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Session III: Remedies in Digital Markets in Latin America and the Caribbean

Digital markets have been a growing area of focus for competition authorities in Latin America and the Caribbean (LAC). This paper explores the use of remedies in digital markets, to provide a picture of how competition authorities, both within LAC and beyond, are addressing competition concerns in this sector. The paper begins with an overview of the key competition concerns and remedies observed in the region, connecting them to broader global trends. It then identifies key aspects of how authorities in LAC are approaching remedies, including: the types of remedies used, the role of interim measures and commitment procedures, and the presence and impact of extraterritorial effects. The paper concludes by highlighting the range of tools available to competition authorities in LAC to further enhance enforcement efforts and remedy design going forward.

Keywords: competition law; competition enforcement; mergers; digital economy; digitalisation; Latin America and the Caribbean

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Executive Summary

In light of increasing digitalisation, competition authorities in Latin America and the Caribbean (LAC) have shown a growing focus on addressing competition issues in digital markets. In some cases, this has resulted in authorities imposing or accepting remedies, resulting from an antitrust enforcement or merger review investigation, to address specific competition concerns in the sector.

The complex nature of digital markets, and of the competition concerns that may arise, can increase the challenges involved in designing appropriate remedies. However, competition authorities can consider a range of tools which may help to mitigate potential risks and promote effective competition in digital markets.

The main findings of the paper are as follows:

- In line with global trends, competition authorities in LAC have taken a growing number of cases in digital markets, which have targeted issues such as the use of exclusivity agreements and most-favoured-nation (MFN) clauses, the use and combination of data, tying and bundling practices and self-preferencing behaviour.
- This is a recent and emerging trend in LAC, with most key cases taking place in the past five years across a number of jurisdictions and with other jurisdictions showing an increasing interest in the sector. While some high-profile cases address the conduct of global 'big tech' platforms, many cases focus on so-called 'local techs' who exhibit market power at the local level.
- Competition concerns arising in digital markets have most commonly been addressed using behavioural remedies with levels of complexity, both within and beyond LAC.
- To support the design of effective remedies, competition authorities can consider assessing the implementation of similar remedies in other jurisdictions, or consulting with industry stakeholders or technical experts. In some cases, interim measures and commitment procedures can support the resolution of competition concerns in a timely and collaborative manner, while ongoing monitoring and ex-post assessment can also be useful tools to evaluate the effectiveness of remedies.
- While many digital platforms' operations extend across jurisdictional borders, there are limited instances of platforms voluntarily applying remedies extraterritorially. This means that competition authorities in LAC will not necessarily be able to rely on enforcement efforts in other jurisdictions. This also points to a need for international co-operation and co-ordination to minimise divergences.

Given the ongoing impacts of digitalisation across the economy, addressing competition concerns in digital markets can be expected to remain relevant for competition authorities in LAC and beyond.

1 Introduction

1. Increasing digitalisation across the economy has led to increasing prioritisation of digital markets as an area of focus for competition authorities, both in Latin America and the Caribbean and globally. Alongside this, much attention has been paid to the distinctive characteristics of digital markets identified in the academic literature and by competition authorities, and which shape competitive dynamics in the sector and may cause competition concerns to arise (e.g. see (OECD, 2022[1])).

2. Accordingly, authorities have launched a broad range of competition enforcement and merger investigation cases in digital markets across many jurisdictions. This has also been the case in LAC, where there has been increased activity in digital markets from competition authorities across the region, although to varying degrees in different jurisdiction.

3. These cases may result in authorities imposing or accepting remedies targeted at addressing the specific competition concerns identified in an abuse of dominance investigation or eliminating any competitive harm that may result as a consequence of a merger.[1] In light of this, this paper focuses on remedies in digital markets, to provide a picture of how competition authorities, both within LAC and beyond, are addressing competition concerns in this sector. In doing so, this paper will draw out key aspects of competition authorities' responses in the region, as well as highlighting opportunities to address certain challenges and enhance enforcement efforts going forward.

4. For the purpose of the paper, remedies are defined broadly, and include those arising from both competition enforcement and merger cases. In competition enforcement, this includes remedies imposed by a competition authority or court at the conclusion of an abuse of dominance proceeding, or commitments voluntarily offered by the party, which generally seek to address specific competition concerns arising from the abuse of a dominant position. In merger review, competition agencies may impose or accept remedies to eliminate competitive harm that may result as a consequence of a merger, allowing for the approval of mergers that would otherwise have been prohibited by eliminating the risks that a given transaction may pose to competition.

5. The specific remedies used to address competition concerns in digital markets may take a range of forms, such as behavioural, structural or demand-side remedies, or be imposed through a variety of different processes, such as interim measures or commitment procedures (see definitions in Box 1 below). In some cases, cases remedies may have extraterritorial or cross-border effects, particularly where large platforms operate across jurisdictional borders, requiring international co-operation to minimise inconsistencies and ensure effective outcomes across multiple jurisdictions.

6. Increasingly, large digital platforms are not only being required to change their practices in line with remedies introduced as part of abuse of dominance or merger review proceedings, but also in response to new "ex ante" regulations in digital markets. While such regulations have not been implemented in LAC to date, they are under consideration in at least one jurisdiction in the region. As seen elsewhere, there can be some overlaps in the types of conduct or behaviour that are addressed through both traditional competition law enforcement and ex ante regulation (OECD, 2024[2]).

7. This note builds on previous work by the OECD looking at both remedies and digital markets. In recent years, the OECD has convened various discussions on remedy design and implementation,

including Roundtables on Remedies in merger cases (2012[3]) and Remedies and commitments in abuse cases (2022[4]). The OECD also has an extensive programme of work looking at digital markets, including Roundtables on Abuse of dominance in digital markets (2021[5]) and Ex ante regulation and competition in digital markets (2021[6]), and publishing the OECD Handbook on Competition Policy in the Digital Age (2022[1]) as well as Competition Policy in Digital Markets: The Combined Effect of Ex Ante and Ex Post Instruments in G7 Jurisdictions (2024[2]). In 2024, the OECD-IDB Latin American and Caribbean Competition Forum (LACCF) convened a roundtable on Interim measures in abuse of dominance investigations in Latin America and the Caribbean (OECD, 2024[7]) which considered some measures imposed in digital markets in the region.

8. The note is structured as follows:

- **Section 2** sets out the particular competition concerns in digital markets which have been the focus of competition authorities in LAC and the types of remedies and commitments which have been put in place to address these.
- **Section 3** identifies key trends emerging in LAC from authorities' approaches to remedies in digital markets, including the prevalence of different types of remedies, the use of interim measures and commitment procedures, and the extent of extraterritorial effects.
- **Section 4** concludes.

Box 1. Definitions of key concepts and terms relating to remedies

Types of remedies

Behavioural remedies (or conduct remedies) alter how a firm conducts its operations. Behavioural remedies can take the form of either negative or positive obligations that the firm must comply with.

