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- Debate regarding the proper legal construct (predatory pricing,



- ~~Application~~
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- Gaining consensus among antitrust lawyers is like herding cats.
- An electrical circuit is like a plumbing system.

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- **Eligible**
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- Conditional pricing faces no recoupment problem. “Recoupment” is simultaneous.
- Based on the evidence, we cannot say that conditional pricing practices are “rarely tried, and even more rarely successful.”

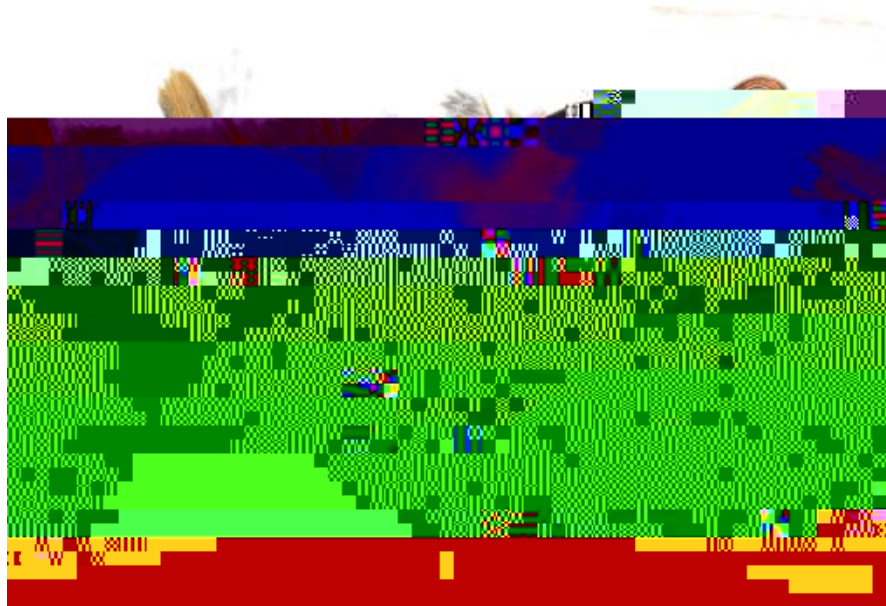
- **Eligible**

- Extreme caution is merited in the case of unconditioned price discounts.
 - Price cutting is at the heart of the competition – the “very conduct the antitrust laws were intended to protect.”
- Difficult to characterize conditional pricing as an irreducible element of competition. Firms have procompetitive alternatives to conditional pricing.
 - Decision-theoretic arguments fail to account for alternatives.
- Supposed “chilling effect” by other legal rules is not empirically supported.



Though analogy is often misleading,
it is the least misleading thing we have.

Samuel Butler



Antitrust by Analogy: Developing Rules for Loyalty Rebates and Bundled Discounts, 79 Antitrust L.J. 99 (2013)