationship between IPR reform and both innovation and R&D, and FDI, “In addition to spurring domestic innovation, strong intellectual property rights can increase incentives for foreign direct investment which in turn also leads to economic growth.”56

#### **Innovation is necessary to solve future pandemics, antimicrobial diseases, and bioterror.**

Marjanovic and Fejiao 20 Marjanovic, Sonja, and Carolina Feijao. SonjaMarjanovic, Ph.D., Judge Business School, University of Cambridge. Carolina Feijao, Ph.D. in biochemistry, University of Cambridge; M.Sc. in quantitive biology, Imperial College London; B.Sc. in biology, University of Lisbon. "Pharmaceutical Innovation for Infectious Disease Management: From Troubleshooting to Sustainable Models of Engagement." (2020).

As key actors in the healthcare innovation landscape, pharmaceutical and life sciences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges. The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a bioterrorism context.1 The general threat to public health that is posed by antimicrobial resistance is also well-recognised as an area in need of pharmaceutical innovation. Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and competition within the industry. However, the expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an indispensable partner in the search for solutions that save lives. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to the search for effective medicines, vaccines or diagnostics is essential for socially responsible companies in the sector. 2 It is therefore unsurprising that we are seeing industry-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing compounds to assess their utility in the fight against COVID19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating trials for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.3,4 Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accelerate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions. Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. Many public health threats (including those associated with other infectious diseases, bioterrorism agents and antimicrobial resistance) are urgently in need of pharmaceutical innovation, even if their impacts are not as visible to society as COVID-19 is in the immediate term. The pharmaceutical industry has responded to previous public health emergencies associated with infectious disease in recent times – for example those associated with Ebola and Zika outbreaks.11 However, it has done so to a lesser scale than for COVID-19 and with contributions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still low.12 There are important policy questions as to whether – and how – industry could engage with such public health threats to an even greater extent under improved innovation conditions. The COVID-19 pandemic is a game-changer among global public health threats. The risk to human life (both in terms of morbidity and quality of life), the economic risks, the epidemiology of the disease and speed of escalation have led to a crisis-response by many governments around the world. This has in turn influenced the immediate industry efforts. Many other infectious disease threats may not manifest as crises in the short term and in the same way as COVID-19, but they could nevertheless escalate. They are not considered to be crises from a short term perspective because they are contained to specific regions and affect fewer people at present – or are re-emerging (e.g. Ebola) – or their impacts have not yet materialised at a scale that would qualify as an immediate crisis (e.g. growing risks of antimicrobial resistance to some infectious pathogens). However, such diseases and issues are recognised as global threats that could become crises in the future.

#### Covid magnifies the bioterror threat which risks extinction

Walsh 20, Bryan Walsh, 5-14-2020, "The coronavirus pandemic reawakens bioweapon fears," Axios, https://www.axios.com/coronavirus-pandemic-pathogen-bioweapon-45417c86-52aa-41b1-8a99-44a6e597d3a8.html

The immense human and economic toll of the COVID-19 pandemic only underscores the threat posed by pathogens that could be deliberately engineered and released. Why it matters: New technology like gene editing and DNA synthesis has made the creation of more virulent pathogens easier. Yet security and regulation efforts haven't kept pace with the science. That doesn't mean the threat from bioweapons isn't dire. Along with AI, engineered pandemics are widely considered the biggest existential risk facing humanity. That's in part because a pathogen could be engineered in a lab for maximum contagiousness and virulence, well beyond what would arise through natural selection. Case in point: a 2018 pandemic simulation put on by the Johns Hopkins Center for Health Security featured a fictional engineered virus called Clade X that combined the contagiousness of the common cold with the virulence of the real-life Nipah virus, which has a mortality rate of 40-75%. The resulting simulated global outbreak killed 150 million people. COVID-19 isn't anywhere near that fatal, but the pandemic has shown the vulnerability of the U.S. and the world to biological threats both natural and manmade. "Potential adversaries are of course seeing the same things we’re seeing," says Richard Pilch of the Middlebury Institute of International Studies. "Anyone looking for a radical leveling approach — whether a state actor like North Korea or a motivated terrorist organization — may be influenced by COVID-19 to consider pursuing a biological weapons capability." While earlier bioweapons fears focused on the possibility that a state or terror group could try to weaponize a known dangerous agent like smallpox — which would require somehow obtaining restricted pathogens — new technology means that someone could obtain the genetic sequence of a germ online and synthesize it in the lab. The democratization of biotechnology could unleash a wave of creativity and innovation, just as the democratization of personal computing did. But it also increases the number of people who could potentially make a dangerous engineered virus, whether deliberately or by accident.