In contrast, **structural remedies** require firms to divest, release or carve-out certain of their tangible or intangible assets. They are generally one-off remedies that intend to restore the competitive structure of the market.

In some cases, **demand-side remedies** (or consumer-facing remedies) may be considered, which generally involve applying insights from behavioural economics to identify and address existing consumer biases.

Key processes for imposing or accepting remedies

An abuse of dominance proceeding may result in a **formal decision,** confirming the finding that the abuse of dominance has occurred and including (as relevant) fines, cease-and-desist orders and remedies, or a **commitment decision**, accepting commitments voluntarily offered by the party itself during an ongoing investigation.[1]

Merger proceedings may also result in remedies being imposed or accepted in the form of **commitments** offered by the merging party.

Also relevant are **interim measures**, which are protective and corrective tools that may be adopted while an investigation is ongoing, with the primary objective of preventing anti-competitive harm that may occur between the opening of an investigation and a final decision.

Note. 1. Different jurisdictions use different terminology to refer to these procedures, including settlements, undertakings, consent agreements or consent orders or decrees.
Source: OECD (2012[3]), Remedies in Merger Cases, https://doi.org/10.1787/51e1d94a-en; OECD (2022[4]), Remedies and commitments in abuse cases, https://doi.org/10.1787/b975b0e3-en; OECD (2024[7]), Interim measures in abuse of dominance investigations in Latin America and the Caribbean, https://doi.org/10.1787/277a60aa-en.

2 The use of remedies to address specific competition concerns in digital markets

9. This section identifies some of the key competition concerns that have arisen in digital markets in Latin America and the Caribbean and the remedies proposed or introduced by competition authorities to address these concerns. Stepping through each competition concern in turn, this section will consider the harms to competition, the design and goals of the corresponding remedies and how they have been implemented in practice in various jurisdictions – where relevant, comparing experiences from within LAC with those outside the region.

2.1. Exclusivity agreements and most-favoured-nation clauses

10. In line with the global trend, in recent years competition authorities across LAC have directed significant attention to restrictions that have or could be applied to business users by dominant digital intermediation platforms. These restrictions include exclusivity agreements, which prevent business users from accessing alternative platforms, and most-favoured-nation clauses (MFNs), which prevent business users from providing offers at a lower price (or otherwise on more favourable terms) outside of the platform. Platforms may have legitimate business reasons for imposing restrictions such as these, including limiting free-riding, whereby users benefit from the service provided by the platform without paying the requisite fees (OECD, 2021[6]), and promoting investment in the platform's services, by providing certainty of supply or demand (OECD, 2021[8]).

11. However, exclusivity agreements and MFNs can have an impact on competition when imposed by a dominant platform. For instance, such restrictions may prevent or discourage entry or expansion by alternative platforms or otherwise limit their access to the business users essential to their operations. This is particularly crucial in the case of multi-sided platforms which depend significant on indirect network effects – that is, the ability to attract users on one side of the platform (e.g. business users) which in turn attracts users on the other side of the platform (e.g. consumers) and vice versa.

12. As such, competition authorities, both within and outside of LAC, has investigated exclusivity agreements and MFNs imposed by significant online intermediation platforms. Box 2 summarises several key recent cases from the LAC region which target these concerns in digital markets.

Box 2. Recent examples of remedies addressing exclusivity agreements and MFNs

Brazil: CADE investigations into iFood and Gympass

The Administrative Council for Economic Defense (CADE) in Brazil has taken several cases looking at the use of exclusivity agreements by dominant intermediation platforms, which resulted in the imposition of quantitative limits on the exclusivity agreements that could be entered into by the platforms.

In 2023, CADE concluded an investigation into the food delivery platform iFood, finding that its exclusivity deals with restaurants were raising entry barriers for other platforms and producing exclusionary effects. In terms of remedies, iFood was prohibited from making exclusive arrangements with any restaurant chains with over 30 units, in recognition of the strategic importance of such chains which deal with very high numbers of customer orders. Contracts chains under 30 units were limited to two years, to be followed by a one-year "exclusivity quarantine", and capped at 25% of the platform's Gross Merchandise Value (GMV) nationwide and at 8% of restaurants in cities with over 500 000 inhabitants.

This followed CADE's previous investigation into the use of exclusivity clauses by Gympass, a health club aggregator platform, which concluded in 2022. Gympass was limited to making exclusivity agreements with health clubs up to a maximum of 20% of its base in each city or district, and was also prevented from restricting its users from joining other platforms after their contracts ended.

Alongside the terms focusing on exclusivity agreements, Gympass and iFood's commitments also explicitly prohibited MFN clauses, as additional concerns about MFNs were raised during the course of both investigations.

Chile: FNE investigation into Uber Eats, PedidosYa and Rappi

In Chile, the National Economic Prosecutor's Office (FNE) investigated MFNs used by food delivery platforms Uber Eats, PedidosYa and Rappi. The FNE found in 2023 that these clauses had the ability to reduce price competition amongst food delivery platforms, as well as making it more difficult for new entrants to establish themselves by offering lowering commissions to restaurants. The FNE accepted commitments which were centred on removing all forms of MFN clauses from current and future contracts and otherwise allowing restaurants to set prices freely.

Source: CADE Administrative Inquiry no. 08700.004588/2020-47; CADE Administrative Inquiry no. 08700.004136/2020-65; 2023 Annual Report on Competition Policy Developments in Chile, https://one.oecd.org/document/DAF/COMP/AR(2023)5/en/pdf .

13. In addition to the abuse of dominance cases outlined in Box 2, concerns about exclusivity agreements have also arisen in merger reviews. For instance, such concerns were assessed as part of CADE's review of the J3 Participações/Bus Serviços merger.[2] Bus Serviços operated as a bus tickets online travel agency (OTA) under the name 'Clickbus', while J3 operated as an intermediary between bus travel companies and digital marketplaces, including for OTAs such as Clickbus. CADE was concerned that the merged entity, through the use of exclusivity agreements with bus operators, could restrict the access of rival OTAs to bus companies. Taking a simpler approach as compared to the cases in Box 2, in the J3 Participações/Bus Serviços case, the firm was prevented from entering any exclusive agreements with bus operators or OTAs following the merger.

14. OTAs have also come under scrutiny for their use of MFNs over the past decade, across many jurisdictions. Following investigations by France, Italy and Sweden into Booking.com, which concluded in 2015,[3] CADE conducted an abuse of dominance investigation from 2016 to 2018 into the use of MFNs by Booking.com, Decolar.com and Expedia.[4] CADE found that such clauses limited competition between OTAs and made new entry more difficult, by preventing lower commission pricing from being reflected in

the final price for bookings. The Superintendence of Industry and Commerce (SIC) in Colombia also analysed similar issues in its 2019 OTA market study, finding that it was possible that MFNs were reducing competitive pressures between platforms in the market (SIC, 2019[9]).

