



Exploitative high prices and European competition law

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**Personal views, not representative of views or policy of the
Competition Commission**



Is there a problem with the way we are applying the law...?

- Case law on exclusion seems OK. Pricing above the profit-maximising level is presumably exclusionary
- But for exploitative abuse:
 - Is it so easy to define a ‘monopolist’?
 - What is ‘economic value’?
 - “exorbitant”, “disproportionate”, “unfair”?
 - Is it really an ‘abuse’ to have excessive cost? Wow.
- I think it will be really hard to put this on a sound economic footing – case law quite unhelpful here!



...or is there a problem with the law itself?

- Do we really want to regard excessive pricing as an 'abuse' by a single firm?
- Are we expecting dominant firms deliberately to price below the profit-maximising level?
- Alternative: excessive pricing as an *indicator* of a failure of competition in the market. If confirmed then consider remedies in that market
- But then I would say that...(see UK Enterprise Act 2002, Market Investigation Regime)!