No. 24-304

IN THE
Supreme Court of the United States

LABORATORY CORPORATION OF AMERICA HOLDINGS, D/B/A LABCORP,
Petitioner,

v.

LUKE DAVIS, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF NOBEL LAUREATE ECONOMISTS JOSEPH STIGLITZ AND DANIEL MCFADDEN AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Amici Joseph Stiglitz and Daniel McFadden are economists whose work has shaped the field of antitrust law. Professor Stiglitz, a Nobel laureate, has researched how real-world markets often fail to function as competitive theory predicts, with dominant firms exploiting inefficiencies to suppress competition, restrict consumer choice, and stifle innovation. His work shows that these distortions harm not just individual consumers but entire markets. Professor McFadden, also a Nobel laureate, has developed econometric methods that allow courts and regulators to quantify the effects of such anticompetitive conduct. His discrete-choice models help to measure inflated prices and economic harm across classes of consumers.

Amici submit this brief to explain why petitioner's proposed rule—that no class may be certified if it contains an "appreciable number" of members with no quantifiable damages, Pet'r Br. 37—is flawed. To certify an antitrust class, Federal Rule of Civil Procedure 23 requires a reliable method to measure harm on a classwide basis and to *later* assign zero damages to any fortuitously uninjured class members. Courts applying that certify-now-exclude-later approach rely on well-established economic tools to identify actual injury and hold antitrust violators accountable for the full measure of their anticompetitive conduct—no more, no less. Petitioner's rule would disrupt that settled framework without justification and, in doing so, weaken the private enforcement that deters violations and preserves competitive markets.

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[1] No counsel for a party authored this brief in whole or in part. No person or entity other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief. *See* Sup. Ct. R. 37.6.

INTRODUCTION AND SUMMARY OF ARGUMENT

In enacting the antitrust laws, "Congress was dealing with competition, which it sought to protect, and monopoly, which it sought to prevent." *Standard Oil Co. v. FTC*, 340 U.S. 231, 248-49 (1951). When competition falters and monopolies take root, often "[p]rice is higher and output lower than they would otherwise be, and both are unresponsive to consumer preference." *NCAA v. Board of Regents of Univ. of Oklahoma*, 468 U.S. 85, 107 (1984). Private enforcement is critical to deter and redress these violations.

Private antitrust enforcement, in turn, depends in large part on class actions. Class actions enable plaintiffs to address diffuse but significant injuries by sharing the costs of litigation. And those costs are substantial in antitrust cases, which generally rely on experts and economic models to prove marketwide harm. Given these costs, the "*realistic* alternative" to class litigation often "is not 17 million individual suits, but zero individual suits," *Carnegie v. Household Int'l, Inc.*, 376 F.3d 656, 661 (7th Cir. 2004) (Posner, J.), because no rational plaintiff would spend millions litigating to recover overcharges on a product that cost them, say, $3, *see Conwood Co. v. U.S. Tobacco Co.*, 290 F.3d 768, 773 (6th Cir. 2002) (moist snuff tobacco).

Petitioner's proposed rule—that a class cannot be certified if it contains an "appreciable number" of uninjured members—would undermine effective antitrust enforcement. Economists reliably can model *marketwide* harm even when "[t]he vagaries of the marketplace" would "deny us sure knowledge" of the impact on each individual. *J. Truett Payne Co. v. Chrysler Motors Corp.*, 451 U.S. 557, 566 (1981). So even the most reliable model may calculate zero

damages for some class members who transacted in distorted markets. But petitioner's rule would elevate this modeling limitation into a procedural roadblock even in cases of widespread harm.

Petitioner's approach would also increase the already substantial costs of antitrust litigation. By requiring courts to exclude purportedly "uninjured" class members at the certification stage, it shifts a task traditionally handled by claims administrators (paid from a common fund after a finding of liability) to expert witnesses (retained early in the case and paid upfront by plaintiffs who have no assurance of prevailing). At the same time, it would give defendants a perverse incentive to withhold pricing and transactional data essential to determining who suffered measurable harm. The effect would be to suppress valid claims and allow more antitrust violations to go unremedied.

