

UNITED STATES OF AMERICA Federal Trade Commission WASHINGTON, D.C. 20580

Statement Regarding Request for Public Comment Re: Predatory Pricing January 31, 2025

The following Request for Public Comment Regarding Predatory Pricing was issued by the Commission on January 17, 2025 with a public docket for comments opened at https://www.regulations.gov/docket/FTC-2025-0011. However, the document was subsequently withdrawn by Chair Ferguson on January 22, 2025, and the docket was rendered closed for further comments.

To ensure these important lines of inquiry remain available to the public, I am making available the document in its original form as an attachment below.

Request for Public Comments Regarding Predatory Pricing

Under antitrust law, predatory pricing occurs when a firm prices its products or services below cost, undermining its rivals, with a dangerous probability of recouping its losses once rivals have been driven out of the market. In 1986 the Supreme Court wrote, "[T]here is a consensus among commentators that predatory pricing schemes are rarely tried, and even more rarely successful." Proving that a firm has violated the antitrust laws by engaging in predatory pricing can be extremely difficult under today's doctrine.

The FTC now invites public comments on the following questions:

- 1. Is it true that predatory pricing schemes are "rarely tried, and even more rarely successful?" What empirical evidence is there on the frequency, viability, and impact of predatory pricing?
- 2. What are markets, products, or services where firms may be engaging in predatory pricing?
- 3. Are there particular strategies that firms deploy to pursue predatory pricing in today's markets?
- 4. Traditional predatory pricing theory assumes that firms "recoup" their losses through raising prices once they have weakened or driven out their rivals. Are there other mechanisms of "recoupment" that may be relevant?

Comments must be received no later than Thursday, April 17, 2025 by 11:59pm ET.

Instructions for submitting:

- 1. Go to the docket on regulations.gov
- 2. Click "Browse Documents"
- 3. Underneath the document containing the RFI questions, click comment (the blue button)
- 4. Fill out the form which requires:
 - 4.1. The comment text itself
 - 4.2. The comment category

¹ Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 589 (1986) (collecting sources).

- 5. You can submit as: an individual, an organization, or anonymous
 - 5.1.Optional: Attachments to aid your response. You can attach up to 20 files, but each file cannot exceed 10MB. Valid file types include: bmp, docx, gif, jpg, jpeg, pdf, png, pptx, rtf, sgml, tif, tiff, txt, wpd, xlsx, xml.

Please DO NOT include sensitive or confidential information in the comments including:

- social security numbers;
- dates of birth;
- driver's license numbers or other state identification numbers;
- financial account information;
- sensitive health information; or
- competitively sensitive information.

Comments will be posted on the Internet and made available to the public (subject to exceptions such as for personal privacy information of persons other than the submitter). Comments submitted in response to this RFI could inform the Agencies' enforcement priorities and future actions.