# case

#### their solvency author’s proposal was *already* legislated in 2019 and will be implemented by December. They’ll say the current directive only covers retribution but that’s 1 article in the larger directive – the full directive encompasses the aff

* Solved Uniformity- authors call it the “golden standard” of whistleblower law implementation for being extremely clear as it relates to Trade Secrets Directive
* Solved Whistleblowing- does the plan and more—compensation for damages, no liability, legal support, flips burden of proof to plaintiff. Plan only flips the burden of proof.

**Davies 2021** (Arnaud Van Waeyenberge, Associate Professor of Law at HEC Paris where he teaches EU Law, Global Law and Legal Reasoning. Prior to joining the HEC faculty, he was an attorney-at-law at the Brussels Bar (Clifford Chance LLP) and a legal clerk at the Court of Justice of the European Union (General Court). He is currently the Chairman of the "Law and Tax Department". Holds a Master Degree in Law (UCL) in Legal Philosophy (European Academy of Legal Theory) in European Law (College of Europe) and a PhD in Law. and Zachariah Davies, a trainee with Judge Anthony Collins, 8th Chamber of the General Court. He previously was a Trainee at Ashurst in Brussels. He holds an LLM in EU Law from the Free University of Brussels. "The Whistleblower Protection Directive (2019/1937): A Satisfactory but Incomplete System." *European Journal of Risk Regulation* 12, no. 1 (2021): 236-244. footnote 41 inserted in brackets [])DR 21