And for what? Defendants already are protected against overpayment: Courts require rigorous proof of classwide harm and reliable methods to ensure only class members with damages recover. Petitioner's rule would not improve that process. It conflates the share of class members estimated to be unharmed with the share that likely are to be misclassified as harmed and compensated—two very different concerns. And it would preclude certification not because plaintiffs lack common proof of harm, but because—at the "early practicable time" when certification must be decided, Fed. R. Civ. P. 23(c)(1)(A)—they cannot define the class with post-trial precision.

As this Court has recognized, "[p]redominance is a test readily met in certain cases alleging . . . violations of the antitrust laws." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). The Court should reject petitioner's rule, which would upend that settled law.

ARGUMENT

I. ANTITRUST VIOLATIONS CAUSE BROAD HARM TO MARKETS, WHICH ECONOMISTS RELIABLY CAN MEASURE

Antitrust law protects the competitive process, not just individual consumers. When that process breaks down—through collusion, monopolization, or other restraints—the harm ripples across entire markets. Economists long have used reliable modeling techniques to measure this kind of harm. But these tools are designed to assess aggregate effects, not necessarily the particular effects on any individuals. Reliable models therefore may estimate zero damages for some consumers—not because those individuals suffered no adverse effects but because of noisy data, anomalous transactions, or the inherent limits of statistical modeling. That is not a defect in modeling that should preclude class certification; it is a feature of how economists analyze complex markets. But petitioner's rule would treat that feature as a fatal flaw, barring certification of any class with more than a minimal number of members for whom the model returns zero damages. That approach misunderstands both the nature of antitrust harm and the purpose of the predominance inquiry, which asks whether injury can be shown through a common, reliable method—not whether every class member ultimately will receive damages.

A. Anticompetitive Conduct Distorts Markets

As this Court has emphasized, antitrust law aims to preserve competition as a system. *See Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962). And disrupting that system may have broad consequences: Anticompetitive conduct "come[s] at the expense of consumers" generally, reducing overall welfare even

as its precise effects vary from person to person. Joseph E. Stiglitz, *Towards a Broader View of Competition Policy* 3 (Roosevelt Inst. June 2017).

Consider price-fixing, the prototypical antitrust violation. Consumers who buy a price-fixed product pay more than they otherwise would, naturally. But then those higher prices suppress demand, leading firms to produce less. With less output, competitive pressures weaken, reducing the incentive to innovate. A market that might have been vibrant instead stagnates. And while some consumers may experience this harm in ways they can quantify—paying $5 more for a product, for example—others may feel it in ways harder to measure: a reduced selection of goods, slower technological advancement, or the gradual erosion of competitive market forces that, over time, make everything just a little more expensive.

The LIBOR price-fixing scandal offers a stark example. There, a handful of banks conspired to "rig" benchmark interest rates—figures that may seem obscure to the average person but that underpin trillions of dollars in "[m]ortgages and many financial products." Joseph E. Stiglitz, *The Price of Inequality: How Today's Divided Society Endangers Our Future* 47 (2012). Some suffered immediate and concrete losses—pension funds and municipalities found themselves on the losing end of complex financial transactions, for instance. But for many "who were unaware of these shenanigans," *id.*, the harm was more diffuse: slightly higher mortgage rates, slightly lower investment returns, and the subtle but real inefficiencies that come when financial markets no longer function as they should. In the end, whether an individual borrower or investor could pinpoint exactly how much the manipulation cost them, the market itself had been distorted, leaving all participants worse off.

Price-fixing is not the only way anticompetitive conduct undermines market integrity. Consider Apple's monopolization of the iPhone app marketplace. By prohibiting competing app stores, Apple has been able to force developers to pay a 30% commission on most paid apps and in-app purchases, generating years of supracompetitive profits. *Apple Inc. v. Pepper*, 587 U.S. 273, 277 (2019). Professor McFadden's econometric analysis showed that this distortion led to systematically inflated prices, imposing a functional "tax" on all participants in the marketplace. Order Denying Apple's *Daubert* Motion and Granting Class Certification at 3, *In re Apple iPhone Antitrust Litig.*, No. 4:11-cv-6714-YGR, Dkt. 789 (N.D. Cal. Feb. 2, 2024). And even consumers who incurred no direct monetary damages—who did not pay the "Apple tax"—still bore the cost of diminished choice as some developers were discouraged from entering the market.

