



# THE D G E

## DEBATING AGENT SPECIFICATION

It has become common for teams on the negative to object to affirmative plans because they either over- or under-specify the agent of action. Various referred to as “A-spec” (for agent specification), “O-spec” (for over-specification), or “I-spec” (for implementation specification), the negative claim is that by specifying the agent as the plan does, they distort policy comparison in some important way and should lose. In my experience, the most popular version of the agent argument objects to plans specifying action through some particular federal agency. Thus, plans on the mental health topic specifying that action will be initiated and implemented through the Federal Bureau of Prisons or the Food and Drug Administration are criticized as overly particularizing how implementing action will happen. Or, to the contrary, negatives might argue that by failing to detail the grounds of judicial action (in other words, does the plan imagine action justified under the rubric of “equal protection” or “due process”?), the plan is insufficiently precise and should be rejected.

There is nothing especially brilliant or tactically tricky about the genre of A-spec positions. In fact, the claims back and forth are easy enough to flesh out. It survives because the position is unturnable except at the level of asserted counter-punishment claims, and as such

can be defended as a no-lose procedural objection like topicality. The position takes ten or fifteen seconds to initiate in the first negative constructive, and so the time tradeoff implications favor the INC. It seems reasonable enough as a theoretical objection to the plan, to many judges more reasonable than the older objections deriving from unnecessary vagueness in the plan text. And because most judges would object to having the plan modified mid-debate, the voting issue implications are fairly easy to articulate as well.

The most frustrating aspect of specification-centered debate is how often basic supporting claims rest on simple value judgments that do not lend themselves to evidenced or warranted support. Is debate better if it concentrates students on very detailed comparisons among potential implementing agencies, or better if it remains at a higher level of abstraction (“the federal government”)? Are the merits of plan specificity outweighed by the burdensome requirement that negative teams be required to research each and every outfit in the federal government? There are no better or convincing answers to these questions than to the old-school question of whether debate is benefited more by breadth or depth in interpreting the resolution. That is, one can only, finally, respond by expressing one’s own preference, in the same way one asserts a proclivity for Big Macs over Whoppers. Despite the frequent appearance of very detailed substructured argument, then, the result is often debates where a judge simply votes one way or the other based either on a visceral reaction or a technically mishandled claim.

In what follows, I review some of the major questions arising from debate over agent specification. As with other procedural objections, affirmatives who have carefully flowed the logical claims and who efficiently respond in the 2AC should never lose on specification, probably even to teams who make it their stock in trade. Still, because some have made specification objections a favorite argument, and because there is no easy way to preempt all versions of it in the plan (provide detail and you’ve over-specified; omit detail and you’ve under-specified) it’s worth reviewing the issues it raises both ways.

### **Are debates better served when the plan is very specific?**

Defenders of agent specification claim that permitting detailed designation of the part of the government which will implement the plan makes for better comparison. When the affirmative specifies the Bureau of Prisons as their implementing agent, debate is instantly made more concrete and focused on the benefits and consequences of certain action. And of course there is often a rich literature assessing the relative merits of this agency over that when it comes to mental health or oceans policy. Such literatures range from discussion of the respective costs of regulatory action as opposed to judicial enforcement to very detailed discussions about the problems likely to arise when one agency or an-

other undertakes enforcement actions in the area of the plan’s mandates. Whole academic disciplines concentrate their energies on the mechanics of regulatory process, and so no one should be surprised to find treasure troves of evidence defending the courts or regulatory agencies or various taxation mechanisms as best equipped to accomplish certain legislated outcomes.

No one disagrees that a lot of evidence addresses the merits of these alternatives. The disagreement centers on whether this evidence is directly enough related to the resolutive context to justify focus on the procedural issues raised. Is the constitution of Bureau of Prisons enforcement procedures an essential aspect of mental health policy when it comes to treating federal prisoners, or are such questions a total diversion from rightful attention on the nature of the provided public health services? A decent case can be made either way: an agent specifying affirmative can claim that solvency for their approaches can only be meaningfully assessed in the context of particular attention to the implementing agency, while the negative will reply that they cannot fairly be held accountable for each of the hundred potential actors. There is often a high quality literature that connects topic proposals with this agent or that; on the other hand, too high a degree of agent specificity can allow an affirmative to duck on-point objections to their proposal when they select agents wholly separated from the central solvency literature.