15. CADE's accepted commitments from the OTAs requiring the removal of 'wide' MFN clauses (which restrict business users from offering better prices via any other channel). However 'narrow' MFN clauses (which restrict business users from offering better prices via their own website) were not prohibited. This allowed CADE to target its remedy to address competition concerns relating to the ability of other OTAs to enter the market and compete, while considering that narrow MFNs were legitimate to prevent free-riding by the hotel businesses in question (Renzetti and de Oliveira, 2025[10]).

16. These cases illustrate the approach generally taken when targeting actual or potential contractual restrictions on business users (such as exclusivity agreements or MFNs), i.e. requiring the platform to remove or otherwise restrict the application of the relevant contractual provisions. While such remedies may be relatively straightforward to implement and could be considered just as the implicit effect of the cease-and-desist orders, in most cases these remedies have involved some degree of specification and design consideration to most directly target the competitive harms. Firms may also be required to commit not to enter into certain contractual provisions in the future. Once these types of remedies are in place, business users are free to use alternative platforms or set their own prices across various sales channels, facilitating competition between platforms and lowering barriers for new entrants to build the user base necessary to compete.

17. In conclusion, competition authorities in several jurisdictions in LAC have targeted digital platforms' restrictions on business users' operations, including exclusivity agreements and MFNs. This may be in part due to the well-understood theories of harm considered in these cases – that is, market foreclosure through exclusive dealing (Fernandes, 2024[11]). Competition authorities generally seek to remedy these competition concerns by requiring the platforms in question to remove the offending contractual provisions. However, while some remedies outright ban the restrictions in all circumstances (e.g. by preventing all exclusivity agreements or all MFNs), others take a more nuanced approach to the conduct at hand (e.g. by imposing quantitative caps on the circumstances under which exclusivity agreements can be imposed, or by preventing only wide MFN clauses). This allows authorities to balance platforms' legitimate business reasons for imposing these rules with sufficiently addressing the competitive harm which may result from the conduct.

2.2. Use of data

18. Competition authorities have been increasingly focusing on the role of data as a critical input in digital markets and the impact on competition arising from the combination and accumulation of user data, particularly by large, vertically integrated incumbents. These concerns may relate to data sourced from consumers or, in the context of multi-sided platforms, from business users who may compete with the platforms in related markets. In particular, incumbent firms may be able to amass large datasets, which they can leverage to enter other markets with a significant advantage (OECD, 2021[5]). The accumulation and combination of data by large digital platforms can also give rise to anti-competitive effects, for instance by enabling foreclosure strategies, as well as exploitative abuses.

19. Looking first at concerns arising from the use of consumer data, there have been several significant cases in LAC, which focus on the potential competitive harms arising from the sharing of user data by WhatsApp, as set out in Box 3. The practices have also raised data privacy concerns, resulting in the same conduct coming under consideration by both competition agencies and privacy regulators, bring an additional layer of complexity for the design and implementation of remedies (see also (OECD, 2024[12])).

Box 3. Remedies addressing the use of data by WhatsApp

The LAC region has a high degree of mobile penetration, with mobile devices representing the primary means of accessing the internet in some jurisdictions. Messaging services, particularly WhatsApp, have become essential in the digital infrastructure of LAC. In many countries, WhatsApp is not only used as the primary personal communication tool, but also for business transactions, government outreach and community co-ordination. Similarly to other applications, the existence of zero-rating plans for data usage has helped strengthen WhatsApp's position. In Argentina specifically, WhatsApp is the most popular instant messaging app in the country with almost 40 million users and it has maintained this position for years.

Argentina: CNDC investigation into WhatsApp

In Argentina, the Secretariat of Commerce and the National Commission for Competition Defense (CNDC) intervened in relation to WhatsApp's implementation of changes to its privacy policy in 2021, which allowed for greater sharing of data between WhatsApp and other services owned by its parent company Meta. Users were required to accept these changes (and thus, to provide their data to Meta under the terms of the policy) to keep using the service. Finding Meta dominant in the market for social networks, the CNDC considered that these changes were exploitative due to the excessive collection of user data (beyond what is strictly necessary to provide the required service), the lack of options for users to limit the processing of their data and the requirement to accept the updated terms in order to keep using the service.

While the case focused particularly on exploitative harms to consumers, the authority noted the potential for Meta's combination of data to result in the creation of a dataset that could not be replicated by other companies, thereby also giving an exclusionary dimension to this conduct.

To address its concerns, the CNDC proposed an interim measure (granted by the Secretariat of Commerce and later upheld by the Federal Court of Appeals in 2022) which ordered WhatsApp to suspend the implementation of its privacy policy updates and to cease sharing user data with Meta and third parties.

International precedents and related cases

Concerns about WhatsApp's privacy policies were also investigated in Brazil, Chile and Colombia, with collaboration in some cases from consumer and data protection authorities. As a result, CADE issued an unprecedented joint recommendation along with consumer and data protection authorities recommending extending validity of WhatsApp's previous terms and ceasing the data sharing. In Colombia, under data protection law, WhatsApp was required to improve its processes and policies, as well as its approach to seeking consent from users.

These cases are similar to the Bundeskartellamt's 2019 decision against Meta (formerly Facebook), which prohibited Meta's practice of combining user data across multiple services, including WhatsApp, without their consent, and making this a condition of accessing its services (see also OECD (2024[12])). WhatsApp was also required to make changes to its practices in India, Italy and Turkey.[1]

Notes: [1] Bundeskartellamt decision of 6 February 2019 (B6-22/16); CCI Order, 18 November 2024; AGCM Decision, 12 May 2017; Turkish Competition Authority Decision, 20 October 2022.
Source: World Bank et al (2022[13]), Internet Access and Use in Latin America and the Caribbean, http://documents.worldbank.org/curated/en/099830109122267088; OECD (2020[14]), Going Digital in Brazil, OECD Reviews of Digital Transformation, OECD Publishing, Paris, https://doi.org/10.1787/e9bf7f8a-en; 2021 Annual Report on Competition Policy Developments in Argentina, https://one.oecd.org/document/DAF/COMP/AR(2022)40/en/pdf; CNDC, 'Dictamen firma conjunta - Referencia: Cond 1767 - *Dictamen* - Medida del artículo 44 de la Ley N.° 27.442', 13 May 2021, https://www.argentina.gob.ar/sites/default/files/cautelar_whatsapp_facebook.pdf; OECD (2024[7]), *Interim measures in abuse of dominance investigations in Latin America and the Caribbean*, https://doi.org/10.1787/20758677; Canales, M. and M. de Souza (2022[15]), "What's Up, Latin America? Between Competition, Data and Consumer Protection", *GRUR International*, https://academic.oup.com/grurint/article/71/10/967/6659783.

