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Single Firm Conduct: Predatory Buying Panel

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I am grateful to the Department of Justice and Federal Trade Commission for the invitation to participate on this predatory buying panel. It is a great honor to be here. I am especially grateful because I have been thinking for longer than I care to remember about how to support Section 2 of the Sherman Act, and yet reconcile it with less controversial, more accepted frameworks for prosecuting cartels and evaluating horizontal mergers.

I will offer a suggestion along those lines today. Although I believe that my suggestion will make deserving exclusion cases easier to bring, some aspects may be significantly different from established jurisprudence. For that reason, I particularly recognize the privilege of having a place at this distinguished table.

Before proceeding, I need to say that my statement today reflects solely my own opinions and does not represent those of the Competition Bureau or any of its staff.

For this complex topic, I offer a series of recommendations.

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Some, but not all, of the views expressed in this paper and citations to supporting authorities are in my "Saving Section 2: Reframing Monopolization Law," available from the AEI-Brookings Joint Center for Regulatory Studies at <http://www.aei-brookings.org/publications/abstract.php?pid=1002>. A version is also forthcoming as a chapter in Ghosal, Vivek and Johan Stennek (eds.), *The Political Economy of Antitrust* (Amsterdam: North-Holland, forthcoming 2006).