On 23 October 2019, against the backdrop of numerous scandals involving whistleblowers, the EU enacted a directive protecting whistleblowers across the EU.8 The Whistleblower Protection Directive (the “Directive“) aims to establish common minimum standards of whistleblower protection in an effort to pull together the “fragmented” policies applied in different Member States and across different EU policy areas.9 The Directive sets ambitious legislative targets for EU Member States, who will have until 17 December 2021 to implement its provisions into national law.10II. THE BROAD SCOPE OF APPLICATION OF THE WHISTLEBLOWER DIRECTIVE The main objective of the Directive is to ensure **improve**d application of EU law by providing adequate **protection for whistleblowers**. Worker protection is therefore not the primary objective. The scope of the Directive is in fact much broader, as discussed below, and increased protection is essentially a desirable means of improving the effectiveness of EU law. 1. Ratione materiae In accordance with the principle of the attribution of competences, and according to Article 2 of the Directive, only “breaches of Union law” are covered by the Directive, specifically **breaches that fall within the** scope of the legislative acts set out in the Directive: pubic procurement; financial services, products and markets; the prevention of money laundering and terrorist financing; product safety; transport safety; environmental protection; radiation and nuclear safety; food and nutritional safety; animal health and welfare; public health; consumer protection; the protection of privacy and personal data; and the security of networks and information systems.14 Equally covered are breaches affecting the financial interests of the Union and those relating to internal market violations.15 In addition, **the extensive list of matters** encompassed by the Directive is non-exhaustive insofar as it provides for the **possibility for Member** **States to “extend protection** under national law as regards areas or acts not covered (by the list supra)”. 16 The notion of a breach is also defined broadly to include both acts and omissions that are either: (1) unlawful and fall within the areas listed in the previous paragraph; or (2) merely “defeat the object or the purpose” of the rules applicable to those areas.17 2. Ratione personae According to Article 4 of the Directive, protection is granted (only) to natural persons who have obtained information in a professional context, either in the private or public sector. Moreover, information obtained in the context of an employment-based relationship that has either ceased/concluded or has yet to begin, as well as during the recruitment process or in pre-contractual negotiations, is equally covered.18 The scope of the protection is therefore vast, covering workers, former employees or candidates; officials; the self-employed; volunteers; paid or unpaid trainees; shareholders; members of company managerial bodies, including non-executive members; and contractors, subcontractors and suppliers. The Directive goes further than most existing national legislation by extending the protective measures, if necessary, to natural persons connected to the reporting person. As such, Article 4(4) allows “facilitators” and third parties who are connected with the reporting person and who could suffer retaliation in a work-related context, such as colleagues or relatives, to benefit from protection.19 An intermediate position, in line with that of Transparency International France,24 was ultimately adopted. The text of the Directive opts for a reporting procedure that allows the whistleblower to make reports either through internal channels or to external agencies in the first instance. Accordingly, the Directive imposes obligations on all public and private legal entities to establish internal channels for employee reporting.25 Member States are also required to establish external reporting channels and to follow up on reports.26 Public disclosures are generally only permitted if a first report, whether internal or through an external agency, failed to elicit an appropriate response within three months.27 However, direct public disclosure is permitted in case of imminent and evident danger to the public interest, where there is a risk of retaliation or a low likelihood of effective handling of the report through the internal or external agency reporting **procedure**.28 IV. TOOLS OF PROTECTION At the heart of the Directive’s mechanism are a series of tools to **protect the whistleblower** and punish those who do not respect these protections. 1. Protective measures The toolbox offered by the new Directive includes the prohibition of retaliation, a system of compensation for damages, legal support and confidentiality. Among the protections granted to whistleblowers, the adopted text prohibits any form of retaliation, including threats and attempts at retaliation, whether **direct** or **indirect**. A long and non-exhaustive list of examples is presented in Article 19.29 On reading this list, the European legislators’ intention to provide a definition of a “whistleblower” that covers all of its professional dimensions – in such a way as to protect them from all direct and indirect discrimination – is clearly evident. The European legislators have also reversed the burden of proof in retaliation proceedings, as the employer must now prove that the action taken against the whistleblower was not the consequence of their whistleblowing activities.30 In complement to the prohibition against retaliation, the Directive obliges Member States to protect reporting persons against reprisals. Whistleblowers are protected from civil and criminal liability so long as they had reasonable grounds to believe that their disclosure was necessary to reveal a relevant infringement.31 Moreover, the Directive requires full compensation **for damages suffered** by the **whistleblower**, as determined by and in accordance with national law.32 According to Article 20, Member **States are** also required to implement measures in support of whistleblowers, providing access to **free and independent** information and **advice**, effective assistance from the authorities and legal assistance in criminal or civil proceedings. In addition, Member States have the possibility to provide financial assistance and psychological support. The adopted text also guarantees the confidentiality of any person subject to proceedings as long as the investigation is ongoing, as well as the right to an effective remedy.33 The “harmonious” application of the provisions, in such a way as it would encompass breaches of both EU and national law, as well as other forms of harm, is clearly the “gold standard” in terms of implementation. A single comprehensive system would provide a number of benefits, not least in terms of clarity of the rules applicable to whistleblowers and the protections they may hope to benefit from. In practice, fine distinctions between areas of EU and national competence may not be obvious to the layperson, or indeed to untrained advisors. This uncertainty may also have a chilling effect on disclosures, leading to the possibility of undermining the goals of the Directive. For those Member States that do not currently have a standalone whistleblower protection regime in place, the Directive offers a solid framework around which a single comprehensive regime could be built. Arguably, this process may be less onerous than one that attempts to amend existing legislation in a manner that conforms to the provisions of the Directive. In Member States that currently operate whistleblower regimes, the reconciliation between the national and European systems is not straightforward. National legislation will have to be amended to avoid a double standard between national and European systems. The Directive must also be considered in the context of other relevant EU legislation. The Trade Secrets Directive is particularly relevant in this regard, as it aims to protect businesses against the theft or disclosure of their information by requiring Member States **to impose sanctions on persons unlawfully disclosing trade secrets**.40 Whilst **the** Trade Secrets Directive includes certain exceptions, these have previously been criticised for their lack of clarity, **which could potentially be harmful to**, or at the very least discourage, a whistleblower.41 [41 Cobbaut, supra, note 5, 74. **For an analysis of the issue** of tensions between whistleblower protection and trade secrets prior to the existence of the Directive, see V Abazi, “Trade Secrets and Whistleblower Protection in the European Union” (2016) 3 European Papers 1061.] The Directive thereby seeks to address this issue by clarifying that **a report that meets the** requirements contained in the **Directive** can benefit from the exclusion contained in Article 3(2) of the Trade Secrets Directive, which permits disclosure if “required or allowed by Union or national law”. Therefore, defendants will need to establish that their disclosure fell within the scope of the Directive and complied with the reporting procedure prescribed therein, in order to avail themselves of this defence. In other words, the Directive allows for “a rebalancing between secrecy, security and freedom of information” in favour of the reporting person.42