The bottom line is that the quality of debate relating to implementing agency is probably a function of the solvency literature, and the closeness of fit between the solvency literature and resolutive language.

### **Is it right to think of plans as broadly self-executing?**

One of the most popular affirmative responses to agent specification objections is that normally implementing policies entails the involvement of the entire federal government, even if such involvement is not specified in the plan. In other words, even if the plan only names the Food and Drug Administration, enforcement would necessarily involve the courts, and other parts of the executive and judicial branches will play a role in funding and enforcement of plan mandates. If this understanding of ambiguously written plans is accepted, the affirmative gets the best of both worlds: they can plausibly claim to be defending the entire federal apparatus (which gets them off the theoretical hook) while preserving enough ambiguity to permute or capture counterplans that differently specify health service provision. Thus, if a counterplan has the courts order the plan’s actions be dictated by judicial order, the affirmative can capitalize on their FDA-only plan to defend a non-severance permutation, which does both.

This affirmative approach is not altogether unreasonable when one considers a popular argument used to defend counterplans relying solely on judicial or executive action. Advocates of the court counterplan regularly respond to disadvantages run in the 2AC by pointing out that the same

disadvantages also apply to the plan, which would invariably end up in the courts as well. If the plan uses the Bureau of Prisons and the counterplan a court order, in other words, it is difficult for the affirmative to object to the court counterplan (with, say, a judicial activism disadvantage), since affirmative fiat presumably would obligate the court to act in just as activist a manner to uphold the plan.

Another way to consider this question centers on the role of the resolution. Is the agent language in the resolution an umbrella term allowing specification in the plan? Or does the resolution dictate particular agent language? Favoring the former view is the fact that resolutive language is usually considered a broad framework out of which the plan can provide stipulation. For example, the resolutive requirement for “public health services” is not normally understood as coercing the affirmative to provide or defend all possible public health services – the plan can pick and choose in accordance with the requirements of solvency evidence. Favoring the latter is a view popular with some that agent language should be treated differently than other resolutive requirements. Some argue that the placement of agent language prior to the verb and object phrases in the topic sentence dictates a holistic defense by the affirmative, although this view seems difficult to grammatically sustain. Others claim that the term “federal government” should be treated as a kind of collective noun.

Either way, negatives will respond that specification cannot be implied in the plan, precisely because it enables this slipperiness in advocacy. The absence of detailed plan language, even if the affirmative is willing to defend the implicit involvement of other federal government actors, arguably permits teams too much latitude in sidestepping what are often reasonable issues of enforcement and implementation.

### **Is there a problem of infinite regress?**

Regardless of the specification position defended by the negative, whether they say the plan is too specific or not specific enough, affirmatives will often reply that the negative demands produce a problem of slippery slope infinite regression. Negatives demanding a high level of specification will never be satisfied, or so the argument goes: they will start by demanding specification of the major implementing agency, but what will prevent the negative from next seeking precise budget figures, the names of oversight board members, details about the retirement packages for implementing officials, and ever-more absurd requests for programmatic detail?

The infinite regress problem works the other way too. Even when the negative argues for plans simply including the term “federal government,” affirmatives will reply that demanding negatives will require no plan at all, since any specification of the mandate ends up detailing the involvement of the federal government. The result is a slippery slope possibility that the plan will either end up taking eight

minutes or more to introduce, or reduce to nothing more than a re-articulation of the resolutive sentence.

The problem with slippery slope claims, of course, is that they are normally and rightly considered fallacious. Slippery slope arguments are usually misconceived because they presume an incapacity on the part of intelligent individuals to make case by case judgments. And so, to take a popular example from public decision making, when someone says the death penalty will invariably lead to state-sponsored murder of all criminal suspects, their criticism is reasonably dismissed – after all, presumably rational people can tell the difference between executing the guilty and executing the accused.

For this reason the infinite regress claim is relatively easy for negative teams to deflect, usually by simple assertion: “our demands for specificity are not unreasonable, and we’re not asking for an eight minute plan – all we expect is...” And such explanations are easy to back up by writing a frontline shell defending a precise demand for specificity.

