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Structural remedies seek to directly influence the competitive structure of the relevant market(s) in order to maintain or improve the conditions for competition.

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Behavioral remedies seek to address the identified competition concerns by requiring certain conduct from the un-

## STRUCTURAL vs. BEHAVIORAL REMEDIES

Structural vs. Behavioral Remedies The European Commission's remedial practice displays important differences in the type of remedies accepted in merger as opposed to antitrust cases. This paper briefly reviews the Commission's remedies practice over the last 14 years highlighting the differences and discussing inconsistencies.

## Structural vs. Behavioral Remedies - Competition Policy ...

The European Commission (2003, Article 7(1)) prefers behavioral remedies to structural ones, stating: "Structural remedies can only be imposed either where there is no equally effective behavioral remedy or where any equally effective behavioral remedy would be more burdensome for the undertaking concerned than the structural remedy". Implementing market designs that, by modifying the market environment, affect market participants' behavior indirectly can be thought of as a behavioral ...

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6) defines structural remedies as "changes to the structure of an undertaking. The most obvious one is the divestiture of an existing business," and behavioral

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remedies as (p. 8) “a measure that obliges the concerned undertaking(s) to act in a specific way.” Duso, Gugler, and Yurtoglu (2011, p. 980) characterize behavioral

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Structural remedies, such as increasing competition by forced divestiture (Green, 2006), focus on the removal of the structural causes of market power. Behavioral remedies focus on preventing firms to be able to use their market power. The European Commission prefers behavioral remedies to structural ones, stating: “Structural remedies can

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Structural versus behavioral remedies in the deregulation of electricity markets: An experimental investigation motivated by policy concerns Author links open overlay panel Silvester van Koten a b Andreas Ortmann c

Structural versus behavioral remedies in the deregulation ...

In this short article, we evaluate the role of structural and behavioral remedies in big tech sectors. First, we highlight the prominence of structural solutions in recent policy debates, discussing both their limitations and their potential role in light of the economic and technological features of digital markets.

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We thus provide evidence that behavioral remedies may be more effective than structural ones. Our data hence suggest that competition authorities are well advised, in line with EU law (European Commission, 2006a, p.11), to focus on introducing, and facilitating the proper functioning of, forward markets rather than on lowering market concentration by divestiture.

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: (1) structural remedies are a remedy of last resort, ie behavioural remedies would be insufficient; (2) structural remedies must be effective; and (3) structural remedies must be proportionate. 3 As stated by Wind (2005: 659), ' Priority is given to behavioural remedies, as structural remedies are used only if it is not possible to use the first ' .

Behavioural versus Structural Remedies in EU Competition Law

Behavioural versus Structural Remedies in EU Competition Law Maier-Rigaud, Frank P. (2016) Behavioural versus Structural Remedies in EU Competition Law, chapter 7, 207-224 in: Philip Lowe, Mel Marquis and Giorgio Monti (eds.), European Competition Law Annual 2013, Effective and Legitimate Enforcement of Competition Law, Hart Publishing.

Behavioural versus Structural Remedies in EU Competition ...

In contrast to previous findings, our data furthermore suggest that the effect of

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introducing a forward market is stronger than adding one more competitor both in markets with two, and particularly three, producers. Our data thus provides evidence that behavioral remedies may be more effective than structural remedies.

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□ The structural or behavioral nature of a remedy is immaterial as long as they are not equally effective. Only in this highly theoretical case when indeed they cannot be distinguished by the very criteria set forth in Article 7, does the Article suggest a preference for behavioral remedies “behavioural policies, unlike structural policies, do not eliminate the incentive o

Behavioral versus Structural Remedies under EU Law

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The literature contains several alternative definitions of structural versus behavioral remedies,<sup>3</sup>but most have at their core the following distinction: a structural remedy to an otherwise anticompetitive merger creates or preserves legally and operationally independent firms so as to maintain competition in the affected market.

## Behavioral Merger Remedies: Evaluation and Implications ...

Structural remedies contrast with "conduct" or "behavioral" remedies, which also are intended to preserve competition, but through requirements that the merged firm commit to take certain business actions or refrain from certain business conduct going forward. In the past, the agencies generally have reserved conduct remedies for those few "vertical" deals they have challenged, where the merging parties are not horizontal competitors but compete at different levels of distribution.

## Federal Antitrust Enforcers Taking More Regulatory, but ...

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