

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Integrating Consumer Behaviour Insights in Competition Enforcement – Note by BEUC

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More documents related to this discussion can be found at
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1. Introduction

1. BEUC welcomes the opportunity to contribute on the Roundtable on “Integrating Consumer Behaviour Insights in Competition Enforcement”. As a consumer organisation, we consider the question of consumer behaviour to be particularly important and relevant for competition enforcement, and we appreciate the opportunity to advocate for a consumer-centric competition policy agenda. This contribution describes BEUC and its members’ experience in competition cases where behavioural insights, consumer behaviour and/or consumer surveys have played an important role.

2. **Competition and consumer behaviour.** The behaviour of consumers matters for competition because it can impact the ability of companies to retain existing customers or lure new customers away from rivals. Consumers’ resources—either their time or their money—are finite. For example, one hour spent watching a video on one video streaming service is one hour less spent on a rival’s platform, or one euro spent buying one brand of toothpaste is one euro less for its rivals. Companies compete with one another for consumers’ finite resources and this competition pushes them to lower their prices and/or improve the quality of their products and services and innovate. If a product is cheaper, better, or more innovative, then consumers will normally shift their demand and purchase a rival’s product.

3. **Competition and cognitive biases.** Nonetheless, companies can impede this process and undermine competition more generally by taking advantage of consumers’ behaviour and behavioural biases. Human beings are not the rational profit-maximizing individuals that classic economic theory portrays them to be. Individuals present behavioural and cognitive biases that make them, in the words of Dan Ariely, “predictably irrational”.¹ Companies unconsciously or deliberately devise their products, services, or marketing campaigns to tap into those biases without consumers even being aware of them. One of the most visible cognitive biases is the default and status quo bias where individuals have a tendency to accept the *status quo* and remain with the pre-installed or default option instead of taking a positive action to change that option. While this is nothing new—an auto-renewal subscription for a newspaper 40 years ago was already a way to take advantage of the power of defaults—online and digital companies have extensively implemented techniques that take advantage of status quo and default biases to keep consumers using their products and services and discouraging them from switching to rivals.² This was the essence of the case in the European Commission’s *Google Android* decision.³

¹ Dan Ariely, *Predictably Irrational: The Hidden Forces That Shape Our Decisions* (rev and expanded ed, Harper Perennial 2010).

² For a recent and excellent review of how companies can implement specific choice architecture to their benefit, see Competition and Markets Authority, ‘Online Choice Architecture – How Digital Design Can Harm Competition and Consumers’ (2022) Discussion Paper CMA155 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066524/Online_choice_architecture_discussion_paper.pdf accessed 10 May 2022.

³ Commission decision of 18 July 2018, case AT.40099, *Google Android*.

4. In other words, when done consciously, companies use well-known cognitive biases to influence consumers' behaviour, lure them towards their products and services and steering them away from rivals. Exploiting consumers' behavioural biases is an insidious practice because the vast majority of consumers will not be aware that they are prone to biases and boundedly rational behaviour and that companies are actively taking advantage of them. And even where they are aware, may nevertheless not be able to avoid them.⁴ This could risk creating a race to the bottom where companies start to compete not on the normal parameters of competition—*inter alia* price, choice, quality, and innovation—but on the pervasiveness and the degree to which cognitive biases are exploited.⁵

5. The recently agreed Digital Markets Act (DMA) includes provisions that would prevent large online platforms designated as “gatekeepers” from taking advantage of consumer biases to circumvent the obligations imposed on them by the DMA.⁶ While recourse to regulatory action targeting identified behavioural biases is beneficial to address systemic and market-specific concerns,⁷ strengthening competition enforcement with insights from behavioural economics should lead to a better and more realistic analysis of how (consumer-facing) markets function, and in particular how dominant firms can abuse their dominant position. The rest of this note looks at how competition authorities have integrated consumer behaviour and behavioural biases into their assessment and how consumer organisations can contribute their expertise and evidence to help competition authorities to do this. Finally, it considers how that collaboration could be improved and strengthened in the future.

