



**COMPARATIVE
POLITICS**

Section B

The reality of anti-monopoly legislation in wealthy nations: a comprehensive analysis

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Abstract

When it comes to researching a topic often we choose what we find interesting or important to be studied as to give insight on a potential problem or issue. The goal of this research paper is to determine: Why do wealthier countries that have Anti-Monopoly Legislation, differ in their enforcement? In order to accomplish this, we must understand what exactly we are defining when we say “anti-trust legislation”. Using Merriam-Webster’s definition of anti-trust: “of, relating to, or being legislation against or opposition to trusts or combinations; specifically: consisting of laws to protect trade and commerce from unlawful restrains and monopolies of unfair business practices”. In that we will be looking at what the cohesive binding material for which these countries have in common together. This is done to breakdown concepts that will aid our understanding of why the chosen countries in this study do in fact have anti-trust type legislation. The binding agent that will be employed in this study is the wealth of countries; The United States of America, The Peoples Republic of China, Japan and Germany. Each of these countries has been selected for this study because of their wealth comparison between other countries around the globe. Also, these countries currently have anti-monopoly laws but the reality to the situation is that not all laws are created equal. This notion is exemplified by the nations themselves in having similar laws while still maintaining their countries own culture. © 2018 California State Polytechnic University, Pomona. All rights reserved

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1. Introduction

Political science is a broad field of research with many different facets of fields of study. It is through this research paper that we ask: *Why do wealthier countries have Anti-Monopoly Legislation, differ in their enforcement?* This question is simple enough to understand and will be explained using a qualitative approach that will analyze the existence of anti-trust legislation in four different countries. For this research paper we will be examining the policy implemented by these nations, so that we may better comprehend the realities of anti-trust type legislation. This thesis seeks to answer various questions. First, what does the term anti-monopoly actually mean? Why is anti-monopoly an important topic to talk about? Who employs these anti-monopoly laws? Why is there a demand for this type of legal doctrine in these selected countries? Finally, what countries will we be examining for our research? These questions must be asked so that there can be better comprehension of the reasoning behind the supposed need for anti-trust legislation. Based on the questions outlined, we can start to see what this paper aims to study: *Why do wealthier countries that have Anti-Monopoly Legislation, differ in their enforcement?* The United States government and economy is vastly different than the likes of China. China's government and economics is also operated differently than that of the Japanese and German governments, which is why we aim to study the differences of how each country operates in respect to anti-trust legislation.

We will be creating this analysis using government websites, legal codes, legislative pages, university produced research and peer-reviewed academic journals on the matters of anti-monopoly. We will see that each of the countries in this paper have anti-trust laws that all vary in their success. The success of these anti-trust laws is determined by how each of these countries governments constrain or bolster their legislation. Some countries will operate with stricter rules on monopolies, while others will have anti-trust legislation that appears

to work but will be found to be somewhat ineffective. For clarity sake, we will focus on the following countries in order of (1) The United States of America, (2) The People's Republic of China, (3) Japan and (4) Germany to provide consistency throughout this research. The sections ahead will be divided up to provide the reader insight that will explain why these countries have worked to implement this legislation.

2. Literature Review

A template Throughout world history we have seen the rise of anti-trust laws effectively barring the allowance of monopolization within a country. When it comes to the countries we have chosen for this research assignment, we will break each down into multiple parts for analyzing needs. This breakdown will be done to provide clarity to the reader as for why exactly anti-monopoly policies are present in wealthy nations. It is also in this section where we will introduce our dependent variable and our independent variables.

In the following sections of this paper we will discuss each of the dependent variables in depth. The three main dependent variables that we will discuss will be (1) enforcement, by how it is handled and by whom, (2) how mergers and other corruptible offenses have played out in these countries that have Anti-Monopoly Laws and also (3) how anti-monopoly laws if applied effectively can aid one's economy. Since the United States, the Republic of China, Japan and Germany all have anti-trust policies, we can see that this is our constant between each of the countries. This constant will allow the reader to better comprehend the reality of how wealthier nations implement these laws to influence their economies.

Moving forward, we will bring in our independent variables, as it should be noted that there are multiple potential variables to consider throughout this paper. An independent variable, sometimes called an experimental or predictor variable, is a variable that is being manipulated in an experiment in order to observe the effect on a dependent variable. The independent

variables we will be examining throughout this analysis are (1) Enforcement via Independent Agencies, (2) Corruption, and lastly (3) Economic Inequality within a country.

The analysis of this paper will show that the factor of Enforcement through an Independent Agency, is key for having effective legislation that curtails monopolistic behavior. An independent agency is also known as independent regulatory agency or independent regulatory commission. These agencies are often the ones creating and enforcing anti-monopoly rules. Our second independent variable, Corruption, can be seen in either private or public sectors and as a plausible reason for explaining why a country might see the need to implement or strengthen anti-trust laws. Finally, we have our last independent variable, Economic Inequality. Economic Inequality can be seen as a root cause for why there might be calls for anti-monopoly type legislation to be drafted and implemented. It is in this next section where we will briefly breakdown each of the independent variables in each of the 4 countries chosen.

2.1. Enforcement (United States, China, Japan, Germany)

As mentioned in earlier in this research analysis, our first independent variable is: Enforcement via Independent Agencies. This leads us to ask, who enforces anti-monopoly laws? How well do these agencies enforce anti-monopoly laws?

In this section, we will focus briefly on the United States of America. Our goal in this section of the paper is to bring some contextual history as to what or who controls the actual enforcement of anti-trust laws against those who break said laws. For the United States, we know that the Federal Trade Commission (FTC) is an independent agency, although still part of the government but it wasn't always independent. This is where we will look at the American journal of Political Science "What Makes an Agency Independent?" by Jennifer L. Selin, where she explains that although the

FTC is an independent agency, it has before been targeted by a U.S. president to be altered in his favor.

"In 1993, President Roosevelt asked William Humphrey, a federal trade commissioner, for his resignation from the federal trade commission FTC. Roosevelt felt [that] the work of the commission [could] be carried out most effectively with Roosevelt-appointed commissioners... Humphrey declined to resign. A lawsuit ensued, making its way to the U.S. Supreme Court. After hearing the case in 1935, the Court held that appointees at the head of agencies structured like the FTC are protected from removal by the president for political reasons." (Selin, 2015)

So, in terms of the United States, we see that regardless of who the current president is, the commission is relatively safe from the politics of the presidency due to the Supreme Court ruling.

Furthermore, the Department of Justice has also worked in conjunction with the FTC on handling cases that involve anti-trust policy. Referencing the American Bar Association's academic journal, "Dual Enforcement of the Anti-Trust Laws by the Department of Justice and the FTC: The Liaison Procedure" David L. Roll where he states that there is a real reason why both of the independent agencies have the ability to prosecute anti-trust legislation violators

"Congress found that the Sherman Act, which can only be governmentally enforced by the Justice Department, was inadequate to meet the growing problems of the trade restraints. The Federal Trade Commission Act was, therefore, enacted for the purpose of reaching all practices injurious to the maintenance of free competition even though some might not meet Sherman act requirements. Thus, ever violation of the Sherman Act also violated the Federal Trade Commission Act." (Roll, 1976, 2076).

This meshing of the Federal Trade Commission Act and the Sherman Act, that if violated, allows for either independent agency to enforce the penalties of breaking the anti-trust rules in the United States.

For the second country in this section, we will be looking at the Peoples Republic of China. Up until 2008, the Republic of China did not actually have an effective system in place to combat monopolistic behavior. Before 2008, it was rather all over the place in terms of who actually drafts and enforces these anti-trust laws. When examining the issues of the early days of anti-trust laws in terms of enforcement in China, we reference the academic journal “China’s Competition Policy Reforms: The Anti-Monopoly Law and Beyond” by Bruce M Owen, Su Sun and Wentong Zheng “China’s laws and regulations prior to the [Anti-Monopoly law] were fragmented, vague, and repetitive, and the effectiveness of antitrust enforcement was hampered by the existence of multiple enforcement agencies authorized by different laws” (Owen, Sun, Zheng, 2008, 236). The creation of a comprehensive anti-monopoly law finally became a reality on August 1st, 2008, when China implemented the Anti-Monopoly Legislation (AML). The simplifying of the new AML in China, in terms of actual enforcement, can be explained via the website FDI.Gov.Cn where it states the rules and provisions of each chapter in the AML law, specifically Chapter 1, Article 9 “The State Council shall established the Anti-monopoly Commission, which is in charge of organizing, coordinating, guiding anti-monopoly work... The State Council shall stipulate composition and working rules of the Anti-Monopoly Commission” (FDI Invest in China, 2007).

