



Australian
Competition &
Consumer
Commission

Merger controls and the impact on competition: an Australian perspective

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Some background on the Australian system

- The Australian Competition and Consumer Commission (ACCC) is responsible for enforcing competition law, including mergers
- Court based system
- Australian merger law based on a 'substantial lessening of competition' test
- Voluntary notification of mergers

Why is there a need for merger controls?

- Mergers perform an important role in the efficient functioning of the economy.
 - Efficiencies (economies of scale, synergies and risk spreading)
 - Managerial discipline
- However, mergers can have permanent anti-competitive effects
- Merger control is complementary to other competition laws

Will merger notifications and examination affect business confidentiality and affect business operations?

- No disclosure of submissions in public reviews
- Possibility for a confidential clearance in some circumstances

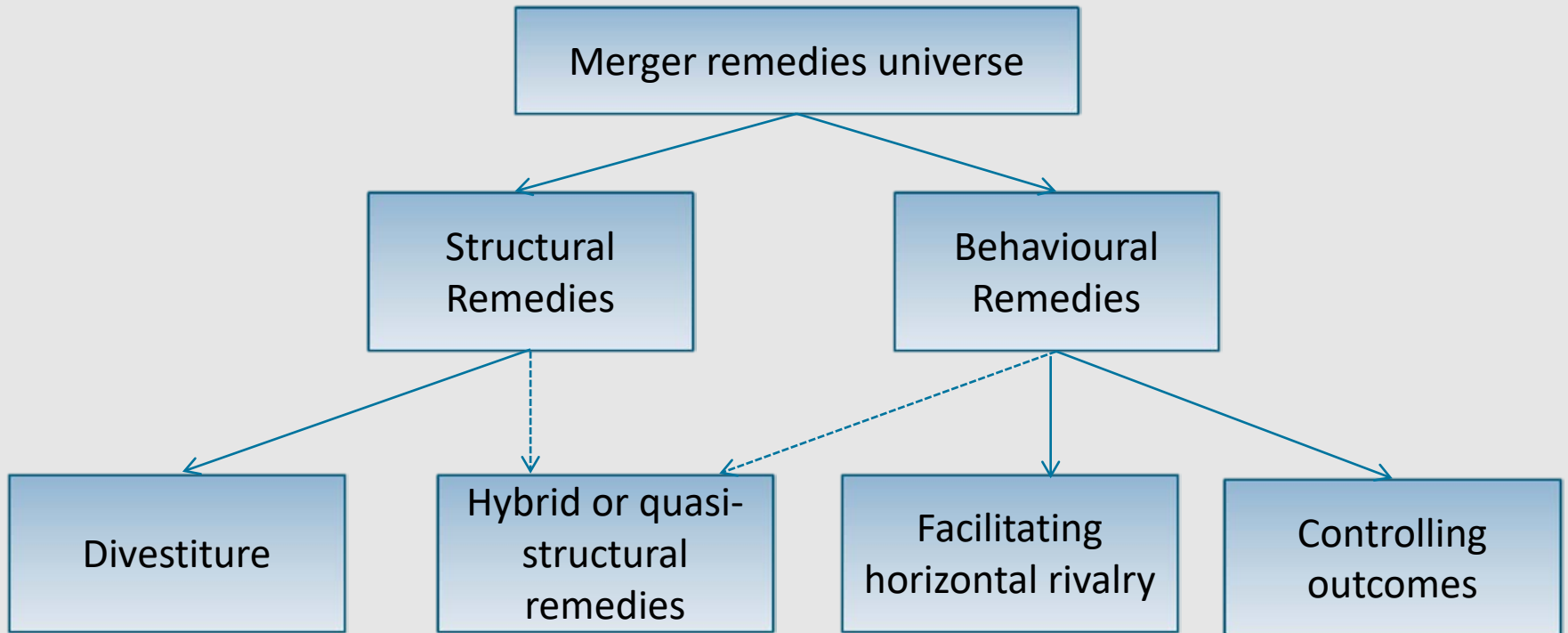
Impact of merger review on merger parties: timeliness

- Majority of mergers initially assessed as not requiring public review
- No statutory timeline, can accommodate the parties' often tight commercial timeframes if justified
- Majority of public reviews less than 8 weeks
- Scaled approach to information requirements
- Transparent timelines

When are public interest considerations taken into account in Australia?

- Authorisation of mergers where there 'is such a benefit to the public that it should be allowed to occur'

Types of remedies



ACCC's approach to remedies

- Flexible alternative to the ACCC simply opposing a merger
- The ACCC does not have the power to compel parties to offer remedies
- Merger parties offer remedies at their discretion
- Remedies should not be treated as a commercial negotiation– parties should provide their best resolution straight up
- The ACCC will work with the parties and provide feedback and assistance

ACCC's approach to remedies

Once a remedy is offered, the ACCC may conduct market inquiries with interested parties on the proposed remedy if it:

- is comprehensive
- in the ACCC's preliminary view, has the potential to be enforceable and to address the competition concerns with a merger, and
- is in a form that meets the ACCC's requirements.



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