

The DOJ's § 2 Report offers two recommendations under the heading of "General Standards for Exclusionary Conduct." First, for evaluating alleged acts of exclusion, the Report endorses the burden-shifting framework of the D.C. Circuit's 2001 *Microsoft* decision. Second, after canvassing various standards of anticompetitive effect, the Report settles on the "disproportionality test," under which "conduct that potentially has both procompetitive and anticompetitive effects is anticompetitive under section 2 if its likely anticompetitive harms substantially outweigh its likely procompetitive benefits."

[Read the full piece here.](#)