Furthermore, the implementation of the AML China would create three Independent Agencies to govern the enforcement and creation of these new laws. First, The Ministry of Commerce (MOFCOM) which is responsible for merger controls (Crosswell, Baker, Mckenzie, 2016). The State Administration for Industry and Commerce (SAIC) which is responsible for enforcing the prohibition against monopoly agreements, abuses of dominant market position and abuses of administrative powers to eliminate and restrict competition (Crosswell, Baker, Mckenzie, 2016). Lastly, The National Development and Reform Commission (NDRC) which is responsible for the “Enforce[ment] of the price related rules of the AML

(including anti-competitive agreements and abuse of dominance)” (Slaughter & May, 2016, 2). Each of these agencies are responsible for their own creation and implementation of AMLs, in their respective jurisdictions.

Moving along to the country of Japan, we once again aim to create a clearer picture of the Independent Agencies that would be responsible for the actual enforcement of Japans AML. When it comes to Japan, it must be noted that their economy after World War II desperately needed to change in order to rebound from the loss of the war. These changes were seen as drastic in nature. Considering how it was previously understood, at least within the Japanese community, working with one’s competitors in monopolistic ways wasn’t out of the ordinary.

To explain this, we will use the academic journal titled “Where Japanese Competition Policy is going – Prospect and Reality of Japan-” by Akinori Uesugi, the ex-secretary-general of the Japanese FTC where he claims that 1947 Japan

“During high-growth periods, it was natural for the industrial policy consideration to be given priority over competition policy. So long as Japanese business community believes that the economic success of Japan was brought about by successful industrial policy by MITI or other competent ministry and by having close relationship between the government and business, there were no room in Japan for “competition culture” to grow” (Uesugi, 2004, 3).

However, the need to join the World in an international economy meant that Japan would have to create and somehow enforce anti-competition rules that previously would have been ignored or circumvented. Thus, we see the rise of the Japan Fair Trade Commission (JFTC) and the work of Japans Prime Minister Kiozumi in 2001. Prime Minister Kiozumi worked to turn the JFTC into an organization that would be independent from the pressures of ever changing political world. To quote the scholarly article “The Development of Antitrust in China, Korea, and Japan;

International Competition Law: Real World Issues and Strategies for Success” by Deirdre Shanahan “The JFTC at the time was a subsidiary agency of the Ministry of Public Management, Home Affairs, post and Telecommunications. In April 2003, the JFTC was transferred to the jurisdiction of the Cabinet Office and achieved the status of an independent agency” (Shanahan, 2005, 3). This would be a long transformation from a society where competition in industry was considered second to business consolidation. To then in 2001, where Japan's Prime Minister presented the idea of an independent agency, that is free from the ebbs and flows of politics.

Finally, the last country in this section is Germany. Germany, much like Japan, needed to restructure their economy and politics after World War II, as their economy was in shambles. This means that a transition from Germany's old policies, of allowing mergers along with the allowance of cartels in industries, would have been made. This realization would lead to the eventual creation of the Bundeskartellamt: The Federal Cartel Office (FCO). The Bundeskartellamt was established January 1st, 1958 based off of the Act Against Restraints of Competition (ARC) which gives it its power of enforcement of antitrust policies in Germany. Referencing the Bundeskartellamt website directly, we see that for all intents and purposes, the FCO being established with the mindset that “The Bundeskartellamt [would be] an independent competition authority whose task is to protect competition in Germany. The protection of competition is a key regulatory policy objective in a market economy” (Bundeskartellamt, 2018). The similarity between the FCO and the FTC can be seen as a derivative of World War II, where Germany adopted policies in terms of anti-trust laws that the FTC already had in place. Referencing the academic article “The 1980 Amendment and Other Recent Developments in German Antitrust Law” by Alexander Riesenkampff, states that, “the degree of Sophistication in this area [anti-monopoly laws] in Germany, only after having adopted U.S. antitrust philosophies after World War II has long relied upon and benefits from [the] U.S. experience” (Riesenkampff, 1981, 615). Using the

knowledge, facts, and resources of the international community Germany was able to successfully establish and strengthen its independent enforcement agency.

2.2. Corruption (United States, China, Japan, Germany)

The second factor we aim to discuss comes from a simple concept; *Corruption*. We examine the concept of corruption in terms of antitrust laws. This factor is analyzed because of the understanding that corruption has the propensity to limit the effectiveness of antitrust laws in instances of merger monopolization, bid-rigging, and other offenses. We should first understand what is meant by a merger. Using the legal-dictionary's definition, it states that *Merger(s)*: “In corporate law, the joined together of two corporations in which one corporation transfers all of its assets to the other, which continues to exist. In effect one corporation “swallows” the other [corporation]” (TheFreeDictionary.com, 2018). Another term that we will be using is: bid-rigging. *Bid-rigging* can be used in many contexts, however “one frequent form is when competitors agree in advance which firm will win the bid. For instance, competitors may agree to take turns being the low bidder, or sit out of a bidding round, or provide unacceptable bids to cover up a bid-rigging scheme” (FederalTradeCommission, 2018), as explained by the U.S. FTC. Finally, we will employ the issues of corruption in terms of cartels within each of the countries. For the purposes of this thesis, *Cartels* are defined as, a group of producers that work together to protect their interests. Once formed, cartels can fix prices for members so that competition on price is avoided. The reality is that when we talk about corruption in the upcoming sections, the reader will understand there is a real quantifiable need to strengthen or even implement new antitrust policies aimed directly at the prohibition of corruption, whether there are public or private entities operating within the country.

Starting off with our first example in this section, we will look at the realities of the United States and how corruption has led to the strengthening and implementation of new antitrust laws. We talk about

these instances as further evidence to suggest there is in fact a strong need for comprehensive antitrust policies to be implemented, in order to protect the consumer from manipulated businesses practices. For this to start to making sense, let us begin examining our first example. Looking at the academic analysis “The Anti-Corruption and Antitrust Connection” by Josh Goodman, an ex-attorney of the FTC, as he expresses that “The FTC and Congressional investigations revealed widespread corporate bribery of foreign government officials by many America Corporations... [In] an investigation commissioned by a special committee of Lockheed's outside directors found that Lockheed had paid more than 30 million in bribes from 1970 to 1975 to influential figures.” (Goodman, 2013, 1) Lockheed's documented corruption would result in the arresting of former Japanese Prime Minister Kakuei Tanaka. The reality of this arrest and with Lockheed in the public light created a negative image of businesses in the United States. So much so, that the need bolster current antitrust laws to be able to effectively combat this type of monopolist collusion spurred via bribery was worked on almost immediately, thus the implementation of the Foreign Corruption Practices Act.

However, not all laws are created equally, in terms of their ability to effectively prohibit corruption. If we look to a recent 2015 article posted by Competition Policy International titled “CPI Antitrust Chronicle” it shows the reality of sub-par prohibitive legislation where again we see “despite corruption acts being committed by one of Morgan Stanley's managing directors, the company avoided liability for violating anti-corruption regulations due to compliance procedures” (Thépot, 2015, 5). So the fact that the company, Morgan Stanley, effectively had their loophole in order (the compliance procedures) they were able to game the system in their benefit.