B. Courts Rely On Well-Established Economic Methods To Model Marketwide Harm

Antitrust harms like these are measurable. Courts routinely accept expert economic modeling to establish classwide impact in antitrust cases. *See*, *e.g.*, *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 668 (9th Cir. 2022) (en banc); *In re Urethane Antitrust Litig.*, 768 F.3d 1245, 1254-56 (10th Cir. 2014). For example, in a monopolization case, the Second Circuit relied on econometric and statistical methods as common proof of both injury and damages. *See In re Visa Check/MasterMoney Antitrust Litig.*, 280 F.3d 124, 138-39 (2d Cir. 2001) (Sotomayor, J.). These decisions reflect a broad consensus: expert models can establish antitrust injury through common evidence, even if individual damages vary across the class.

These models are well-grounded in economic science. For example, many economic models used in antitrust cases rely on multiple regression analysis—a foundational tool of modern economics. Economists have applied regression models to study an extraordinary range of questions, including the price effects of the 19th-century railroad cartel[2]; the end of the reserve clause in baseball[3]; the price effects of mergers in the beer industry[4]; the likely consequences of a proposed Staples-Office Depot merger[5]; the demand for automobiles[6]; competition in retail food markets[7]; the change in consumer welfare from the introduction of minivans[8]; and the effects of auction rules on bidding behavior.[9] These models are widely accepted in peer-

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[2] Robert H. Porter, *A Study of Cartel Stability: The Joint Executive Committee, 1880-1886*, 14 Bell J. Econ. 301 (Autumn 1983).

[3] Gerald W. Scully, *Pay and Performance in Major League Baseball*, 64 Am. Econ. Rev. 915 (Dec. 1974).

[4] Jonathan B. Baker & Timothy F. Bresnahan, *The Gains from Merger or Collusion in Product-Differentiated Industries*, 33 J. Indus. Econ. 427 (June 1985).

[5] Orley Ashenfelter et al., *Empirical Methods in Merger Analysis: Econometric Analysis of Pricing in FTC v. Staples*, 13 Int'l J. Econ. Bus. 265 (July 2006).

[6] Steven Berry, James Levinsohn & Ariel Pakes, *Automobile Prices in Market Equilibrium*, 63 Econometrica 841 (July 1995).

[7] Aviv Nevo, *Measuring Market Power in the Ready-to-Eat Cereal Industry*, 69 Econometrica 307 (Mar. 2001).

[8] Amil Petrin, *Quantifying the Benefits of New Products: The Case of the Minivan*, 110 J. Political Econ. 705 (Aug. 2002).

[9] Ali Hortaçsu & David McAdams, *Mechanism Choice and Strategic Bidding in Divisible Good Auctions: An Empirical Analysis of the Turkish Treasury Auction Market*, 118 J. Political

reviewed economics literature and in courts, precisely because they enable rigorous analysis of complex market behavior. *See*, *e.g.*, *In re Neurontin Mktg. & Sales Pracs. Litig.*, 712 F.3d 21, 42 (1st Cir. 2013) ("regression analysis is a well recognized and scientifically valid approach . . . , and courts have long permitted parties to use statistical data to establish causal relationships" in class actions and many other settings) (collecting cases).

One application of this methodology in antitrust cases is hedonic regression, a technique that can isolate the effects of collusion on pricing. As Professor McFadden explains, hedonic regression "identifies consumer tastes for hedonic attributes"—the features of a product that shape how much consumers value it—and allows economists "to recover the distribution of hedonic preferences when consumers operate at active margins." Daniel L. McFadden, *The New Science of Pleasure: Consumer Choice Behavior and the Measurement of Well-Being*, NBER Working Paper No. 18687, at 19 (Jan. 2013). In simpler terms, it enables experts to estimate how much consumers are willing to pay for specific product features—like size, quality, or brand—by analyzing how prices vary when those features change. In antitrust cases, this allows experts to separate price differences driven by legitimate factors from those inflated by unlawful conduct. *See*, *e.g.*, *In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2013 WL 5391159, at *3 (N.D. Cal. Sept. 24, 2013) (expert used hedonic regression to distinguish price differences attributable to product features—

Econ. 833 (Oct. 2010). *See also* Alvin E. Roth & Axel Ockenfels, *Last-Minute Bidding and the Rules for Ending Second-Price Auctions: Evidence from eBay and Amazon Auctions on the Internet*, 92 Am. Econ. Rev. 1093 (Sept. 2002).