2. The role of behavioural insights in competition law enforcement

6. **The avant-garde cases.** In the European Union, one of the earliest cases where consumer behaviour was taken into account as part of the competition analysis was the 2004 *Microsoft Windows Media Player* case.⁸ This was followed in 2009 by the *Microsoft Internet Explorer* case.⁹ In both cases, the Commission took account of consumer behaviour and cognitive biases such as the power of defaults and the *status quo* bias.¹⁰

⁴ Competition and Markets Authority (n 2) 6, 43.

⁵ *ibid* 7.

⁶ For a final version text of the proposal as agreed by the Council and the European Parliament after the trilogues, *see* Council of the European Union, Proposition de Règlement du Parlement européen et du Conseil relatif aux marchés contestables et équitables dans le secteur numérique (législation sur les marchés numériques) - Lettre du président du COREPER à la présidente de la Commission IMCO, May 2022, 2020/0374(COD), 8722/22, <https://data.consilium.europa.eu/doc/document/ST-8722-2022-INIT/x/pdf> accessed 20 May 2022.

⁷ For a discussion of how ex-ante regulation can complement and address certain gaps in competition law, *see* BEUC, ‘Ex-Ante Regulation and Competition in Digital Markets – Note by BEUC’ (2021) DAF/COMP/WD(2021)66 <https://www.oecd.org/daf/competition/ex-ante-regulation-and-competition-in-digital-markets.htm> accessed 10 December 2021.

⁸ Commission decision of 24 March 2004, Case COMP/C-3/37.792, *Microsoft*.

⁹ Commission decision of 16 December 2009, Case COMP/C-3/39.530, *Microsoft (tying)*.

¹⁰ For a brief overview of both cases, *see* Matthew Bennet, ‘Integrating Consumer Behaviour Insights in Competition Enforcement – Background Note’ (Organisation for Economic Co-operation and Development 2022) DAF/COMP(2022)8 19–20.

7. **Behavioural economics and competition authorities.** In recent years, competition authorities have, in addition to other evidence of consumer behaviour gleaned for example from surveys, increasingly come to consider and integrate insights from behavioural economics.¹¹ For example, in 2010, the UK Office of Fair Trading—the predecessor of the Competition and Markets Authority—considered the importance of advancing these economic theories in the enforcement of competition law. Even if it considered that behavioural economics would not lead to a Copernican change in the way the authorities work, it saw the value in better understanding consumer biases in particular for the appropriate design of remedies.¹²

8. In the EU, the relevance and influence of behavioural insights can also be observed in particular in the work of the Dutch NCA (Autoriteit Consument & Markt) which has a team of psychologists supporting the authority in enforcing consumer and competition laws. For example, a 2013 position paper considered the complementary role that behavioural economics could have in individual competition cases by incorporating consumer biases as qualitative evidence.¹³ In the famous case of “The Chicken of Tomorrow”, the Dutch authority relied on consumer surveys to identify the amount consumers would be willing to pay for sustainably produced poultry in the Netherlands in order to assess whether industry agreements led to a restriction of competition.¹⁴

9. **Recent developments.** This shift is also visible in the work of the European Commission when it comes to antitrust enforcement. While the two *Microsoft* cases were early examples of competition cases where behavioural insights were implicitly integrated, more recent cases, especially those focused on online platforms, integrate more explicitly elements borrowed from behavioural economics. The Commission has come to acknowledge how important consumer behaviour is, be it for defining the relevant market

¹¹ Steffen Huck, Jidong Zhou and Charlotte Duke, ‘Consumer Behavioural Biases in Competition – A Survey’ (Office of Fair Trading 2011) OFT1324; Oxera, ‘Behavioural Economics and Its Impact on Competition Policy. A Practical Assessment with Illustrative Examples from Financial Services’ (2013) Report prepared for The Netherlands Authority for Consumers and Markets; Autoriteit Consument & Markt, ‘Behavioural Economics and Competition Policy’ (2013) https://www.acm.nl/sites/default/files/old_publication/publicaties/11586_acm-behavioural-economics-competition-policy.pdf accessed 1 March 2021; Competition and Markets Authority (n 2). For an example of competition authority outside of the European Union, see Australian Competition and Consumer Commission, ‘Digital Platforms Inquiry: Preliminary Report’ (2018) ACCC 11/18_1464.