20. To address the harms arising from data combination, competition authorities have focused on remedies which ensure that consumers are able to give sufficient consent before this occurs, tackling the exploitative abuse directly. In turn, such remedies may also have the indirect effect of addressing the potential exclusionary effects of the conduct to some extent, by preventing incumbent firms from unfairly obtaining a significant data advantage as a result of their market power.[5]

21. As mentioned above, competition concerns can also arise based on platforms' use of business users' data, particularly in circumstances where the platforms may compete directly with these users in related markets. While arising in Brazil's J3 Participações/Bus Serviços merger case, these concerns have not been a substantial focus of competition authorities in LAC. Box 4 describes the Brazilian example and also points to how such concerns were considered and addressed outside of LAC in relation to conduct by Amazon and Meta.

Box 4. Remedies targeting the use of business users' data

In LAC, concerns around the use of business users' data by platforms have arisen in the contest of merger reviews. In particular, CADE reviewed the merger of Bus Serviços, operating as a bus tickets online travel agency (OTA) under the name 'Clickbus', and J3, operating as an intermediary between bus travel companies and digital marketplaces, including for OTAs such as Clickbus.[1]

As the merged entity would operate its own OTA 'Clickbus', as well as acting as an intermediary between bus travel companies and other OTAs which compete with Clickbus, the remedy required the separation of sensitive data from other business users (OTAs) so that it could not be used in the operation of the firm's own OTA business.

International precedents and related cases

Concerns around the use of business users' data have not been investigated under abuse of dominance provisions in LAC, although this has occurred internationally. The UK Competition and Markets Authority (CMA) and the European Commission (EC) have investigated concerns around Amazon and Meta's use of their business users' data to obtain a competitive advantage in related markets.

The CMA and the EC found competition concerns arising from Amazon's use of non-public, commercially sensitive data about third-party retailers, who sell via Amazon Marketplace, to inform decisions in its own retail business, which also sells via Amazon Marketplace, including what products to sell, stock levels and prices.[2] To address their competition concerns, the CMA and the EC each accepted behavioural commitments from Amazon which prevented it from using non-public data from third-party retailers to inform any decisions of its retail business. Amazon stated that its commitments to the EC came about in the context of the EU's Digital Markets Act (DMA), which at that time was soon to come into effect and would have included provisions covering the same business practices.[3]

Similarly, the CMA and the EC both investigated Meta, which operates the social networks Facebook and Instagram, as well as the online classified ads service (OCAS) Facebook Marketplace.[4] These investigations focused on Meta's use of data from businesses advertising on its platforms, to develop and improve its own products (i.e. Facebook Marketplace), including where Meta competes directly with those advertisers, thus obtaining an unfair competitive advantage. In 2023, the CMA accepted commitments from Meta which prohibit it from using advertisers' data when developing products that compete with those advertisers. The CMA also accepted a commitment to allow advertisers to opt-out of their data being used specifically to improve Meta's Facebook Marketplace service. In August 2024, the CMA accepted a variation to this commitment whereby advertisers' data will not be used to improve the Facebook Marketplace service, without them having to opt out. This was followed by the EC's decision in November 2024, which required Meta to ensure that non-publicly available data from OCAS

providers who are advertising customers of Meta, cannot be used to the advantage of or for any decisions relating to the Facebook Marketplace service.

Notes:
1 While the merger was completed in 2016, it was only notified to CADE in September 2020, after the authority initiated a procedure to investigate them for gun jumping.
2 EC decision of 20 December 2022, AT.40462; CMA decision of 3 November 2023, 51184.
3 Amazon press release, 20 December 2022. DMA Article 6(2) prohibits gatekeepers from using, in competition with business users, any non-public data generated or provided by those businesses from their use of the platforms' services.
4 CMA decision of 3 November 2023, 51013; EC decision of 14 November 2024, AT.40684.
Source: CADE Administrative Inquiry Case no. 08700.004426/2020-17; OECD (2024[2]), Competition Policy in Digital Markets: The Combined Effect of Ex Ante and Ex Post Instruments in G7 Jurisdictions, https://www.oecd.org/en/publications/competition-policy-in-digital-markets_80552a33-en.html.

22. In conclusion, competition concerns arising from the use and combination of consumers' data have been addressed by competition authorities in several LAC jurisdictions, in line with global trends. Similarly, in several cases this has required substantial and unprecedented collaboration with data privacy regulators to target concerns arising from the same conduct. In contrast, while there has been some attention given to potential concerns arising from platforms' use of confidential data from their business users, particularly in merger cases, this has not been as prominent a target of antitrust enforcement action in LAC as compared to in other jurisdictions. Data portability and interoperability, which have often been discussed as potential remedies to address the role of data as a source of market power for dominant platforms (e.g. see (OECD, 2021[16])), have also not featured prominently as remedies either within or outside LAC thus far (OECD, 2024[2]), although vertical interoperability remedies have been considered to address tying conduct by dominant platforms (discussed further below).

2.3. Tying and bundling practices and interoperability restrictions

23. Tying and bundling concerns have emerged commonly in relation to digital markets, including in LAC, due in some part to the highly interconnected nature of digital products. Tying occurs when a firm requires its customers to purchase additional products alongside the core product that they are seeking to purchase,[6] while bundling occurs when a firm offers multiple products for purchase together in one package (OECD, 2020[17]).[7] Closely related are situations where dominant firms restrict interoperability between their own product and the related products of third parties, functionally tying their product with other products within their own ecosystem.

24. Consumers may benefit from tying and bundling strategies, insofar as they generate substantial economies of scope or scale, enhance network effects, or otherwise increase quality or convenience. However, harms may arise where these strategies are deployed to exclude competitors from the market or to deny them the scale necessary to compete (OECD, 2021[5]). As such, this conduct can come under investigation by competition authorities as a potential abuse of dominance. In the context of merger investigations, concerns may arise where a merged entity would have the ability and incentive to foreclose rivals by tying or bundling its products, which may be more common in digital markets due to the presence of characteristics such as network effects and feedback loops (OECD, 2020[17]).

25. Such concerns have arisen in LAC, including as part of an ongoing investigation by Mexico's Federal Economic Competition Commission (COFECE) into the conduct of online marketplaces Amazon and Mercado Libre.[8] In February 2024, COFECE issued a preliminary opinion, in which it identified two concerns, among others, which related to tying and bundling or interoperability restrictions. Firstly, COFECE was concerned about the bundling of marketplace loyalty programs with unrelated services (such as streaming services), which may be creating a barrier to competition for rival marketplaces by artificially affecting their ability to attract and retain consumers. Secondly, COFECE raised concerns about the

imposition of interoperability restrictions on third-party logistics companies, which had the effect functionally tying the platforms' own logistics services to their marketplace services and foreclosing rival logistics providers.

26. While this case is still ongoing, its COFECE's preliminary decision proposed measures to address the conduct of Amazon and Mercado Libre. In relation to the first concern, COFECE has proposed that the marketplaces be required to separate out their streaming services from their marketplace loyalty programmes. Addressing the second concern, COFECE proposed requiring the marketplaces to remove their interoperability restrictions on third-party logistics providers, by giving them access to platform APIs and as such allowing them to integrate into the relevant platform infrastructure.