Moving on to the country of China, we will examine the instances that have helped in influencing the need for antitrust, anti-monopoly or anti-competition laws. Whether you are living in China or anywhere else in the world, the practice of corruption actions for personal gain can be seen pretty much everywhere. China has worked hard to transition from its centrally-planned

economy to a hub of manufacturing and exporting products for trade, all the while basing their competition laws off of American, British and others who have had this type of legislation. So it makes sense that we see the Peoples Republic of China preemptively working to reduce the possibilities of “bribery, deceptive advertising, coercive sales, and appropriation of business secrets” (Owen, Sun, Zheng, 2008, 233). We even see that in response to the 2007-2008 housing crash, that was started in the United States, made its way to China. Due to this, the Chinese government has taken very recent steps to ensure the corrupted policies that allowed for this to happen do not happen again. An update of China's Anti-Unfair Competition Law was made as of January 1st, 2018. In this update the following clauses were added to help expand the reach of the enforcement agency, “(1) Places no limit on bribery in the context of selling or purchasing goods. Bribing in order to seek transaction opportunities or competitive edge is prohibited. (2) Expands the category of bribe recipients to include: entities or individuals that use authority or influence to influence a transaction” (Wombolt, Hunt, Phillips, 2018). The expansion of the anti-unfair competition law has enabled China to work more efficiently at slowing down or halting the unethical behavior of bribing people for political, business, or social favors. Does this mean that China is absolutely corruption free? Not in the slightest, but the steps taken here will aid their economy in a friendlier manner by stopping practices of bribery, stock market manipulation, etc.

Continuing on with our research analysis, we will now look to the country of Japan to better understand how corruption has played a key role in leading Japan to implement antitrust policies, which are aimed at limiting corruption. Referencing Global Legal Insights website they give historical context to the corruption that has been prevalent in Japan right around the turn of the 21st century “Corruption had been prevalent feature of Japan's post-war economic boom, which was built on a close-knit alliance [Japanese businesses, politicians, and elite bureaucrats]... it also created a culture of secret, backroom dealings which, when exposed, shocked the

public” (Yoshida & Park, 2018). The revelations that made it into the public atmosphere would be large enough to bring down multiple Japanese Prime Ministers; PM Kakuei Tanaka (1976), PM Noboru Takeshita. Subsequently, even closer to the turn of the century Japan would see even more arrests, resignations, and even suicides of high-ranking finance officials (Yoshida & Park, 2018). Japan although working to implement new policies aimed at curbing corruption of public or private entities, is still exemplifying corruptible tendencies even with laws prohibiting such acts. The issue of “bid-rigging”, or as Japan refers to it Kansei-Danog, has been a problem in the country. The issue is that bid-rigging clearly stifles competition as, in Japan's case, government officials are actively colluding with specific businesses to gain an unethical advantage against its competitors. Quoting the JFTC Secretary General Hideo Nakajima's report on “Prevention of bid rigging in public procurement in Japan” that the need for further legislation covering anti-monopoly subjects like bid-rigging. The implementation of The Involvement Prevention Act enacted in 2002, would allow the JFTC the “authority to require the head of procurement bodies to implement improvement measures when the JFTC finds involvement of procurement officials in the bid rigging” (Nakajima, 2014, 6).

Let us now talk about our final country, Germany, to see how corruption has led to the need and enactment of anti-trust policies. With Germany's semi-recent history, it should be clear with the losing of World War II that a restructuring of their economy would essentially be forced. In order to create a calmer atmosphere where the German citizenry did not need to worry as much about concentration of wealth, came about in the creation and enactment of the 1958 “The Act against Restraints of Competition” (ARC). However, this legislation did not have the teeth needed to criminally charge those reported to be bid-rigging or creating horizontal mergers. In turn, failing to effectively prosecute these entities that were engaging in anti-monopolistic manners would result in the following piece of legislation's eventual implementation. To quote the scholarly article “Criminal antitrust law enforcement in Germany: 'The whole point

if lost if you keep it a secret! Why didn't you tell the world, eh?” by Florian Wagner-von Papp where he explains “The discussion about the criminalization of competition law was revived. And finally... A criminal offense of anticompetitive agreements in tendering procedures (bid-rigging) was introduced into the Criminal Code. S 298(1) StGB” (Wagner-von Papp, 2010, 6). The problem of corruption in Germany is not some sort of anomaly that is unique to Germany. Like we discussed earlier, Japan is currently dealing with issues of bribery and bid-rigging. Much like Japan, we see Germany working to create new means of protections by how “Germany is set to introduce a national single registration point for firms that have violated procurement, antitrust, and labor laws; these companies are then to be excluded from contracts and concession” (BusinessAnti-Corruption, 2018) as explained in the “Germany Corruption Report”. This creation of a public record that allows for companies, governments, and the people to pick and choose who they decide to work with will aid Germany's attempt at creating transparency within the private and public sectors. It is not perfect but the continuation along with updating of such policies will only benefit Germany as time goes on.

2.3. *Economic Inequality (United States, China, Japan, Germany)*

The last independent factor we will talk about in this research paper is the idea of *Economic Inequality*. Specifically, if economic inequality is being a catalyst of influence, resulting in the creation and implementation of anti-trust type legislation. For the purposes of this thesis, economic inequality is defined as income inequality or monetary inequality that “concerns disparity financially between various groups of individuals.” The financial dictionary explains economic inequality, “in most economies and countries, there are poor people, rich people, and then many medium classes ones which live in the middle” (HeroldsFinancialDictionary, 2018). However, the exacerbation between the poor and rich has resulted in a

severe lack of confidence in the market and thus has created further need for strong antitrust laws to rebalance the distribution of wealth.

Moving forward with our first example, The United States of America, we see that economic-inequality can still be seen as in issue in present day America. This could be from how the public's wealth is effectively being redistributed to the top, instead of the masses. The fact is that in America there are people of all walks of life stationed at many different levels of the income spectrum. We have also seen in America, at least in recent years, as noted by Asher Schechter of the editorial board for the University of Chicago Booth School of Business, where he explains via his article that the "rise in U.S. Wealth inequality, now [is] approaching levels last seen during the Gilded Age, is related to market power and a lax enforcement of antitrust laws" (Schechter, 2016). However, with effective use of their anti-monopoly laws, it can be used as a catalyst for increased competition and fairness in a multitude of industries, resulting in lower levels of economic inequality.

If we add in current trends, then we see even further that in-effective anti-trust policies are not strong enough to inhibit economic-inequality, as market power supersedes the anti-trusts ability to correct the regressive nature of wealth distribution from the consumers to the producers. Referencing the academic journal "Market Power and Inequality: The Antitrust Counterrevolution and Its Discontents" by Lina Khan and Sandeep Vasheesan "To borrow the words of former Federal Reserve Chairman Marriner Eccles, pervasive market power in an economy is likely to operate as a giant suction pump... draw[ing] into a few hands of an increasing portion of currently produced wealth" (Khan & Vaheesan, 2017, 239). Currently, this is the reality in America that has not been addressed.

Now we will focus on our second country in this research, the Peoples Republic of China. China's transformation from a centrally-planned closed-economy into that of an international hub for manufacturing and trading globally is still dealing with issues of economic-inequality. China is currently

experiencing large levels of economic-inequality that can be seen as brought about due to a resulting effect of weak anti-trust laws. However, only in recent years the need to combat economic-inequality has come to the fore front in China. We see this sentiment found in the CNBC's website in an article titled "This is what China's Antitrust drive is really about" by Leslie Shaffer where the Chinese government is "worried about wealth inequality... in the wake of the mainland's economic slowdown, many wealthy individuals are continuing to benefit even as average consumers struggle" (Shaffer, 2014). In that, Chinese officials and their citizenry see that something is inherently flawed with how things are operating. The reality of China's situation is outlined in Jacob S. Schneider's article "Administrative Monopoly and China's New Anti-Monopoly law: Lessons from Europe's States Aid Doctrine" where he illustrates the reality of what, not having an anti-trust policy could result in "Economic theory generally holds that administrative monopolies, like other monopolies, hamper overall social welfare with increased prices, reduced output, and reduced competition.... and potentially weakening the political unity of the [the nation]" (Schneider, 2010, 817). Also, with China being so highly populated and its vast rural villages and towns compared to urban cities, economic inequality will continue to rise to unconscionable levels if not for this new insight of the Chinese government.

The next country is Japan. In this research analysis, the focus is to see whether or not inequality can be seen as a plausible factor for explaining why there is a need for anti-trust type policies. One of the issues that Japan, like much of the world, is experiencing is the proliferation or a looting of the consumer. However, something that should be noted comes from the book "The Japanese Economy" by Victor Argy and Leslie Stein, where they highlight the positive side effects of having implemented their first antitrust reforms after World War II "The ultimate impact of the anti-monopoly legislation is difficult to assess. It served to reduce the degree of economic concentration and to increase industry competitiveness. It almost certainly reduced the degree of income inequality." (Argy & Stein, 1997, 15).

