

EXCESSIVE PRICING, ENTRY, ASSESSMENT AND  
INVESTMENT: LESSONS FROM THE *MITTAL* LITIGATION

ARIEL EZRACHI

DAVID GILO

**Abstract**

The role of antitrust law in curtailing excessive prices has long been a contentious area. The charge of excessive pricing has been subjected to varying levels of intervention across the world. Three main grounds are often used to justify non-, or limited-, intervention: (1) excessive prices are self-correcting; (2) they are difficult to assess; and (3) they stimulate socially valuable investment. Using the recent South African *Mittal Steel* litigation as an illustration, this paper questions the validity of these grounds for non-intervention and the weight attributed to each of them. It demonstrates how excessive prices are not self-correcting, how at times assessment difficulties are surmountable, and calls for a case-by-case appraisal of “investment defenses.”