27. Tying was also considered in CADE's Apple in-app payments case, which is also still ongoing. This case, and the corresponding interim measures, are summarised in Box 5.

Box 5. Brazil: CADE investigation into abuse of dominant position by Apple

In late 2022, CADE launched an investigation into an alleged abuse of dominant position by Apple in the distribution market for apps on iOS devices, which is still ongoing. One of the key conducts under investigation was the tying of Apple's app store services to its own payment systems for in-app purchases, reinforced by the implementation of contractual anti-steering provisions which prevent developers from informing consumers about alternative methods of purchasing outside of the app.

During the course of its investigation, CADE imposed interim measures on Apple to address the conduct in November 2024, which was most recently upheld on appeal to the CADE Tribunal on May 2025. In its decision upholding the interim measures, CADE found that Apple's conduct could allow Apple to extend its dominance in app distribution to adjacent markets and could prevent app developers from creating alternative app distribution channels that could threaten Apple's monopoly position. CADE rejected Apple's justifications that the restrictions were necessary to ensure privacy and security within its ecosystem.

The interim measures imposed by CADE remove the tie between Apple's app store and its payment system, by prohibiting Apple from requiring the use of Apple's payment systems and allowing developers to communicate with consumers about alternative payment options. The decision also requires Apple to allow app developers to distribute apps through means other than its app store as, without this remedy, Apple would retain a monopoly over app distribution on its devices.

The overall investigation is ongoing and, in July 2025, CADE's General Superintendent's Office recommended Apple's conviction in the case. Also in July 2025, Apple requested to settle the case, which is currently under review by CADE's Tribunal via its reporting-Commissioner, Mr. Victor Oliveira Fernandes.

International precedents and related cases

The interim measures imposed by CADE address similar issues to those considered by competition authorities in a number of other jurisdictions, including Japan, the US, the EU, the Netherlands and Korea. In its decision, CADE notes the relevance of these cases in '[reshaping] the operating boundaries of smart mobile ecosystems, particularly Apple's ecosystem', while noting that its case applies specifically the Brazilian legal framework to the facts of the case.

Apple first made changes to its practices in 2021 in response to an investigation by the Japan Fair Trade Commission (JFTC), implementing voluntary measures on a global basis to allow certain apps to include an in-app link to their own websites. Around the same period, Epic Games in the US filed a lawsuit against Apple, alleging that it substantially foreclosed competition by tying its app stores to their

in-app payment systems. While Epic Games was not successful in its case as relates to the tying of its payment systems, the court's decision in 2021 found that Apple's anti-steering provisions were anti-competitive. Subsequently, the European Commission also required Apple to remove its anti-steering provisions, as applied to music streaming apps, in March 2024. Apple has also made changes in response to ongoing enforcement action from the Netherlands Authority for Consumers and Markets to allow alternative payment systems and remove anti-steering requirements for dating apps in the Netherlands.

Similar practices have also been addressed by new regulation in Korea, Europe and Japan. Korea passed the Telecommunications Business Act in August 2021, which requires app store operators (including Apple) to allow alternative in-app payment options. Under the European Digital Markets Act, Apple is now required to allow third-party in-app payment systems on its mobile operating systems. Meanwhile, Japan passed the MSCA in June 2024, which prohibits platforms from preventing other application developers from using alternative in-app payment options.

Source: CADE, Appeal No. 08700.009932/2024-18, 14 May 2025, https://www.gov.br/cade/en/matters/news/cade-upholds-interim-measure-against-apple/copy_of_AppleAppealCADEsDecisionEnligshversion.pdf; OECD (2024[2]), *Competition Policy in Digital Markets: The Combined Effect of Ex Ante and Ex Post Instruments in G7 Jurisdictions*, https://www.oecd.org/en/publications/competition-policy-in-digital-markets_80552a33-en.html.

28. As seen in Box 5 in relation to the Apple case, remedies to address tying and bundling conduct general aim to prohibit the illegal tie, allowing customers a free choice of service providers and opening up the relevant market to competition. Depending on the particular situation, this can involve requirements to separate out a particular service from a related service or to allow interoperability with rival providers of the related service.

29. Interoperability requirements were also introduced in Brazil's iFood case, described above, with iFood making commitments to maintain certain APIs for access by external developers, to reduce operating costs for restaurants who use multiple food delivery platforms. In the J3 Participações/Bus Serviços merger case (described above), non-discrimination commitments were put in place ensuring equal access and interoperability for third parties with the firm's Global Distribution System, which aggregates bus operators' inventory for OTAs. Interoperability requirements have also been applied in the region to promote competition in fintech and digital payments in Mexico and Brazil, (e.g. see (OECD, 2024[18]) and (OECD, 2025[19])). In Brazil, this includes the development of PIX, an instant payment system managed by the Central Bank of Brazil and designed around open architecture and interoperability, and Open Finance, establishing mandatory rules for the integration of the financial ecosystems via APIs. In Mexico, the 2018 Fintech Law mandates the promotion of interoperability between participants.

30. In conclusion, several recent cases in LAC have targeted tying practices by digital platforms which raise competition concerns in related markets, with several substantial remedies under consideration or recently in across multiple jurisdictions. In these cases, and more broadly, interoperability requirements can be considered as a potential response to such concerns, with the potential to open up related markets to competition, promoting consumer choice and innovation, as seen in related sectors such as digital payments.

2.4. Self-preferencing

31. Self-preferencing is increasingly prominent as a concern in digital markets, including in LAC. In a sense, self-preferencing concerns can be seen as similar to traditional leveraging theories of harm, similar to those described above, in which firms leverage market power in one market (e.g. the intermediation platform) to foreclose competitors in a related market (e.g. a downstream retail market) (OECD, 2021[6]). More specifically, self-preferencing is considered to occur where dominant platforms use their position in

one market to favour their own products in an ancillary market (for example, by giving them a preferential ranking), thus distorting competition in the related market (OECD, 2024[2]).

32. In LAC, there has been some alignment with global trends towards investigating platforms for self-preferencing conduct. However, relatively few remedies have been put in place addressing these specific concerns. For instance, CADE's Google Shopping case parallelled the EC's well-known Google Shopping decision in 2017, which found that Google had abused its dominance in general internet search to favour its own comparison shopping service. However, CADE's Tribunal decided by a majority of votes to dismiss the case in 2019, so no remedies were imposed (although some were considered, discussed further below).[9] CADE's investigation into Apple, summarised in Box 5, also considers allegations that Apple is self-preferencing its own proprietary apps.[10]

33. COFECE's ongoing investigation into Amazon and Mercado Libre, mentioned above, also addresses some conduct which parallels prominent self-preferencing investigations in other jurisdictions. In Italy, the EU and the UK,[11] competition authorities have concluded investigations into Amazon targeting concerns that it has given favourable rankings to products from retailers using its delivery services, through the 'Buy Box' mechanism on its platform.[12] In response, Amazon made commitments in the UK and the EU to ensure equal access to the Buy Box for all retailers using Amazon Marketplace,[13] and it was also required to make changes to its practices in Italy.