like brand, size, and quality—from artificial inflation caused by collusion). For instance, in the automobile market, hedonic regression can distinguish the price impact of better engines or safety features from increases caused by collusion among manufacturers. From there, economists can estimate the price that would have prevailed in a competitive market and quantify the overcharge attributable to the violation. *See* Jerry A. Hausman, *Valuation of New Goods under Perfect and Imperfect Competition*, *in The Economics of New Goods* 209 (Timothy F. Bresnahan & Robert J. Gordon eds., Univ. of Chi. Press 1996).

Hedonic regression is just one example. Economists have developed a range of other reliable modeling techniques to isolate antitrust harm and distinguish injured from uninjured consumers. *See Messner v. Northshore Univ. HealthSystem*, 669 F.3d 802, 818-19 (7th Cir. 2012) (difference-in-differences analysis compared price changes at hospitals affected by merger against control hospitals); *In re Domestic Drywall Antitrust Litig.*, 322 F.R.D. 188, 220-22 (E.D. Pa. 2017) (instrumental-variable model filtered out lawful price shifts—like raw material costs—to isolate overcharges from collusion); *In re Lidoderm Antitrust Litig.*, 2017 WL 679367, at *18-19 (N.D. Cal. Feb. 21, 2017) (demand-estimation identified brand loyalists who would not have switched to generics and assigned zero damages to them).

These tools are especially powerful in class actions, where many individual claims—and large volumes of data—are aggregated. Statistical modeling is well-suited to these cases because aggregation often increases the available information and thereby improves the accuracy of the analysis. As more data are available for analysis, more questions can be

answered (and answered better) through rigorous statistical examination. Put in formal terms, modeling $\sum x$ often yields more accurate answers than modeling for any individual x.

Of course, not every model will pass muster. As this Court has made clear, courts must ensure that expert methodologies are both reliable and tied to the plaintiffs' theory of liability. *See Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 454-55 (2016); *Comcast Corp. v. Behrend*, 569 U.S. 27, 35 (2013). When plaintiffs satisfy these requirements—when their models are rigorous, reliable, and aligned with their theory of harm—they can help demonstrate classwide injury precisely as Rule 23 demands.

C. Reliable Models May Estimate Zero Damages For Some Consumers In Affected Markets

Modern techniques reliably can estimate the average effect of anticompetitive conduct across a market. But given "[t]he vagaries of the marketplace," *J. Truett Payne Co. v. Chrysler Motors Corp.*, 451 U.S. 557, 566 (1981), some models still may calculate zero damages for certain consumers—even those who transacted in the distorted market. That result does not signal flawed modeling. Nor does it mean the zero-damages individuals were unharmed.

Some variation in individual impact is inevitable. Even the most reliable models will assign zero damages to some class members—whether because of data limitations or genuine differences in consumer behavior. Some consumers may have paid unusually low prices due to coupons, bundling, or timing. Still others may fall within the model's margin of error, where the harm—though real—is too small or idiosyncratic to be isolated with confidence. As Professor

McFadden has explained, this is not an impediment to accurate classwide modeling: "Both market demand and social welfare," he has written, "are functions of these distributions, and do not require detailed preference information at the individual level." McFadden, *The New Science of Pleasure* at 16.

Indeed, because individual outcomes often involve more uncertainty than aggregate ones, courts properly allow such questions to be addressed after certification, when more complete data are available and models have been subject to testing and refinement. The predominance inquiry asks whether harm can be shown through a common method, not whether each class member's losses can be nailed down at the outset.

That is what current practice permits—and what petitioner's rule would undo. By barring certification whenever a model estimates zero damages for some class members, petitioner's approach would disqualify a broad swath of antitrust cases from class treatment. The result would not be greater precision, but an obstacle to meritorious claims—and a meaningful erosion of antitrust enforcement.