¹² Office of Fair Trading, ‘What Does Behavioural Economics Mean for Competition Policy?’ (2010) OFT1224 https://webarchive.nationalarchives.gov.uk/ukgwa/20140402182927/http://www.of.gov.uk/shared_of/economic_research/of1224.pdf accessed 10 May 2022.

¹³ Autoriteit Consument & Markt, “Behavioral Economics and Competition Policy” (2013), p. 17, <https://www.acm.nl/sites/default/files/old_publication/publicaties/11586_acm-behavioural-economics-competition-policy.pdf> accessed 29 May 2018.

¹⁴ Autoriteit Consument & Markt, “ACM’s analysis of the sustainability arrangements concerning the ‘Chicken of Tomorrow’” (2014), <https://www.acm.nl/sites/default/files/old_publication/publicaties/13789_analysis-chicken-of-tomorrow-acm-2015-01-26.pdf.pdf> accessed 29 May 2018.

(whether in the context of merger review or abuse of dominance),¹⁵ assessing the negative effects of an abuse of a dominant position or designing appropriate remedies.¹⁶

10. **The Google cases.** Two recent cases pursued by the European Commission highlight the relevance and usefulness of behavioural insights for the enforcement of competition law, though as Amelia Fletcher says, these cases are the “tip of the behavioural iceberg” in antitrust enforcement.¹⁷ In the *Google Shopping* and *Google Android* cases, the behaviour of consumers was an integral part of the assessment since consumers’ cognitive biases were used by the dominant company to exclude rivals.¹⁸ BEUC took part in the administrative procedure in both cases as an interested third party and then before the General Court after Google appealed these Commission decisions.¹⁹

11. **The Google Shopping case.** In its assessment of Google’s anti-competitive practices, the Commission considered the behaviour of consumers when using an Internet search engine—consumers focus on the first few results at the top of the page and tend to ignore the results displayed below the ‘fold’, the part of the screen that is not immediately visible²⁰—and concluded that Google’s tactics of relegating its rivals to subsequent pages made them virtually invisible to consumers.²¹ In 2021, the judgment of the General Court confirmed the Commission’s decision.²² In upholding the decision in its near entirety, the General Court confirmed the Commission’s analytical approach and, in many places, cited its assessment of consumers’ behaviour when using Internet search engines. The General Court also agreed with the Commission’s conclusion that the ‘sponsored’ label next to Google’s own shopping services was not

*“readily understood by the majority of internet users as meaning that results from Google’s comparison shopping service and results from competing comparison shopping services are ranked according to different mechanisms and that, therefore, those competing comparison shopping services may be demoted and displayed in a less visible manner in the general results pages [...] simply because they are not Google’s own results.”*²³

¹⁵ Valdani Vicari & Associati and others, ‘Support Study Accompanying the Evaluation of the Commission Notice on the Definition of Relevant Market for the Purposes of Community Competition Law: Final Report’ (European Commission 2021) <https://data.europa.eu/doi/10.2763/46075> accessed 24 May 2022.

¹⁶ On the importance of behavioural economics in the design of appropriate remedies in abuse of dominance cases, see BEUC, ‘Abuse of Dominance in Digital Markets – Contribution from BEUC’ (2020) DAF/COMP/GF/WD(2020)1 [https://one.oecd.org/document/DAF/COMP/GF/WD\(2020\)1/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2020)1/en/pdf) accessed 21 October 2021; Bennet (n 10) 9-21–22.