34. Similar concerns were highlighted in COFECE's preliminary opinion, which suggested that Amazon and Mercado Libre were favouring their own logistics services through the Buy Box.[14] In response, COFECE's preliminary opinion proposes that Amazon and Mercado Libre should modify the Buy Box criteria so that specific logistics solution chosen by a retailer for the product is no longer a factor in whether the product is featured in the Buy Box – rather, the efficiency and performance of the specific logistics solution will be considered.

35. Other cases in the region could be considered to address other examples of self-preferencing. For instance, in 2018, SIC in Colombia gave conditional approval to a merger between the airline Avianca and Price Res to operate the Avianca Tours brand, offering travel packages and operating as an OTA. Critically, Avianca was prohibited from applying discriminatory pricing that could disadvantage competing OTAs. In 2022, SIC found that Avianca had breached this condition by offering promotional discounts on Avianca Tours exclusively for customers purchasing tickets through Avianca.com, disadvantaging competing OTAs. As a result of this investigation, both companies were sanctioned, and Avianca was prohibited from offering air tickets under conditions that could disadvantage competing travel agencies.

36. As highlighted by the above cases, remedies to address self-preferencing conduct in digital markets have comprised of behavioural requirements to cease the preferencing conduct. Structural remedies could also possibly be considered to address the underlying cause of the self-preferencing concerns such as the inherent conflicts,[15] although these occur much more rarely in conduct cases.

37. In conclusion, at this stage there are just a few examples of remedies addressing emerging self-preferencing behaviour in LAC. However, such conduct is likely to remain a concern in the sector, in light of the highly interconnected nature of digital markets and lack of transparency over the functioning of algorithms operated by dominant platforms.

3 Authorities' approaches to remedies in digital markets

38. This section will focus on overall trends in authorities' approaches to remedies in digital markets, looking primarily at Latin America and the Caribbean and comparing this to examples from outside the region as relevant, and highlighting opportunities to address particular challenges and enhance enforcement efforts going forward. Specifically, this section will examine the types of remedies applied, the use of interim measures and commitment procedures, and the extent of extraterritorial effects.

3.1. Types of remedies applied

39. Across the LAC digital markets cases canvassed in section 2, behavioural remedies are the most commonly applied by competition authorities, while structural remedies have not been used to address concerns in digital markets thus far, in line with global trends. Structural remedies may not be available to all enforcers in the case of abuse of dominance investigations, or may require a high standard to be used if they are available. However, competition authorities in the US and the EU have sought structural remedies in several high-profile enforcement cases, including relating to Google's search and ad tech services.[16]

40. As such, competition authorities and courts in the region have given more attention to the design of behavioural remedies of varying levels of complexity in digital markets. In this light, remedies relating to contractual provisions, such as exclusivity agreements and MFNs, may be simpler to design and implement. However, the actual remedies implemented in these cases were not necessarily straightforward. For instance, the iFood and Gympass cases in Brazil involved with the setting of multiple different quantitative thresholds for the types of exclusivity agreements which could arise.

41. Demand-side remedies have also been considered by competition authorities in LAC, such as in Brazil's Google Shopping case. While CADE ultimately voted to close the case, three Commissioners explicitly considered possible demand-side remedies to address the competition concerns at hand, such as using behavioural insights to inform the design of user choice interfaces between Google Shopping and alternative price comparison services.

42. As such, increased attention on competition concerns arising in digital markets, and the increasing complexity of these concerns, has been a factor driving competition authorities towards implementing more complex remedies, as opposed to straightforward prohibitions. These trends could be said to be intrinsically linked, due to the presence of bottlenecks or 'gatekeepers' platforms, whose conduct cannot always be tackled by means of one-off negative obligations but require 'the administration of regulatory-like measures' (Ibáñez Colomo, 2025[20]). In light of this, Ibáñez Colomo (2025[20]) notes in the EU context that such remedies put competition authorities and courts in the position of acting as regulatory agencies, even in situations where they may not necessarily have the expertise or resources to design, monitor and enforce such solutions.

43. Also relevant is the prospect of compounding error effects, given that authorities are required to make multiple decisions throughout the course of investigation – including first making a finding about the infringement, and secondly making a decision on the appropriate scope of the response (Lancieri and Pereira Neto, 2022[21]). This could suggest that the more certain authorities (or courts) are about the extent of anti-competitive harm, the stronger the remedies should be (or, the reverse, where there is less certainty about the competitive harm, the intervention should be more restrained). Moreover, any risks of over or under enforcement in remedy design may be heightened in the context of highly dynamic digital markets.

44. To help mitigate these risks, authorities may be able to look to similar cases or remedies applied in other jurisdictions, to inform the specific design of remedies in their own jurisdictions (discussed further below). Consultation with industry stakeholders or technical experts can also support the design of effective remedies in complex markets. For instance, CADE's interim measures propose that the precise details of the obligation on Apple to allow apps to be distributed outside of its app store should be confirmed as part of a collaborative and supervised process, overseen by CADE and possibly independent experts.

45. Further, ongoing monitoring of remedies can not only be used to verify firms' compliance with the remedies in question, but also consider whether the remedy is having the intended effect of promoting competition. Ex-post assessments of remedies can also be used to evaluate the effectiveness of remedies after the fact, including supporting the identification of any aspects that could be improved or lessons that can be learnt from the experience (see for instance (OECD, 2023[22])).

3.2. Emergence of interim measures

46. As identified in (OECD, 2024[7]), interim measures are relevant tools used in LAC jurisdictions to prevent anti-competitive harm while abuse of dominance investigations are ongoing.

47. Looking at the specific cases considered in section 2, several involved the use of interim measures. For instance, the iFood and Gympass cases in Brazil both saw CADE impose interim measures, before CADE ultimately reached final settlements with the parties. In Argentina, the CNDC recommended interim measures be applied to WhatsApp, which were later upheld by the Federal Court of Appeals CADE's recent interim measures targeting Apple's tying of its in-app payment services were also upheld following several rounds of appeal, both to the courts and to CADE's Tribunal.

48. The use of interim measures in fast-moving digital markets may increase the ability of competition authorities to respond in a timely matter to pressing threats in dynamic markets. However, this requires a careful balancing of the need to act quickly with the risks associated with poorly targeted or procedurally unfair interventions. In light of this, judicial review is an essential component of the process, allowing for independent scrutiny of the legality and necessity of interim measures, ensuring that enforcement action is accountable and effective (OECD, 2024[7]).

