







# Economic consensus over predation

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Conduct involving exclusionary conditions is where the action is











## Counseling clients

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- Market power screen - only monopolists need be careful with exclusionary conditions
- Restrictions on dealings with rivals often have procompetitive justifications
  - These always involve contracting externalities
  - Explore least objectionable alternatives to overcome contracting problems
  - Document those contracting problems
  - Document alternatives explored
- Don't confuse desire to sell more or sell more profitably with being procompetitive
  - If selling more occurs because rival is weakened, it is anticompetitive
- Price above cost in the competitive increment
- If objective is to weaken rival, consider clearly procompetitive alternative strategies

What did the dissent in

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