### **Should plans that incorrectly specify their agent of action lose the debate?**

What is the appropriate impact of specification mistakes? Negatives will argue the affirmative should lose the debate. After all, if agent language in the plan distorts negative strategizing from the very start of the debate – by precluding certain counterplan choices and nullifying disadvantage links – then the only possible penalty is to shut down the affirmative. No other corrective is available: the plan cannot be legitimately amended or otherwise fixed, and there’s no restoring the first negative constructive.

Despite this, many judges will be unsympathetic to a voting issue claim. Is the punishment of round loss really justified by the mere fact of slight over- or under-specification? And presuming some basis for reasonable latitude, compounded in this case by the normal affirmative claim that their specification doesn’t deny the likely involvement of other branches through the operation of normal means, some will be even more reluctant to make specification a voting issue.

### **Other Issues**

Other questions are also a standard part of the specification repertoire. One centers on the issue of *inevitable specification*. If the plan’s agent is highly detailed, counterplans may be able to compete which refuse such specification or which specify in a different way; they can be easily written as mutually exclusive. And if the plan refuses such specification, then counterplans can be written which offer a higher degree of detail; although such counterplans may not appear to compete, negative teams can resist permutations as either necessarily requiring severance of the general mandate or its alteration.

All this raises an important question: if specification is an inevitable part of debates, one way or the other, then does

it matter who does the specifying? Affirmatives will claim that they should enjoy the right of specification, since such a right is more consistent with their higher burden of proof and need to comport with the advocacy of their solvency authors. Negatives will argue that because they cannot anticipate every potential specification possibility, it is only fair that they have the specification power. Again the argument requires a subjective expression of preference by the judge. But the inevitability of specification does potentially take other issues off the table. For example, arguments about whether debate is better served with attention to detailed agent advocacy or not are nullified if specification will happen either way.

A related issue concerns the nature of the *topic literature*: does it matter if the affirmative has topic literature supporting their specification? Obviously any expert will envision some degree of specification when she or he advocates action. If that is so, then permitting affirmatives to specify in a way which matches their authors may be a context issue. That is, if the affirmative is denied the ability to specify in accordance with their authors, then they may be significantly distorting their solvency claims.

Though it sounds persuasive, this argument is nonetheless problematic. Negatives will be quick to point out that there is always a disconnect between solvency advocacy and the requirements of the resolution. Solvency sources never write with detailed knowledge of the resolution to be debated by high school students, and affirmatives are not usually afforded the right to stretch or modify the resolution to make their solvency advocate fit.

A final question concerns the role of *cross-examination*: is the opportunity for negatives to cross-examine the 1AC a sufficient corrective for specification distortions? Affirmatives will obviously say yes: “We don’t have time to

read infinitely long plans. They have a cross-examination where they can ask us about any of their concerns before they have to commit to a 1NC strategy. So what’s the big deal?” Of course negatives have a ready reply: “Cross examination is no corrective. Clever 1AC’s are skilled at perpetuating artful ambiguity. And what they call reasonable cross-examination latitude is nothing more than advocacy shifting.” Regardless of your own preferences in this back and forth, the arguments relating to cross-examination are rarely persuasive for the affirmative.

## Conclusions

The fact that agent specification typically implies no brilliant or special tricks should not diminish the importance of carefully responding to the position. Specification arguments are most often won by negatives when their opponents are technically sloppy in responding. Agent specification briefs should efficiently forward a series of responses; efficiency is important since the 2AC doesn’t want to over-allocate time to a position quickly defended in the first negative, but a balance has to be maintained so enough pressure is created that a debater in the negative block will have to invest real time in winning it.

Because specification objections can be offered regardless of what you do in the plan, I recommend that you write your plan in a manner most consistent with the solvency evidence. If the solvency evidence takes you in the direction of high specification, then simply write theory briefs defending against the theory argument; hopefully your defenses will involve a major defense of your author’s recommendations.

*(Dr. David M. Cheshier is Assistant Professor of Communications and Director of Debate at Georgia State University. His column appears monthly in the Rostrum.)*