¹⁷ Amelia Fletcher, ‘The EU google decisions: Extreme enforcement or the tip of the behavioral iceberg?’ (2019), CPI Antitrust Chronicle January 2019.

¹⁸ Commission decision of 18 July 2018, case AT.40099, *Google Android*; Commission decision of 27 June 2017, case AT. 39740, *Google Search (Shopping)*.

¹⁹ Judgment of 10 November 2021, *Google Shopping*, T-612/17, ECLI:EU:T:2021:763; Action brought on 9 October 2018, *Google Android*, Case T-604/18, [2018] OJ C 445/21 (pending).

²⁰ Commission decision of 27 June 2017, case AT. 39740, *Google Search (Shopping)*, para. 456.

²¹ Commission decision of 27 June 2017, case AT. 39740, *Google Search (Shopping)*.

²² Judgment of 10 November 2021, *Google Shopping*, T-612/17, ECLI:EU:T:2021:763.

²³ Judgment of 10 November 2021, *Google Shopping*, T-612/17, ECLI:EU:T:2021:763; para. 313.

12. In other words, Internet users cannot be assumed to pay attention to a small ‘sponsored’ label displayed next to the search results provided nor to be aware of Google’s ranking algorithm, which led to the demotion of rival comparison shopping sites.²⁴ By extension and more generally, it would be unrealistic to expect Internet users to understand the functioning of Google’s complex algorithms. The judgment of the General Court confirms that in a competition assessment, taking advantage of consumer behaviour to gain an anti-competitive edge over rivals can be a relevant factor.

13. **The *Google Android* case.** In this case, the Commission also considered the behaviour of consumers when using their mobile phones and how they make Internet searches on their devices. The Commission found that Google had essentially exploited known cognitive biases such as *status quo* bias created by pre-installation and consumer inertia.²⁵ During the administrative phase, BEUC stressed the role that pre-installation and default options played in discouraging consumers from discovering alternatives to Google. In addition, following Google’s appeal of the Commission decision,²⁶ BEUC gathered substantial evidence from its members to support the definition of the relevant markets in the decision which Google contested.²⁷ This shows that consumer organisations can contribute substantial amount of expertise and knowledge, even in complex antitrust investigation and judicial proceedings.

14. **Remedies in *Google Android*.** The remedies implemented by Google to comply with the Commission’s decision in the *Google Android* case have been heavily criticised by market participants.²⁸ While the fundamental idea was to restore competition harmed by Google’s abusive practices by counteracting consumers’ inertia and *status quo* bias, the initial outcome was arguably far from satisfactory. The idea was that Google would present users with a choice screen where they could select their preferred search engine from among a list of rivals’ services. However, the way Google implemented it was far from ideal according to its rivals; Google created an auction model where rival search engines would have to bid to be featured on that choice screen. As DuckDuckGo, a rival search engine, predicted in early 2020 prior to the implementation of the choice screen,²⁹ popular rival search engines were quickly priced-out of the auction and became once again invisible to consumers.³⁰ Instead, the search engines that appeared alongside Google on the choice

²⁴ Judgment of 10 November 2021, *Google Shopping*, T-612/17, ECLI:EU:T:2021:763; para. 313.

²⁵ For a brief overview of the main cognitive biases affecting consumer behaviour, see Bennet (n 10).

²⁶ For a brief overview of Google’s pleas, see Action brought on 9 October 2018, *Google Android*, Case T-604/18, [2018] OJ C 445/21 (pending).

²⁷ For a brief overview of Google’s pleas, see Action brought on 9 October 2018, *Google Android*, Case T-604/18, [2018] OJ C 445/21 (pending).

²⁸ For example, five of the main search engines in the European Union called on the Commission to review and improve the choice-screen to ensure it would more effective. See, DuckDuckGo and others, ‘Open Letter to European Commission: Request for Trilateral Meeting among Google, the EC, and Alternative Search Engines to Improve Search Preference Menu’ (*DuckDuckGo*, 27 October 2020) <https://spreadprivacy.com/trilateral-search-meeting/> accessed 5 May 2022.

