

Remedies

Antitrust remedies come in many forms, including fines or damages for injured parties as well as structural or behavioral remedies designed to maintain or restore competitive conditions. This module will analyze the efficacy of various antitrust remedies, from “breaking up” large corporations to more modest regulations designed to modify the conduct of corporations. Students should note the downside of behavioral remedies which are ultimately instructions to the firm to take actions that are not in the firm’s financial or strategic interest. In an environment of asymmetric information and slow-moving enforcers, it is an open question how well behavioral remedies can perform in many settings. Moreover, behavioral remedies require ongoing oversight by both the enforcement agency and the courts. Structural remedies do not exhibit these flaws but are more disruptive.

Reading

Required Reading

Steves & Sons, Inc. v. Jeld-Wen, Inc., 988 F.3d 690 (4th Cir. 2021) (divestiture remedy)

United States v. Microsoft Corp., 253 F.3d 34, 105 (D.C. Cir. 2001) (Section V only).

Competitive Impact Statement, *U.S. v. AB In-Bev/Grupo Modelo*, 13-cv-127 (D.D.C.)

Michael Kades & Fiona Scott Morton, *Interoperability as a Competition Remedy for Digital Networks*, Washington Center for Equitable Growth (2020)

Recommended Reading

Competitive Impact Statement, *U.S. v. Google Inc.*, 11cv688 (D.D.C.)