Potentially, an unexpected result of working to make Japan's economy more competitively fair that the citizenry become less-unequal. However, again in recent times due to an ever changing political and economic atmosphere, this proliferation of wealth from the citizenry is effectively shrinking the consumer bases "purchasing power". A relatively new concept to emerge in Japan comes from the article "Inequality in Japan: What Can Be Done?" by Anthony Atkinson, suggesting a tweaking of antitrust policies in such a manner that would result in reducing economic inequality "There are many steps that could be taken, including introducing distributional considerations into anti-monopoly policy, ensuring a proper balance that between the powers of employers and workers" (Atkinson, 2015). Updating Japan's JFTC and subsequently anti-monopoly law to include this concept could lead to a more equal society.

Reaching our last independent variable, we will now look at Germany. Like the previous 3 examples in this section, we will also look at Economic Inequality to better understand how Germany has led to the implementation or bolstering of anti-trust laws. The current focus of the German FCO resembles that of Japan's JFTC. The resemblance is seen, in that, larger corporations are effectively possessing concentrated areas of the market, which is prohibiting smaller corporations from participation in those markets. This creates more concentration of power for large corporations. Referencing the article "Germany: The Federal Cartel Office" the author Andreas Mundt explains that "Due to growing concentration in this sector, the complaints of manufacturers about the huge market power of the retailers are likely to increase rather than decrease." (Mundt, 2017) Essentially suggesting that if this imbalance is allowed to continue on its current path it will only exacerbate inequalities between large corporations and their market power versus whatever competition may be left. The reality of what we are seeing is an expanding market power by larger corporations. However, another reality is that this particular problem has not yet been effectively studied for better understanding as to how to tweak anti-monopoly laws in an effective manner to reduce this problem.

3. Case Analysis by Country

Moving on to this part of our research, we will examine each of the countries listed in a more detailed manner to help quantify the differences of each country's governmental operation.

Much like previous sections we will break this part down into the following countries: (1) United States: Enforcement, Corruption, and Economic Inequality, (2) The Peoples Republic of China: Enforcement, Corruption, and Economic Inequality, (3) Japan: Enforcement, Corruption, and Economic Inequality, (4) Germany: Enforcement, Corruption, and Economic Inequality. What we aim to get out of this section is a much more quantifiable understanding of the independent factors we have employed, as to better explain or give insight to our initial research question; *why do wealthier countries that have anti-monopoly legislation, differ in their enforcement?* It is also in this upcoming section that we will use the most recent data collected from the "Corruption Perception Index" which measures corruption on a scale of 0 to 100, where 0 correlates to "Highly Corrupt" and 100 correlates to "Very Clean". Then also, the "Gini Coefficient" that is measured on a scale of 0 to 1, where 0 correlates to "Very Equal Society", and 1 correlates to "Very Unequal Society." This is used to aid this analysis with further statistical evidence, for a better comprehension of how much actual corruption and economic inequality is prevalent in each of the chosen countries.

3.1. The United States of America

Starting off with the United States, we will talk about the enforcement of anti-monopoly laws through Independent Agencies, as previously outlined in earlier sections: (1) Federal Trade Commission and (2) The Department of Justice's Antitrust Division. Now we initially asked "*Why do wealthier countries that have Anti-monopoly Legislation, differ in enforcement?*" due to the understanding that the countries in this research analysis are the performers of nominal gross domestic product that also already have anti-monopoly laws

(Bajpai, 2017). The correlation between antitrust laws and wealth of a nation can be better understood through the “Hart-Scott-Rodino Annual Report: Fiscal Year 2016” on the United States' FTC and the Antitrust Division of the DOJ. This report shows that some of the successes America has enjoyed economically can be seen as a derivative of implementing these laws and thus, the independent agencies tasked with the enforcement of anti-trust laws. The report shows that the Antitrust Division challenged 25 merger transactions and 15 of these challenges involved a complaint to the U.S. District Court by the Antitrust Division (Ohlhausen & Delrahim, 2016, 2). The report goes on to say that nine of the 15 filed complaints had proposed settlements incorporated in them to provide clearer defined rules for those corporations, three of the 15 cases wholeheartedly abandoned the proposed merger transaction, and the remaining 3 cases of the initial 15 pursued litigation (Ohlhausen & Delrahim, 2016, 2). With respect to the other ten challenges by the Antitrust Division, four involved parties abandoning their transactions in light of the competitive concerns identified by the Division and the remaining six involved the parties restructuring their transactions to resolve the Division’s concerns (Ohlhausen & Delrahim, 2016, 2).

In another report from the FTC and DOJ Antitrust Division, companies like Halliburton Co. and Baker Hughes, Inc. abandoned their proposed merger less than a month after the DOJ's Antitrust Division filed its complaint. These companies are giants in their respective fields yet the Antitrust Division was able to make them stop dead in their tracks on this proposed unfair merger that would have consolidated competition while increasing the levels of inequality in that specific industry. In another instance related to the healthcare industry, the FTC via its website had concluded that “the FTC has prevented anti-competitive agreements among health care providers to fix the prices they charge to a health insurance plan, conduct likely to raise prices without improving care (Federal Trade Commission, 2009). Thus in the US, we can see that these independent enforcement agencies are able to actually stop consolidation of monopolizing industries.

A plausible factor giving reason for why the United States employs antitrust laws is corruption. To better understand its effect, we will be employing the most recent data gathered by Transparency International in their “Corruption Perceptions Index: 2016” report. This is where we will see a measurement of how much actual corruption flows through the country. Starting off with some clear cut examples of corruption and how the FTC or DOJ's Antitrust Divisions have handled these problems, we will reference the Organization for Economic Co-operation and Development's (OCED) “Global Forum on Competition” reports where instances of bid-rigging has been prosecuted:

“The defendant sewer rehabilitation contractors and engineering firms [of Birmingham, Alabama] sought to subvert the competitive bid process by making more than \$1 million in bribes to corrupt officials responsible for oversight of the project... Twenty-one defendants-- seven county officials, nine individual contractors, and give firms-- were convicted... The bribery scheme cost county taxpayers tens of millions of dollars in losses due to fraud, overcharges, and misappropriated resources” (Thiemann, 2014, 4).

Despite substantial losses, the DOJ's Antitrust Division was able to get back upwards of 45 million dollars in payment restitution.

Let us now add in the “Corruption Perceptions Index” as it will aid us in our betterment of understanding how much corruption permeates the United States. The U.S. as of 2016 has been given a grade of (74) out of 100 (TradeEconomics, 2018). Transparency International explains that “Higher-ranked countries tend to have higher degrees of press freedom, stronger standards of integrity for public officials, and independent judicial systems” (TransparencyInternational, 2018). It goes further on by explaining that no country is 100% “clean of Corruption” and that even though some countries have a high rank they still exhibit corruptible tendencies. A score of 74 out of 100 is not bad but it does show that the United States still has a way to go if they want to create society that is less corrupt or corruptible.

For the last topic on the United States sub-section of this comparative analysis, we will focus on Economic Inequality within the United States to see if that too can be considered a realistic factor as for why countries implement these anti-trust laws. It is also in this section where we will talk about the Gini Coefficient Index to further help explain the realities within the United States and how it ranks in terms of economic inequality within its borders. John Sherman, the senator whose name presides on the 1890 antitrust law The Sherman Act explains the absolute need for antitrust laws when he states “No social problem is more threatening than the inequality of condition, of wealth, and opportunity that has grown within a single generation out of the concentration of capital into vast combinations to control production and trade and to break down competition.” referenced from New America Foundation article titled “Monopoly and Inequality”. If markets were allowed to condense and thus monopolize, communities that once used to buy goods at a local small business that would then turn around and buy directly back from the community, are no longer acting in that manner. Monopolies act as a suction pump pilfering the populace out of their money and thus their economic pathway away from inequality.