49. An additional consideration is that the nature of interim measures, along with the operational constraints inherent in designing such measures while an investigation is ongoing, means that they may function to preserve the status quo rather than pro-actively addressing anti-competitive harm. For instance, the iFood interim measures did not require iFood to terminate any existing exclusivity agreements, only preventing iFood from entering into new exclusivity agreements. In this way, these interim measures may not have succeeded in achieving the stated objectives of 'preventing future competitive harm' and 'ensuring the normal operation of companies in the market for online food ordering and delivery services' (Kira, 2023[23]).

50. Looking forward, and consistent with (OECD, 2024[7]), careful navigation of the complexities associated with interim measures by competition authorities will support enforcers to take advantage of a valuable tool to address competition concerns arising in highly dynamic and rapidly evolving markets, such as those in the digital sector. Moreover, interim measures and commitment procedures may complement

each other and promote good outcomes, discussed further below. For instance, in the EU context, a report for the European Commission (2025[24]) found that negotiating remedies after the imposition of interim measures can accelerate the finding of an appropriate solution, since the firm has already halted the offending behaviour and may be more interested than otherwise in finding a solution and ending the investigation.

3.3. Prevalence of remedies implemented via commitments

51. Another relevant part of the enforcement toolkit for competition authorities in LAC is the ability to accept voluntary, negotiated commitments from firms while an investigation is ongoing. The iFood and Gympass cases in Brazil were both ultimately resolved with commitments, following a trend in CADE's digital market cases towards the use of such agreements to resolve cases quickly and mitigate information asymmetries (Kira, 2023[23]). FNE's investigation of food delivery platforms Uber Eats, PedidosYa and Rappi was also finalised with commitments.

52. The acceptance of commitments from firms under investigation can help cases to be resolved in a timely and effective manner (OECD, 2016[25]), bringing the relevant anti-competitive conduct to a close. Notably, the commitment procedures in Brazil's iFood and Gympass cases allowed for new issues (specifically, concerning the harm arising from MFNs imposed by the platforms) to surface that were not addressed via the original interim measures, but could be resolved in the final commitments decision. In the EU context, a report for the European Commission (2025[24]) found that the use of commitments can also provide the competition authority with wider discretion in the remedy chosen, but which is limited by the pre-requisite condition of co-operation by the firm.

53. Commitment procedures also provide an opportunity for the firm and competition authority to agree the specific, detailed terms under which a remedy will be implemented, rather than establishing a 'principles-based approach' to addressing the conduct and evaluating technical compliance with the remedy at a later stage (Ibáñez Colomo, 2025[20]). This can promote transparency at an earlier stage of the process, including enabling input from third parties about the appropriateness of the remedy prior to its being agreed, in contrast to the opacity that may arise over whether a firm is complying with a principles-based obligation.

54. Some of this distinction comes from the fact that, in some jurisdictions, whether a remedy is imposed by the authority or the authority accepts commitments affects the extent to which there is consultation with third parties. For instance, a public consultation process is often required in order to accept commitments (also known as 'market testing'), while a formal decision imposed by the authority (which may proscribe remedies) is not subject to the same requirement. However, authorities may consider the extent to which they incorporate public consultation into their processes, including when commitment procedures are not undertaken, with the aim of improving the effectiveness of remedies. For instance, connected to Brazil's Apple case, CADE held a public hearing to discuss competition in digital ecosystems related to Apple's iOS and Google's Android operating systems, which provided an opportunity for Apple as well as other stakeholders from the business sector, civil society and academia to present their perspectives to CADE, as well as providing written contributions.

55. However, the acceptance of commitments leads to a risk of fewer legal precedents developing, in terms of building an enforcement decision record for the competition authority or establishing case law through judicial decision or review (OECD, 2016[25]). Such legal precedents can provide clarity to enforcers and businesses within a jurisdiction, improving understanding of what constitutes anti-competitive behaviour and promoting good outcomes within the sector.

56. As such, and similar to the use to interim measures, commitment procedures remain a valuable tool for competition authorities to resolve competition concerns in digital markets in an effective and timely

manner. In particular, they may promote good outcomes by allowing for detailed consultation with third parties on the precise manner in which remedy obligations will be met. However, care must be taken to balance the longer term risks that may arise from less establishment of legal precedents, through the use of formal prohibition decisions and judicial review.

3.4. Extraterritorial effects

57. Central to the implementation of remedies in digital markets are complexities arising due the cross-border nature of platforms' operations and ecosystems. While many large digital platforms operate on a truly global basis, there also exist several large regional players operating across multiple jurisdictions in LAC.

58. In this context, remedies imposed by a competition authority may have extraterritorial effects, whereby they require platforms to make changes to their operations beyond the boundaries of the applicable jurisdiction. This could occur due to efficiency reasons, depending on the applicable technical limitations or the costs involved in separating out operations in the particular jurisdiction. Alternatively, platforms may implement changes more widely to deter potential regulatory or enforcement action in other jurisdictions (OECD, 2023[26]; 2024[2]).

59. However, it appears that, in practice, it is rare for platforms to voluntarily implement the same measures outside the jurisdiction at hand (OECD, 2024[2]). More commonly, a situation of "de facto" convergence may arise, occurring when multiple authorities have identified the same competition concerns, resulting in platforms incrementally adjusting their behaviour from one jurisdiction to another. These adjustments can occur, either because multiple jurisdictions impose the same or similar remedies, or because the relevant platform proposes similar commitments in each case (OECD, 2024[2]).

60. Considering the range of remedies in digital markets canvassed in section 2, there are limited instances of platforms voluntarily or unilaterally applying remedies on an extraterritorial basis. However, it is more common to find examples where related cases were considered across multiple jurisdictions, both in LAC and outside, and similar remedies consequently applied. For instance, as highlighted in section 2, the interim measures imposed by the CNDC in Argentina on WhatsApp were generally in line with those used in other jurisdictions, such as Germany and Turkey, leading to some convergence of WhatsApp's practices across these jurisdictions.

61. In some instances, cases outside the jurisdiction can be influential on the remedy design chose by the competition authority or relevant court in LAC. Brazil's OTA cases followed the same approach adopted by antitrust authorities in Europe, while Brazil's Apple decision cites the fact Apple had previously been required to make similar adjustments in the EU and the US, as summarised in section 2.

62. Given the limited cases of voluntary extraterritorial application of remedies, competition authorities will not obviously be able to rely on enforcement efforts in other jurisdictions to address competition concerns in their own jurisdiction. This means that authorities will need to give consideration to whether locally specific remedies are required. This also provides a clear opportunity for jurisdictions to build on remedies already implemented elsewhere, which may mean that similarly effective remedies can be applied with less of a resource burden on the implementing authority, and which may be of particular importance in the LAC region (Gawer and Bonina, 2024[27])). It can also provide an opportunity to adapt and improve remedies based on lessons learned in other jurisdictions. In light of the cross-border nature of platform operations, this also points to a need for co-ordination between competition authorities to minimise divergences, and promote good outcomes for businesses and consumers.