#### Two implications:

#### 1] PLan flaw: EU members can't do the plan because the law they are repealing was passed by the EU parliament and EU law is supreme over national law generally (European court decisions) but especially on trade because the EU is a customs union.

#### 2. Plan flaw + solvency deficit. Only the EU can negotiate trade rules so even if the national govs passed the plan it wouldn't do anything. Only the EU has the power

## Whistleblowing

### TL stuff

#### Missing uniqueness – they have card zero that whistleblowers are high now – they just don’t want to due to Trade Secrets – threats of getting fired, being paid off, etc. are all huge alt causes to the Aff.

#### Zero inherency – the EU passed a Whistleblower Directive in 2019 – note they have card zero more recent.

#### The DA turn this case we need new innovation for disease response– the aff kills that­ that’s gutfleish 18 and feijao 20 in the da. AND their own mooney ev concedes that, but the aff never solves innovation with whistleblowers.

#### This means zero Aff – their arg will be that there’s a risk that Abusive Litigation Lawsuits exist –the Aff doesn’t solve that – their change is on the burden structure BUT if status quo protections that explicitly ban intimidation suits don’t work, then burden shifts definitely doesn’t work either.

### impacts

#### No EU spill-over warrant for Pandemics – their evidence only effects the EU – 1AC Dreyfus and Galizzi are about China and Global Whistleblower Protection – means Pandemics starting is inevitable

#### Can’t solve pandemics – it’s about health workers who lack proper protective equipment or supply chains or medical supplies, which isn’t medicine – that means Trade Secret Protections for those aren’t affected since the Plan only affects medicines – independently the 1AC I/L is about Hospitals NOT Pharmaceutical Companies.

## Uniformity

#### DA turns this advantage, trade secret confidentiality is key for EU Tech Competitiveness – that’s Gutfleisch 18.

#### No solvency – They have ZERO ev saying medicine is key– 1AC Junge is about Trade Secrets in general – there is no reason that medicine is a totalizing issue nor a spill-over argument – that zaps the Advantage to literally zero since both pieces of 1AC Junge evidence says total uniform consistency matters which trade secret protection over non-medicines still causes gaps in consistency

#### Even the plan doesn’t consider medicine to be the central of trade secrets the Davies 21 ev ab the plan said that breaches included financial services, products and markets, money laundering, terrorist financing, transport, enviro, food and nutritional, animal health and welfare, and consumer protection and more lol

The main objective of the Directive is to ensure **improve**d application of EU law by providing adequate **protection for whistleblowers**. Worker protection is therefore not the primary objective. The scope of the Directive is in fact much broader, as discussed below, and increased protection is essentially a desirable means of improving the effectiveness of EU law. 1. Ratione materiae In accordance with the principle of the attribution of competences, and according to Article 2 of the Directive, only “breaches of Union law” are covered by the Directive, specifically **breaches that fall within the** scope of the legislative acts set out in the Directive: pubic procurement; financial services, products and markets; the prevention of money laundering and terrorist financing; product safety; transport safety; environmental protection; radiation and nuclear safety; food and nutritional safety; animal health and welfare; public health; consumer protection

#### The Plan doesn’t uniform all Trade Secrets – they reform one issue but it doesn’t affect all other Trade Secret Exemptions since their 1AC Junge evidence takes issue with the floor not a ceiling approach that the Aff doesn’t resolve –ton of alt causes

#### this means no link to pandemics, it only talks about eu leadership that has nothing to do w innovation or solving actual pandemics

#### no link into eu war

#### there’s no uniformity in the squo and we don’t see war

#### covid = econ decline but no war

#### mad checks nuke scenarios

1. also they link into war better bc innovation da