An example of this consolidation leading to inequality comes about from the Washington Post’s article “How American Became Uncompetitive and Unequal” by Lina Khan who is the Policy Analyst for the Market, Enterprise and Resiliency Initiative at the New America Foundation and Sandeep Vaheesan who is a special Counsel at the American Antitrust Institute which explains that:

“Diminished competition also increases inequality by empowering corporations to drive down the incomes of workers.... Top executives at Google, Apple, Intel, Intuit, Pixar and Adobe made secret agreements to not recruit one another's employees in order to suppress salaries... [going even further] a class of 20,000 nurses claims that collusion by hospitals in the metropolitan area [Detroit, MI] cost them more than \$400 million in collective pay from 2002 to 2006... [and finally] meat processors have left many

farmers subject to the whims of individual companies, [such as] Tyson [Foods] cut what they pay farmers and raise their own profit margins” (Khan & Vaheesan, 2014).

And now it is important that we bring in the Gini Coefficient since that will give us a measure of how unequal the United States is. Looking at the Gini Coefficient which uses data collected by the OCED, we see that the United States is currently scored as having a .39, as of 2014. Comparing this .39 score for the U.S. to some African countries that have high levels of economic inequality yet rank roughly around the .5 mark, it doesn't sit well that The United States of America is that high on the list in terms of economic inequality while presenting to the world an image of “freedom and fairness”.

3.2. *The People’s Republic of China (PRC)*

Transitioning to the PRC, we will focus on the actual enforcement from China's Independent Agencies to better understand how effective they are in creating fairer competition allowing for greater wealth creation in China. In the Peoples Republic of China, there are (3) Independent Agencies tasked with the actual enforcement of their Anti-Monopoly laws (1) The Ministry of Commerce - MOFCOM, (2) The National Development & Reform Commission - NDRC, and also (3) The State Administration for Industry and Commerce - SAIC. Now in terms of how effective each independent agency is at enforcement in terms of fair competition we will examine judgments made by each of the agencies.

In 2016, the Ministry of Commerce (MOFCOM) heard 85 cases involving mergers or acquisitions of companies within its legal jurisdiction. However, in the time leading up to 2016 it can be seen that MOFCOM also prohibited 2 companies from attempting to merge: Coca-Cola, which was attempting to buy out the Chinese juice producer China Huiyuan Juice Group Ltd. and the group that proposed the P3 alliance: Moller-maersk, MSC Mediterranean Shipping Co and CMA-CGM

(Slaughter & May, 2016, 17). These companies were stopped from attempting to merge together due to China's merger analysis process where MOFCOM considers the ramifications of letting companies merge: whether the merger will or may eliminate or restrict market competition (Slaughter & May, 2016, 17).

The National Development & Reform Commission that focuses on the enforcement of price related rules of the Anti-Monopoly Law has also been busy in their efforts to fend off price-related antitrust issues (Slaughter & May, 2016, 2). The NDRC has been busy working to protect the Chinese consumer in the healthcare industry from unfair pricing tactics by large dominant forces operating in the industry. In May 4, 2015, the NDRC published the Notice on reinforcing Supervision over Drug Prices. The Notice includes a range of specific issues on the supervision over drug prices, including immediately launching special inspections into illegal conduct under the pricing law and the Anti-Monopoly Law” (Malleons, 2015). The NDRC has halted the U.S. Based tech company Qualcomm on the grounds that Qualcomm, although having been integral to China's production of superconductors, must implement a “Rectification plan”. Rectification Plans are very much similar to reports by the United States FTC where they explain a business is operating in a manner that is incompatible with the anti-monopoly laws and in Qualcomm's case, the company conflicted with the Chinese Anti-trust legislation (AML) (AsiaFreshNews, 2015). According to The New York Times article “Microsoft Faces new Scrutiny in China” by Paul Mozur and Nick Wingfield, after Qualcomm was found to be in violation of China's Anti-monopoly law, they were promptly fined \$975 million for said violation (Mozur & Wingfield, 2016).

The last enforcement agency to examine is the States Administration for Industry and Commerce (SAIC). Once again, this specific agency is in charge of enforcing non-price related rules of the Anti-monopoly law, specifically, abuses of administrative powers to restrict competition (Slaughter & May, 2016, 2). However, we see in the previously mentioned New York Times article

the issues of Microsoft in how they have been operating in China. The SAIC had sent:

“One hundred SAIC officials [to] storm four Microsoft offices in China... Chinese regulators said it was seeking answers to “major questions” [due to Microsoft being] suspected in 2014 of causing computer compatibility problems by not fully disclosing information about its windows operating system... [the] incompatibility without advance warning to customers could be regarded as being anti-competitive” (Mozur & Wingfield, 2016).

This storming of Microsoft to find “answers” resulted from the fact that in the majority of the world, Microsoft is the leader in the world of computer operating systems. This is exemplified in the New York Times article where it states, “many Chinese companies and government offices [are still] running old Microsoft software like XP, [Microsoft's transition from XP] highlighted the countries reliance on the American company” (Mozur & Wingfield, 2016). The storming of Microsoft's offices in China was due to Microsoft no longer supporting security updates for obsolete operating systems that are known to have security structure issues. The article states that because Microsoft no longer planned to support the software, the SIAC felt a competitively unfair monopolistic play was essentially being made.

Let us now move on to our next topic of discussion which is to examine the idea of corruption being a key factor in contribution for the need of effective anti-trust laws. As in the U.S. Section of this topic, we will be examining the effectiveness of the anti-monopoly law in how it manages to limit corruption in the country and once again we will employ the Corruption Perceptions Index to better understand levels of corruption in The Peoples Republic of China. In 2013, the NDRC actively investigated 60 multi-national and domestic life science companies in conjunction to increasing costs in drug prices. This investigation would see the SAIC become involved as they alleged that commercial bribery had also taken place. The article “Combating Unfair Competition: The Convergence of China's Antitrust and Anti-Graft Enforcement Activities” by Kareena Teh and

Fabian Roday explains how “one of those investigations culminated in a UK-based life science company being prosecuted for alleged payments of bribes to doctors of state-run hospitals and fine nearly US\$500 million... Five of the life science company's senior executives (both foreign and Chinese nationals) were also held criminally liable and sentenced to up to four years imprisonment” (Dechart, 2014). The imprisonment part of the ruling would eventually be suspended, resulting in none of these individuals going to jail, though a \$500 million fine was imposed. Giving out exorbitant fines in hopes of stopping practices like these can be effective as it can be very costly for businesses to operate in such manners.

Let us now employ the Corruption Perceptions Index, on the Peoples Republic of China, to see if the record-breaking fines that have been handed out have ultimately resulted in lower levels of corruption in China. Currently, on the 0 to 100 scale, we see that the PRC for the year of 2016 is scored at a 40 out of 100. Being that low on the scale corroborates the fact that even today, China still has very high levels of corruption running rampant through-out the country. The Trading Economics website explains that before the implementation of such antitrust laws in the PRC, China was even more corrupt than after the implementation of the Chinese AML. With China's move to limit the levels of corruption and ultimately bring them higher up on the scale, Chinese officials passed an amendment to the Anti-Unfair Competition Law (AUCL). This amendment would, as explained in the article “Amendment to China’s Anti-Unfair Competition Law increases risk of commercial bribery and imposes tougher sanctions”, work to “create potentially greater risks for commercial bribery [seeking transaction opportunities or competitive advantage] activities in China, including exposure to increased penalties” (VanderPol, Hui, Zhu, Xie, 2017) which would aid China in reducing the severe levels of corruption in the country.

Finally, let us move on to our last topic of discussion related to China: Economic Inequality. As stated before, we will look at economic inequality as a plausible factor

for why there are anti-trust laws in China. As we already understand, when there are severe levels of economic inequality within a country more often than not political pressure from the citizens is often the driving force for implementation of new legislation. In this section, we will be using the Gini Coefficient's to show even more existential proof of the reality's that is congruent to China. With China being a very populated society, it would make sense that they would see a wider-spread issue of economic inequality within their borders, especially in the countryside that has not seen nearly the same amounts of investment as urban cities. However, in attempting to reduce these inequalities in China, some plausible actions have been brought to the forefront as potential ways to help the Chinese citizen. The article “China's Income Gap Solution: Too Little, Too Late?” explains that:

“Employees and executives in monopolistic state-owned enterprises have much higher real income than their counterparts in the private sector, mainly because they enjoy many hidden subsidies... These well-connected individuals can acquire state-controlled assets, such as land, mines, and companies, at prices substantially below market [value], and then flip them quickly for windfall profits” (Pei, 2013).