²⁹ DuckDuckGo, ‘Search Preference Menus: No Auctions Please’ (*Search Preference Menus*, 10 March 2020) <https://spreadprivacy.com/search-preference-menu-auctions/> accessed 2 May 2022.

³⁰ Natasha Lomas, ‘Google’s “No Choice” Screen on Android Isn’t Working, Says Ecosia — Querying the EU’s Approach to Antitrust Enforcement’ (*TechCrunch*, 30 July 2020) <https://social.techcrunch.com/2020/07/30/googles-no-choice-screen-on-android-isnt-working-says-ecosia-querying-the-eus-approach-to-antitrust-enforcement/> accessed 16 November 2020; Natasha

screen were sometimes small and unknown players.³¹ This first iteration of the choice screen did little to reintroduce effective competition in the market because it was likely that consumers would select Google from a list of other search engines they have never heard of.³²

15. **An updated choice screen.** In June 2021, Google announced that it would change how the choice screen worked, the auction model was removed and up to five search engines—based on their popularity in the respective Member States—would be featured in the choice-screen.³³ Those changes had a significant impact on which search engines were displayed and finally seem to offer users the real possibility to quickly and easily switch to their preferred search engine.³⁴ When designing remedies in consumer-facing markets, the Commission and NCAs should strive to consider how consumers will react in practice and if the remedies will be able to effect sufficient change to restore effective competition. In the case of the first choice screen, consumers reacted by selecting the incumbent since they were not familiar with the other options presented, which was an unfortunate consequence of the auction model. Therefore, BEUC considers that when remedies are consumer-facing, competition agencies should systematically integrate insights from behavioural economics,³⁵ and more generally test how they can be expected to behave in practice. The prevalence of consumer biases is substantial and can significantly impact the effectiveness and success of a specific remedy. We encourage competition agencies to

Lomas, ‘Google to Auction Slots on Android Default Search “Choice Screen” in Europe next Year, Rivals Cry “Pay-to-Play” Foul’ (*TechCrunch*, 2 August 2019) <https://social.techcrunch.com/2019/08/02/google-to-auction-slots-on-android-default-search-choice-screen-in-europe-next-year-rivals-cry-pay-to-play-foul/> accessed 16 November 2020; Natasha Lomas, ‘Google’s EU Android Choice Screen Isn’t Working Say Search Rivals, Calling for a Joint Process to Devise a Fair Remedy’ (*TechCrunch*, 27 October 2020) <https://social.techcrunch.com/2020/10/27/googles-eu-android-choice-screen-isnt-working-say-search-rivals-calling-for-a-joint-process-to-devise-a-fair-remedy/> accessed 10 May 2022.

³¹ Natasha Lomas, ‘Europe’s Android “Choice” Screen Keeps Burying Better Options’ (*TechCrunch*, 8 March 2021) <https://social.techcrunch.com/2021/03/08/europes-android-choice-screen-keeps-burying-better-options/> accessed 3 May 2022.

³² For example, the choice screen in Greece from January until March 2021 featured Google, GMX, info.com, PrivacyWall, and Yandex. For a list of the winners of the auction in each Member States for that period, see Google, ‘Choice Screen Auction Options – Period Q1 2021’ (*Android*, 25 February 2021) <https://web.archive.org/web/20210225154351/https://www.android.com/choicescreen-winners/> accessed 18 February 2022.

³³ Oliver Bethell, ‘Changes to the Android Choice Screen in Europe’ (*The Keyword*, 8 June 2021) <https://blog.google/around-the-globe/google-europe/changes-android-choice-screen-europe/> accessed 3 May 2022.

