

Comments on Legal Panel Presentations

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Disclaimers

My opinions are my own and are not necessarily shared by my

Disagreement with Some Presenters' Conclusions

- The law cannot rely on “competition for the contract.” Because of the monopolist’s “exclusion value” and the entrant’s “coordination/externality problems” there often can be no effective competition for the contract.”
- Price/cost comparisons are not the only objective evidence. Showing that the entrant lacks a rational economic incentive to try to outbid incumbent also is objective evidence and is more reliable.
- Such an entrant is not “lazy or incompetent,” but is “rational” in the face of effective exclusionary conduct by the monopolist.
- If the entrant is a “less efficient rival,” that fact does not make the entrant “lazy or incompetent.” Entry by such rivals into a dominant firm market can increase competition and consumer welfare.

Disagreement with some Presenters' Views that Courts Should Rely Mainly Or Entirely on IR<IC (EER) Test.

- CPPs raise greater exclusionary concerns than predatory pricing because it is more profitable to the monopolist; and there are fewer short-run consumer benefits, if any.
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