This allowance of state-owned-enterprises (SOE) is hampering the ability of the general population, including private sector businesses in China to compete. This substantive lack of control on administrative-monopolies is resulting in even more inequality within the PRC. The reality in China is that there is plenty of public pressure mounting due to “state monopolies [that] led to unreasonable price regulation imposed by biased government regulators, meaning few choices and higher prices... [Chinese citizens also] hoped that the government could put together a tough policy to crack down on all types of collusion/monopolization that tended to force consumers to pay excessive prices” (Emch, Stallibrass, 2013, 5).

Once again moving forward, let us add in the context of the Gini Coefficient to give further understanding of

the reality of economic inequality that permeates throughout the Chinese society. Using the most recent data on China's economy we see that for the year of 2016, China was respectively scored at .465 out of 1 (TheWorldFactBook, 2018). The high number of .465 shows that there is a very high imbalance of wealth distribution within the PRC. However, at the same time we can see due to potential public pressure that when China actually implemented their AML, the continual rise of inequality was halted. Since 2008 and subsequently the AML's implementation, China has seen a trend of decreasing economic inequality. This fact provides the insight to say that antitrust laws in China have aided in the reduction of economic inequality.

3.3. Japan (JPN)

Transitioning our focus to the discussion on the country of Japan, we will be looking at the Enforcement of Japan's anti-monopoly laws through their Independent Agency: The Japanese Fair Trade Commission (JFTC). Looking at the scholarly article entitled "Reforming the Enforcement of the Japanese Antimonopoly Law", it states, "that the independence of the JFTC from undue interference of politics is essential for fair and candid enforcement; accordingly, they believe that the existing powers of the JFTC to hold hearings and decide cases should be firmly maintained" (Matsushita, 2010, 522). This independence from politics would allow for a cooler climate in which the JFTC can work and not be held hostage by political ambitions of a potential JFTC opponent or saboteur.

In that, we already know anti-monopoly laws are used to establish fair competition within a country, be it, private or public sectors. We can see via the U.S. FTC document entitled "The Development of Antitrust in China, Korea and Japan" by Deirdre Shanahan, by which he shows the intentions of Prime Minister Kiozumi, specifically, in regards for why Japan has a real substantive need for anti-monopoly laws "[PM Kiozumi] states that the Government would strengthen the structure of the JFTC so that the agency can serve as

a guardian of the market and vigorously promote competition policy... In April 2003, the JFTC transferred jurisdictions and achieved the status of an independent agency" (Shanahan, 2005, 3). A top priority for the independent agency would be to prohibit the problem of bid-rigging in the country. Japan would bring eight companies to court over alleged claims of rigging bids for a construction project. In that the JFTC would file charges against eight of the fourteen arrested executives and another eighteen companies (Shanahan, 2005, 4). Furthermore, in recent years Japan has been ramping up their efforts to combat domestic monopolies, but also understanding that globalization has brought about multinational corporations. This ultimately means, that the JFTC and all the amendments made to the Japanese Anti-Monopoly Act (AMA) are increasing the power this agency has at effectively prohibiting anti-trusts locally and even globally.

Now continuing on with our examination of Japan, the next potential factor of corruption in the country. Similar to previous sections, we will focus on how corruption has helped to create influence for the need to create anti-trust laws in Japan. In that, this section will also look at the Corruption Perceptions Index, as means to further exemplify the reality in which corruption permeates in Japan. A particular issue the JFTC has been attempting to eliminate, would be the problem of bid-rigging via public procurement, by public officials. This refocusing on bid rigging stems from Japan having had their biggest scandal in terms of bid-rigging where "Former Construction Minister Kishiro Nakaumra, was convicted of accepting a 10 million yen bribe from a vice-president of Kajima Corp. to pressure the [Japanese] Fair Trade Commission not to file criminal charges against suspected construction [companies, engaging in] bid-rigging" (Yoshida, 2007) as explained by Reiji Yoshida in his article "How Japanese Tax-Payers' money is lost in bid-rigging". Moving forward, Japan would work to instill stronger punishments so that such brazen attempts to circumvent anti-monopoly laws could be prosecuted in court more easily. This is explained via the JFTC document entitled the "Global Forum on Competition: Fighting Corruption and

Promoting Competition” issued by the Organisation for Economic Co-operation and Development (OECD)

“[the] Act on Elimination and Prevention of Involvement in Bid Rigging and Punishments for Acts by Employees that Harm Fairness of Bidding, was established in 2002 so that the JFTC would take the initiative in preventing and eliminating involvement to procurement agencies in bid rigging. The JFTC has been working to not only detect big rigging but also prevent and eliminate” (Thiemann, 2014, 3)

As they make solid steps forward, in attempts to eliminate this circumvention of Japanese Anti-Monopoly Laws.

Moving on, let us add in the Corruption Perception Index, as it will aid in further explaining the reality of how much actual corruption permeates throughout Japan. Using the Corruption Perception Index from Transparency International's website, the most recent data from 2016 says that Japan scored a 72 out of 100 (TransparencyInternational, 2018). It makes sense, as Japan continues to work to prohibit corruptible tendencies of public officials and business leaders in backroom unsanctioned meetings. Japan from 2005 and forward would see the arrest of three prefectural governors in their attempts to rig bids (Yoshida & Park, 2018) as explained by the Global Legal insight website in the data that was collected and analyzed. The article would go further on to say that with these new aspects added into the JFTC's Anti-Monopoly Law, shareholders of these companies were now starting to sue corporate executives on the premise that executive participation in bid-rigging schemes, actually, damaged the firm and subsequently lowered their investors profits (Yoshida & Park, 2018).

Finally, let us talk about our final factor, that is, economic inequality. We look at this factor as being another plausible explanation for why these nations that are effectively different from each other, still possess identical traits, such as having leaders in global nominal gross domestic production and all having anti-monopoly laws. Our examination of economic inequality in Japan,

is to see if it has led to the implementation of further anti-trust laws, resulting in a strengthening of competition, the economy and reducing inequalities. We will also employ the Gini Coefficient to better understand present day Japan, in terms of how much actual economic inequality is present throughout the country. However, beyond bid-rigging it has been understood that the JFTC's enforcement against cartels, be it hardcore or not, has been seemingly lacking as expressed through the scholarly analysis entitled “Can the New Antimonopoly Act Change the Japanese Business Community?” by Kazukiyo Onishi “The amended AMA introduced criminal investigation powers so that the JFTC could treat serious violations in a stricter and more effective manner. [In that] A leniency program was introduced by the amendments as an alternative approach” (Onishi, 2008, 3). This would be the Anti-Monopoly Act's first comprehensive amendment [upgrade] in the last quarter century. This came about due to the public's perceptions of the JFTC where as “JFTC has long been criticized for operating as a watchdog which did not bark or bite” (Onishi, 2008, 3).

Let's plug in the Gini Coefficient, as we have just examined the subsequent lack of the Anti-Monopoly Law in Japan. The Gini Coefficient, with the most recent data provided by the (OECD) -2015, we see that Japan has been scored as having a .33. Japan's ranking is considerably better when compared to China and the United States. Considering that Japan has transitioned from a once centrally-planned closed-economy to one of global trade, it can be seen as something positive that Japan is able to maintain lower levels of economic inequality. Even though they and other countries still have much work to do in ensuring a competitive playing field to allow for a more equal share of the economic pie.