63. Moreover, some jurisdictions outside the LAC region have moved towards "ex ante" regulations in digital markets. This means that, in these jurisdictions, remedies introduced as part of abuse of dominance or merger review proceedings may operate alongside such regulatory solutions, which may even address

the same conduct. Similar proposals are under consideration in the LAC region, most notably in Brazil, where the Ministry of Finance has launched a public consultation and released a report in 2024 recommending new regulatory tools to address competition concerns in digital markets. The study calls for new powers for CADE to designate certain large digital platforms as “systematically relevant” with the aim of promoting contestability, freedom of choice and transparency. The report highlights that traditional antitrust law is limited when confronting challenges related to digital platforms given the nature of the competitive threats, which depart from traditional paradigms, and the analytical tools, which were designed for traditional markets but may be inadequate to handle complex digital dynamics (Brazilian Ministry of Finance, 2024[28]).

64. These considerations also point to the importance of international co-operation to mitigate the costs of divergences and to address the risks of increasing fragmentation, as the number of cases and the variety of remedies and regulations increases across multiple jurisdictions. However, this can also be viewed as providing even more opportunities for competition authorities and policymakers to learn from the implementation of antitrust remedies and ex ante rules in other jurisdictions, including observing which changes are most effective at improving competitive outcomes. Closely monitoring solutions agreed to or otherwise imposed in other jurisdictions may also help agencies to more quickly develop and implement effective remedies in their own jurisdiction with less of a resource burden, while retaining the flexibility to tailor remedies to best address harms in their local context.

4 Conclusions

65. In line with global trends, competition authorities in Latin America and the Caribbean have dealt with a growing number of cases in digital markets targeting a range of different competition issues, including exclusivity agreements and MFNs, the use and combination of data, tying and bundling practices and self-preferencing behaviour. It is evident that this is a recent and emerging trend, given that most of the key cases discussed in this paper have arisen in the past five years.

66. Moreover, while other competition authorities may not yet have undertaken extensive enforcement action in digital markets, the growing centrality of this sector combined with the local nuances of these markets will require ongoing scrutiny by these authorities.[17] Indeed, the cases canvassed in this paper show that many investigations have focused on so-called 'local techs', with market power at the national or regional level, alongside global 'big techs'. As highlighted above, the limited evidence of extraterritorial effects of remedies in digital markets means that authorities will need to consider whether action is warranted in their own jurisdictions.

67. The heightened complexity of digital markets, and the competition concerns which arise in the sector, can in turn heighten the complexity of the remedies required to address these problems. To mitigate potential risks and promote effective outcomes in digital markets, competition authorities have a range of tools at their disposal. For instance, competition authorities may be able to look to similar cases or remedies applied in other jurisdictions, including learning lessons from their successes and failures. To support the development of complex remedies, a substantial role may be required for technical experts, or wider consultation with third parties and interested stakeholders, to the extent possible under the applicable regime.

68. Interim measures and commitment procedures can also be valuable tools to resolve harms in a timely and collaborative manner, while being mindful of the risks to be balanced. Moreover, ongoing monitoring and ex-post assessment of remedies are highly valuable tools to evaluate the effectiveness of remedies, including finding areas for improvement going forward (see (OECD, 2023[22]) for guidance and the European Commission's recent report (2025[24]) by way of example).

69. Competition authorities in the region have also shown an interest in considering more novel, pro-competitive remedies, such as interoperability requirements or demand-side remedies, to address harms arising in this sector or related sectors. These remedies, among others, may provide a way for authorities to proactively restore competition in a particular market, rather than just ceasing the existing conduct, although the extent to which this is possible may depend on the applicable regime.

70. In some jurisdictions outside LAC which have implemented ex ante regulations in digital markets, these regulatory solutions may operate alongside remedies introduced as part of abuse of dominance or merger review proceedings. Competition authorities and policy makers in LAC have the opportunity to observe the implementation of such regulations, as well as traditional antitrust remedies, in other jurisdictions, to inform the design of effective remedies in their own jurisdictions.

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Notes

[1] Note that remedies are usually not available in hardcore cartel cases.

[2] CADE Administrative Inquiry Case no. 08700.004426/2020-17.

[3] *Booking.com to Amend Parity Provisions Throughout Europe*, 25 June 2015, https://news.booking.com/fr-be/bookingcom-to-amend-parity-provisions-throughout-europebef/.

[4] *Booking, Decolar, and Expedia reach Cease and Desist Agreement with CADE*, 29 March 2018, https://www.gov.br/cade/en/matters/news/booking-decolar-and-expedia-reach-cease-and-desist-agreement-with-cade. Note that Brazil's Competition Law sets a 20% threshold for assuming dominance.

[5] For instance, see the press release accompanying the Bundeskartellamt decision of 6 February 2019, B6-22/16, Facebook.

[6] This can occur by way of technical tying, including restricting interoperability with rivals' products, or contractual tying, which requires customers to purchase the products together (OECD, 2020[17]).

[7] This can take the form of pure bundling, whereby the products are only available for sale together, or mixed bundling, whereby the products can be purchased separately but are available together, generally at a discount (OECD, 2020[17]).

[8] COFECE, File IEBC-001-2022, Preliminary Opinion issued on February 6, 2024.

[9] See Contribution by Brazil to Session II of the OECD Global Forum on Competition: Abuse of dominance in digital markets (2020), https://one.oecd.org/document/DAF/COMP/GF/WD(2020)7/en/pdf.

[10] CADE, Appeal No. 08700.009932/2024-18, 14 May 2025, https://www.gov.br/cade/en/matters/news/cade-upholds-interim-measure-against-apple/copy_of_AppleAppealCADEsDecisionEnligshversion.pdf

[11] AGCM decision of 9 December 2021, A528 FBA Amazon; EC decision of 20 December 2022, AT.40462, Amazon Marketplace; CMA decision of 3 November 2023, 51184, Amazon Marketplace.

[12] Offers in the 'Buy Box' are displayed prominently and enable consumers to quickly purchase the item by clicking a 'buy' button.

[13] In the EU only (excluding Italy), Amazon has also committed to introducing a second Buy Box to give more choice to consumers and provide more opportunities to retailers.

[14] COFECE, File IEBC-001-2022, Preliminary Opinion issued on February 6, 2024.

[15] For instance, these have been considered in relation to Google's ad tech services in Europe (EC case, AT.40670) and the United States (United States v. Google LLC (2023)).

[16] United States v. Google LLC (2020); EC case, AT.40670, Google - Adtech and Data-related practices; United States v. Google LLC (2023).

[17] For example, in El Salvador, the market leading food delivery platform Hugo was acquired by Delivery Hero in 2021, before closing down in 2023. This case helps highlight the relevance for competition authorities in many jurisdictions of engaging with competition issues in digital markets on a local level, including potential remedies. See https://www.deliveryhero.com/newsroom/delivery-hero-acquires-hugo-food-and-grocery-delivery-verticals/ and https://restofworld.org/2023/delivery-app-hugo-el-salvador-shutting-down/.