II. PETITIONER'S RULE WOULD UNDERMINE ANTITRUST ENFORCEMENT

Class actions are indispensable to antitrust enforcement. But petitioner's rule would make these actions prohibitively expensive and procedurally unworkable. By demanding that uninjured class members be excluded at the certification stage, petitioner would frontload inquiries that courts long—and sensibly—have deferred. Worse, petitioner's rule would give defendants incentives to withhold data that plaintiffs need to prove all class members were damaged, turning information asymmetries into a shield against

liability. The result would be fewer suits, weaker deterrence, and more unchecked anticompetitive conduct—all contrary to the purpose of the antitrust laws.

A. Class Actions Are Essential To Antitrust Enforcement

The antitrust laws are not self-executing; they rely on both public and private enforcement. And the tools available to each differ. The government can seek to stop unlawful conduct through injunctive relief, but it cannot recover damages on behalf of injured consumers. Yet it is precisely those damages that create the financial incentives needed to deter anticompetitive behavior—especially when public enforcement resources are limited.

So as this Court long has recognized, the task of redressing marketwide antitrust harms often falls to private plaintiffs. "[P]rivate antitrust litigation is one of the surest weapons" against anticompetitive conduct. *Minnesota Mining & Mfg. Co. v. New Jersey Wood Finishing Co.*, 381 U.S. 311, 318 (1965). Such suits "provide a significant supplement to the limited resources available to the Department of Justice." *Reiter v. Sonotone Corp.*, 442 U.S. 330, 344 (1979). And in practice, they often are the primary means of holding violators accountable and securing redress for systemic injuries.

Class actions are essential to that effort because they are structurally suited to the harm antitrust law addresses: injuries that often are too small to pursue individually but significant when aggregated across a market. *See Carnegie v. Household Int'l, Inc.*, 376 F.3d 656, 661 (7th Cir. 2004) (Posner, J.). Class actions help overcome the procedural and practical obstacles to filing individual antitrust cases, making enforcement feasible. And this Court long has under-

stood that antitrust class actions are in no tension with Rule 23: "Predominance is a test readily met in certain cases alleging . . . violations of the antitrust laws." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997).

B. Petitioner's Rule Would Make Meritorious Antitrust Class Actions Harder To Bring

Petitioner's rule—that a class may not be certified if it includes an "appreciable number" of uninjured members, Pet'r Br. 37—would upend decades of settled practice in antitrust litigation. Courts long have addressed the problem of separating injured from uninjured class members through a practical, phased approach: first assessing common antitrust injury at certification, then resolving liability at trial, and finally allocating damages at the back end. *See* Resp. Br. 31. Petitioner would flip that sequence, requiring plaintiffs to identify and exclude uninjured class members before certification—before any liability finding and, perhaps, before plaintiffs even have the discovery necessary to do so. That front-loaded approach would dramatically raise the cost of bringing class actions and encourage defendants to withhold critical data, turning information asymmetries into a shield against accountability. Rule 23 requires no such result.

1. Courts routinely separate class members who suffered injury from those who did not. But they do so at the right time: after determining liability based on common proof. Petitioner would accelerate that inquiry to the certification stage. That approach is not just inefficient; it would impose costs that could prevent valid antitrust class actions from being brought.

Start with current practice. *First*, courts ask whether a proposed class later will be able to establish a common antitrust injury. That inquiry is "readily"

susceptible to classwide treatment, as this Court has held. *Amchem*, 521 U.S. at 625. For certification, the court need not identify which specific class members were harmed or in what amount. It must simply be satisfied that there *later* will be a reliable and "administratively feasible" method for distinguishing injured from uninjured class members. *In re Nexium Antitrust Litig.*, 777 F.3d 9, 19 (1st Cir. 2015).

Second, courts address liability through a trial of common or predominant issues on the merits. *Third*, courts rely on well-established procedures to ensure that damages are allocated only to those who can show measurable harm.[10] Claims administrators, for example, may use claim forms, audits, economic models, and statistical tools tailored to the facts of the case. *See* Claims Administrators Br. 5-13. These back-end techniques are neither novel nor experimental; courts have used them for decades to fairly and efficiently distribute damages in complex cases.