3.4. Germany (GER)

We will now transition to our final country of discussion, Germany. We will focus on the actual enforcement of Germany's anti-monopoly laws via its independent agency, the Bundeskartellamt: Federal Cartel Office (FCO). In order to understand this concept

better, let us look at how the FCO has handled issues of monopolization, to see if there is a positive effect for the country. One instance we can immediately look at comes from the Florian Wagner-von Papp article mentioned earlier where he shows us that although Germany has had anti-monopoly laws for a considerably long time [1947], that they weren't always effective at prohibiting monopolization. Due to what is known as the Pipes Cartel Case where "Between 1990 and 1996, the Pre-insulated Pipes Cartel committed nearly every cardinal antitrust sin under the sun, including price-fixing, big-rigging, and the allocation of markets and specific projects to cartel members" (Wagner-von Papp, 2010, 9). Doing everything imaginable to circumvent anti-monopoly laws and squash out fair competition would ultimately result in the following judgment "The court considered that a final prison sentence of 34 months, i.e. two years and ten months, and an additional fine of €100,000.00, was adequate and sufficient punishment for the main defendant" (Wagner-von Papp, 2010, 9). However, the leader in this dubbed the "King of the Pipes" would be forced to go to jail, while the other executives did not. Another instance we can look at is to see how Germany applies their anti-monopoly laws via its FCO, comes from the e-book "OECD Economic Surveys: Germany 2006" by the (OECD); where they show the abuse of market power that the companies: Walmart, Aldi, and Lidl were claimed as having too much influence over

"The Cartel Office (FCO) has justified the decision on the ground that the three discounters' [Walmart, Aldi and Lidl] conduct benefited consumers only in the short run. (in the form of lower prices), but their conduct likely would have harmed consumers in the long run as Independent grocers would have ultimately exited the market, and the three big discounters would ultimately have been able to raise their prices after" (OECD, 2006, 125).

Even though these companies were not working in conjunction with each other, like how a cartel would, they were still investigated by the FCO. This was due to the perceived route in which these large companies were

essentially bullying out [separately, of course] those who could not compete with nearly wholesale, retailing. The last example we will use for this section, comes from the Bundeskartellamt's case summary document, where we see in 2007 "Total Deutschland GmbH, Berlin intend[ed] to acquire 59 petrol stations" and because this is considered a merger within the country of German, we see the FCO investigated the proposal. The FCO would and came back with reports claiming the "purchase [of] a total of 59 petrol stations from OMV [OMV Deutschland GmbH] ... The intended sale of the above-mentioned petrol stations would lead to OMV's complete withdrawal the Federal Lander of Saxony and Thuringia" (Bundeskartellamt, 2009, 3) both being big cities that would have even less of a choice now of where to buy gas for their vehicles, resulting in further monopolization. The merger would be blocked.

Now let's talk about the problem of corruption. This potential factor can be seen as another plausible explanation as to why Germany feels the need to have anti-monopoly laws. In that, we will be looking to see in this section how anti-monopoly laws in Germany, have helped reduce the influence of corruption. Similar to what we have done in the past three sections, we will be employing the most recent available data collected through Transparency International's Corruption Perception Index. The first example that we will talk about in terms of possible corruption comes from the Cement Cartel case back in 2003. The Cartel Damage Claims website's article "Cement Cartels" explains that "the FCO [Federal Cartel Office] imposed fines totaling EUR 702 million on twelve companies and their representatives for their participation in the German cement cartels, EUR 660 million [of which, was imposed] on the six largest German [cement] producers" (CartelDamageClaims, 2018). This scheme that was perpetrated by these colluding cement companies had been engaging in (1) illegal quotas and (2) illegal market-sharing agreements since the 1990's. In that, it was found that these companies were taking turns being the winners and losers of the contract. Going so far as to even meet in secret at airports, like Munich, to discuss

how these companies would be engaging in their illegal quotas and illegal market-sharing.

Going further we see the “Germany Corruption Report” acquired from the Business-Anti-Corruption website explains that even the airline industry has partaken in corruptible offenses “the former technical chief of the Berlin-Brandenburg airport, Jochen GroBmannm was sentenced to one year of probation and fined USD 250,000.00 for bribery, fraud and attempted bribery” (BusinessAnti-Corruption, 2018). The article would further go on by saying that because of the bid-rigging attempts were made by another individual, for which was imprisoned and fined the total worth of the bribe that was accepted; EUR150,000 (BusinessAnti-Corruption, 2018). However, even though these crimes were taking place, the FCO in their attempt at curtailing this type of monopolization resulting in market dominance, actually had the teeth to prosecute and send people to prison. While also fining the person who took said bribe, the total amount of the bribe. The fact that The German FCO will make you pay it back a bribe in full and potentially send you to jail, could be seen as a good deterrent for those thinking of taking a bribe.

Finally, let us use the Corruption Perception Index as means to better gauge how effective Germany has been through their implementation and strengthening of their anti-monopoly laws. Transparency International has scored Germany, the once high protectionist state was given an 81 out of 100. To say that this number is good would be an understatement. Germany having needed to make huge societal changes after the perils of World War II has beat out the likes of the United States (who is the subsequent winner of WWII), China and even Japan, its old teammate. However, this should not come as a surprise, considering Germany has continued to build their anti-monopoly laws and further strengthening them by creating stricter punishments for those found to be involved. In that, the Leniency Program, that is explained via the Bundeskartellamt's own reporting entitled “Effective Cartel Prosecution: Benefits for the economy and consumers” where it states, “The prospect of immunity from a fine creates uncertainty among cartel members as to whether one of them might blow the

whistle at some stage to secure immunity” (Bundeskartellamt, 2016, 19). Full immunity would be granted for those who report to the FCO on matters of unknown cartel operations. While also allowing for reduced fines for those who help the FCO after they have found cartel agreements.

Finally, the last factor we will be talking about in this research analysis is the issue of economic inequality. As claimed earlier, we look to the issue of economic inequality as being a potential factor for why Germany found the need for antitrust laws. Also, like previous sections, we will employ the use of the Gini Coefficient as further existential evidence showing how much actual economic inequality permeates through Germany. To quote the President of the FCO directly, we see “Competition is a cornerstone of our economic and social order. The fact that competition leads to the best overall economic results is now undisputed” (Bundeskartellamt, 2016, 3). However, this is where we start to see for Germany, at least, how they actually use their anti-trust laws to reduce economic inequality. Their [Federal Cartel Office] approach to reducing economic inequality in the country is to punish those who decide they want to partake in monopolistic behavior. Consolidation of businesses resulting in less economic equality and issues of bribery are at the fore front of prosecutions by the FCO. This could be understood through Ludwig Erhard, in his expression that “There have never been as many unemployed in German Economic history as in the period when cartels flourished most strongly. Cartels always have to be paid for by a lower standard of living” (Bundeskartellamt, 2016, 6). Cartels frequently bully competition out of the markets, further cementing “pun-intended” their monopolized market powers. Since Germany is special in its serious regard at reducing economic inequality, let us now plug in Germany's Gini Coefficient. Germany has been given .27 out of 1 by Transparency International. Considering every other country's score in this analysis is .33 and up, this reflects well on their society. Potentially it is because of how determined the FCO is at eliminating unfair competition. The best explanation for this comes from “the considerable

intensification of cartel prosecution activities has paid off... Their detection requires effective investigatory powers. The leniency programme will continue to play an essential role in this regard. The success it has achieved so far multiples its deterrent effects as cartel members trust each other less and less” (Bundeskartellamt, 2016, 34). The Bundeskartellamt report lays this out by showing that for each year the leniency program has been available, more and more people submit applications, giving guidance to the FCO as to what company they should be looking at next. Ultimately, the better the FCO becomes at effectively prosecuting these monopolization practices, the fairer Germanys society will become. This is because competition between businesses will allow for a greater distribution of wealth.

4. Findings

After fully examining in great detail our research question: *Why do wealthier countries that have Anti-Monopoly Legislation, differ in their enforcement?* We can finally summarize the three theories in this analysis. In that we talked about how the United States, Republic of China, Japan and Germany have managed to (1) enforce their anti-monopoly laws: by which we see Independent Agencies as actually the ones who create and enforce anti-trust laws. In that, we found that each of the countries in this examination do indeed have these independent agencies. We then looked at how (2) anti-monopoly laws can be catalyst in preventing or reducing the levels of corruption. Being that corruption can be rather hard to measure, we employed the usage of the Corruption Perception Index to allow for a clearer understanding of each country’s reality. Finally, we talked about how (3) economic inequality is also another potential factor, as we understand high levels of economic inequality can build public pressure to create and implement efficient anti-trust laws. Similar to corruption, we used the Gini Coefficient as a measuring

Table 1: Comparison of Countries Measured by Gini Coefficient

Country	Anti-Monopoly Law (constant)	Enforcement	Corruption	Economic Inequality
United States of America	Yes	Independent Agency	(74) out of 100	0 - 0.39 - 1
Peoples Republic of China	Yes	Independent Agency	(40) out of 100	0 - 0.47 - 1
Japan	Yes	Independent Agency	(72) out of 100	0 - 0.33 - 1
Germany	Yes	Independent Agency	(81) out of 100	0 - 0.27 - 1

stick to better understand each of the countries and their respective inequality issues.