This structure—certification, liability, then allocation—serves an important function. It allows courts to defer individualized assessments until they are

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[10] That threshold can be established in various ways—through the class definition itself, by including only those consumers who spent above a certain amount or made a minimum number of transactions, or, later, through the allocation of a lump-sum damages award. In antitrust class actions, juries typically award damages in the aggregate, and distribution is handled through a pro rata process. That method may result in little or no recovery for the least-injured class members. But the possibility that some claimants receive de minimis payouts does not undermine the validity of the class mechanism. What matters is that common questions of law and fact were appropriately resolved on a classwide basis for individuals similarly harmed by the same antitrust violation.

necessary and practical. And for good reason: front-loading the injury inquiry would require parties to perform costly analyses to separate injured from uninjured class members before resolving whether the defendant broke the law at all.

Petitioner's rule misunderstands this process. It equates the number of potentially unharmed members in a proposed class with the number who would be misclassified as harmed—ignoring that a reliable claims-administration process can and does screen out those not demonstrably injured. That confusion improperly shifts the focus from whether harm can be shown through common proof to whether the class can be perfectly defined in advance.

The cost implications are staggering. Once liability is established, claims-processing costs generally are covered by the class recovery. That structure ensures that recovery-related costs are borne only if there is something to recover. But if plaintiffs are required to exclude all uninjured class members at certification, they would need to obtain massive quantities of company sales data, hire experts, process claim-level data, and deploy allocation methodologies while the possibility of recouping their investment remains theoretical. Class actions are expensive enough without that added cost.

2. Petitioner's proposed rule also would create perverse incentives for defendants to withhold information critical to class certification. In many cases, the defendant alone possesses the sales records, transaction histories, pricing models, and distribution data needed to determine who was harmed and by how much. *See* Claims Administrators Br. 9. Yet defendants may resist producing this information before class certification, knowing that plaintiffs

need it to show common injury. And petitioner's rule would reward defendants for stonewalling discovery, allowing them to argue that plaintiffs failed to prove individualized harm—while withholding the very evidence needed to make that showing.

As Professor Stiglitz has explained, such behavior is a predictable consequence of information asymmetry—an economic condition in which dominant firms hold critical data unavailable to others. *See*, *e.g.*, Joseph E. Stiglitz, *Information and the Change in the Paradigm in Economics*, 92 Am. Econ. Rev. 460, 469-70 (June 2002). These firms not only benefit from information disparities; they often have "an incentive to *increase* asymmetries of information in order to enhance market power." *Id.* at 487. In litigation, that incentive becomes a strategy: withhold key data as long as possible, frustrate early attempts to prove harm, and use procedural hurdles to escape liability. Petitioner's rule would codify that tactic, erecting a certification barrier that defendants can exploit precisely because they control the evidence necessary to surmount it. A certification rule that hinges on how many class members lack damages—rather than on how well the proposed methodology prevents misallocation of damages—gives defendants an incentive to obstruct discovery and undermines the screening function Rule 23 is meant to serve.

The better approach is the one courts already take: focus on common evidence of market distortion at certification and address individualized damages when it matters—after a liability finding, when the record is complete and when the claims-administration process efficiently can allocate payment.

C. Courts Already Have Reliable Tools To Address The Problems Petitioner Imagines

Petitioner warns (at 32-33) that certifying classes with uninjured members risks inflating damages awards. But that concern is misplaced. In antitrust class actions, damages are not tethered to any statutory minima. They instead are calculated based on expert models that measure harm caused by the defendant's conduct. Indeed, standard models often are conservative in their estimates of harm.

Further, courts already have robust tools to exclude overaggressive models. In *Comcast*, this Court reaffirmed that damages must be linked to the specific antitrust violation alleged. 569 U.S. at 35. And lower courts have applied this rule to hold that defendants may be required only to "pay aggregate damages equivalent to the injury that they caused." *Nexium*, 777 F.3d at 19.

That is exactly what reliable models measure. *See supra* pp. 6-11. In antitrust cases, uninjured class members do not inflate damages because reliable models assign them none. "Ultimately, the defendants will not pay, and the class members will not recover, amounts attributable to uninjured class members, and judgment will not be entered in favor of such members." *Nexium*, 777 F.3d at 21-22. In this context, petitioner's rule would fix nothing and break what already works.

* * *

The antitrust laws exist to protect the integrity of American markets. Class actions are integral to that project. And while courts overseeing antitrust cases rightly require rigorous economic analysis, they have never demanded precision for precision's sake. Petitioner's rule would upend that practical, well-

settled framework—raising a new, artificial barrier to enforcement and giving anticompetitive actors more space to evade accountability.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted,

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