5. Conclusion

In our conclusion for this research topic: Why do wealthier countries that have Anti-Monopoly Legislation, differ in their enforcement? This question was asked because of the interest in understanding how each of these countries, which are sitting at their respective ranks on the 2017 nominal gross domestic product charts, compared to one another. Add in the fact that these countries have very different historical backgrounds, all the while still having anti-monopoly laws. We then proceeded to examine our dependent variables throughout this paper in how (1) enforcement is handled and by whom, (2) how mergers and other corruptible offenses have played out in each country and also (3) how anti-monopoly laws, if applied effectively, can aid one's economy. We examined these dependent variables through how we looked at our independent variables: (1) Independent Agencies: are these agencies effectively able to enforce and subsequently implement these laws. We also proceeded to examine (2) Corruption through mergers, bid-rigging and other corruptible tendencies to gain better understanding if anti-monopoly laws can reduce said tendencies. And finally, we used (3) Economic Inequality, to help us explain or better yet understand how inequality has played into the creation and implementation of these laws. In doing so, we found how these variables have helped reduce such inequalities through continual updates of said laws.

However, what was found out during this research analysis whether looking at enforcement via independent agencies, corruption, be it a public or private entity, and also economic inequality, by which unfair markets reduce the public's market power, has resulted in the following conclusion. The reality that we find is that independent agencies that create and

implement newer stronger anti-monopoly laws can be seen as the most important factor. If these agencies were not independent and people were essentially voted into these head positions, there would be an inefficient manner in which to protect consumers. These agencies, if allowed to be politicized, could in turn be weaponized at industries that the head or president of said agency, simply does not like. We talked about F.D.R. Trying to get the FTC on his side to mesh better with his desires. We saw how China essentially did not have this independent agency before 2008 and was all over the place on their enforcement. The only thing that did make sense in terms of China, was the need to create this agency, because of the housing crash in 2008 to stop the likes of this happening again globally without any form of repercussion. We then examined how the JFTC went after companies who tried to bribe officials into not pressing criminal charges against bid-rigging contractors. If this agency was independent, they would be ineffectively useless to prosecuting larger corporations to maintain a market balance of competitiveness. Finally, we have seen how the FCO of Germany has been able to strengthen itself by creating much stricter anti-trust rules for businesses to follow.

The only real difference between each of these countries independent anti-monopoly agencies is how much they have been developed to control society. The United States is not doing too bad but if we compare them to China, they are almost falling behind in creating stronger deterrents to those thinking to monopolize, cartelize, etc. However, Japan and Germany are very similar by how they have allowed their agencies to criminally charge and jail public officials for breaking the unfair competition doctrine rules. This is not the case in China, as they are still dealing with the reality of public officials unfairly being able to purchase state-owned-enterprises (SOE) at below market value, to in turn sell them for an unethical profit.

However, our initial belief that the idea of corruption being a potential factor is not as important as one would have hoped. For the United States, there are still issues of corruption through legal loopholes in the anti-monopoly laws. For example, the four meat processors

in the United States effectively cornering the market and subsequently being allowed to dictate to farmers what prices they will be paying for such products which should be the other way around. Also, in China, by how their AML's can be seen as almost protectionist in nature for how they are applied against foreign companies working in the country, more so than Chinese businesses operating in the country. Now, Japan still has issues with corruption where multiple prime ministers have gone to jail, but they have worked to make it less prevalent within their country. They have done so by how they have continued to bolster their anti-monopoly laws, which has resulted in them being ranked considerably better than the U.S. and China. Finally, Germany can be seen as having the best score of them all, in terms of amounts of corruption, but once again comparing it to the United States, China and Japan we begin to see that this theory is not consistent enough to suggest that by eliminating corruption, a country will be wealthy.

We also had our final theory, economic inequality, for which is prevalent in each of these countries in our analysis. However, what we found is that the theory of economic inequality does a poor job of explaining why these nations are wealthy. It of course shows the difference between each of the countries, like in the United States with how we explained that top executives in the technology industry had collaborated together by not recruiting one another's employees in order to artificially keep wages down. The problem in China, for which public officials are allowed to purchase state-controlled assets, like land, mines and businesses at prices significantly below actual market value that a private citizen would be forced to pay. To then, in turn sell these assets off at a mark-up, resulting in a pretty penny for the public officials involved. This is almost another added perk to the job for these public officials and nothing has been done yet to prohibit these unfair competitive acts. Then moving to Japan, however much better, they are in fact still dealing with wide spread bid-rigging and public officials being bribed, of course not to the level of the United States or China, but still significant enough to be considered a big problem. Also even though Germany and Japan are scored lower (lower

is better) on the amounts of corruption they have, the theory of economic inequality does a poor job of explaining why the United States and China are producing significantly higher levels of nominal gross domestic production each year. It is good that Japan and Germany have low levels of economic inequality, with Germany being scored near Nordic countries, which currently have the best score of very low economic inequality. Due to the information we have gathered and broken down, we must say for this paper, the most consistent theory of them all is the idea of enforcement via independent agencies.

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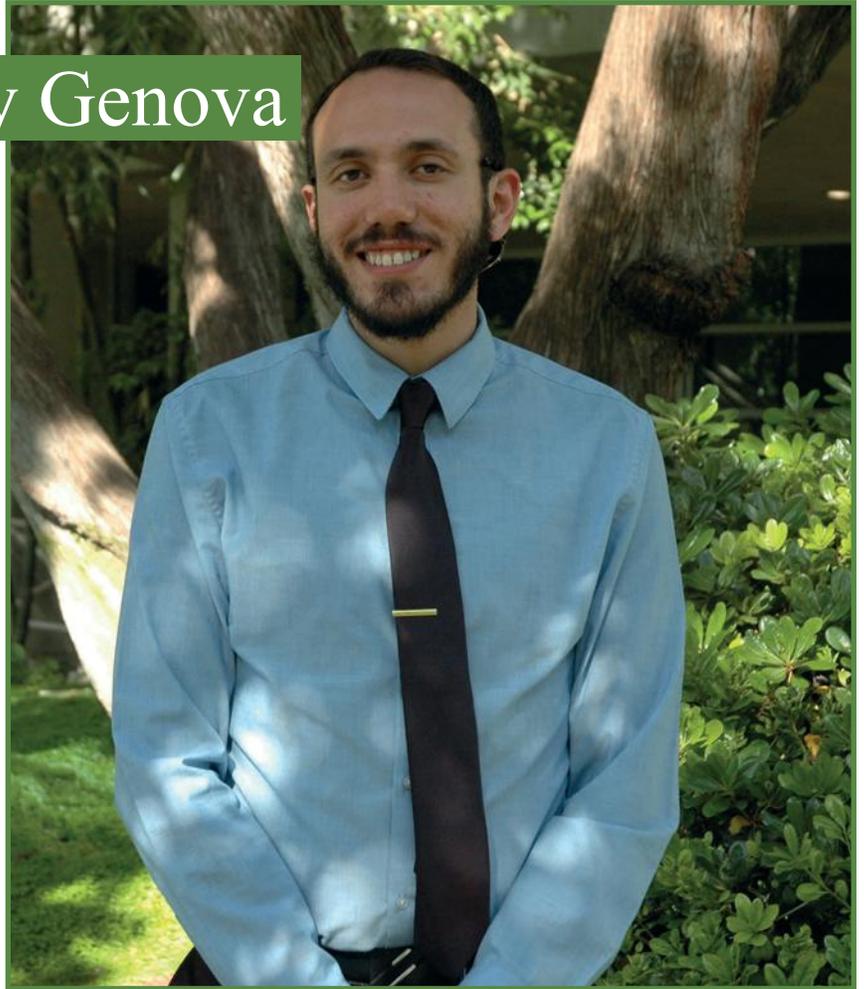
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