³⁴ For an overview of the top five options in each Member States during the period between September 2021 and August 2022, see ‘Choice Screen Options – Period: September 2021 - August 2022’ (*Android*) <https://web.archive.org/web/20220502125116/https://www.android.com/choicescreen-winners/> accessed 2 May 2022.

³⁵ Amelia Fletcher, ‘The Role of Demand-Side Remedies in Driving Effective Competition A Review for Which?’ (2016) <https://www.regulation.org.uk/library/2016-CCP-Demand-Side-Remedies.pdf> accessed 5 May 2022.

rigorously test consumer-facing remedies on consumers themselves (in randomized controlled trials) to determine whether the remedial objectives are achieved.³⁶

16. **The two Amazon investigations.** Two investigations into Amazon’s practices are currently open at the European level. The first one focuses on Amazon’s use of confidential third-party seller data, whereas the second one investigates the Amazon Prime label and the “Buy Box”.³⁷ Notwithstanding the connections between the two cases, the Commission has only sent a statement of objections in the first case where BEUC contributed as an interested third party. While no statement of objections has been issued in the second case, the online choice architecture of Amazon Prime membership as well as the behaviour of consumers vis-à-vis the Buy Box could be important in the competitive assessment. For example, a study by our Norwegian member Forbrukerrådet shows how Amazon uses dark patterns to discourage users from cancelling their Amazon Prime membership.³⁸ Many recent reports have also highlighted the same concerns.³⁹

17. **Apple and music streaming apps.** BEUC has also submitted its observations in the still ongoing Commission investigation into Apple’s restrictive practices regarding rival music streaming services.⁴⁰ For example, BEUC collected evidence from its members relevant to the definition of the relevant markets, Apple’s market power, and the effects Apple’s practices on consumers.⁴¹

18. **Realistic view of how markets function.** The examples given above show that by being in close contact with consumers—for example through consumer surveys or receiving and handling consumer complaints—consumer organisations are able to acquire information and expertise and develop a deep understanding of consumers’ preferences,

³⁶ Vanessa Turner, ‘Regulation 2: Remedies in Antitrust Cases under EU Competition Law’ [2020] *Journal of European Competition Law & Practice* 6.

³⁷ For a brief overview of both investigations, see European Commission, ‘Antitrust: Commission Sends Statement of Objections to Amazon for the Use of Non-Public Independent Seller Data and Opens Second Investigation into Its e-Commerce Business Practices’ (2020) Press release IP/20/2077 https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2077.

³⁸ Forbrukerrådet, ‘You Can Log Out, But You Can Never Leave: How Amazon Manipulates Consumers to Keep Them Subscribed to Amazon Prime’ (14 January 2020) <https://fil.forbrukerradet.no/wp-content/uploads/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-final.pdf> accessed 16 January 2021.

³⁹ Anouch Seydtaghia, ‘Comment Amazon & Co. Nous Manipulent Grâce Aux «dark Patterns»’ *Le Temps* (14 January 2021) <https://www.letemps.ch/economie/amazon-co-manipulent-grace-aux-dark-patterns> accessed 12 May 2022; Ben Brody, ‘The FTC Is Going after Dark Patterns. That’s Bad News for Amazon Prime.’ (*Protocol*, 25 April 2022) <https://www.protocol.com/policy/dark-patterns-subscriptions-ftc-amazon> accessed 3 May 2022; Eugene Kim, ‘Internal Documents Show Amazon Has for Years Knowingly Tricked People into Signing up for Prime Subscriptions. “We Have Been Deliberately Confusing,” Former Employee Says.’ (*Business Insider*, 14 March 2022) <https://www.businessinsider.com/amazon-prime-ftc-probe-customer-complaints-sign-ups-internal-documents-2022-3> accessed 3 May 2022.

⁴⁰ BEUC, ‘BEUC Joins European Commission Investigation into Apple for Distorting Competition in Music Streaming’ (2021) BEUC-PR-2021-017 https://www.beuc.eu/publications/beuc-pr-2021-017_beuc_joins_european_commission_investigation_into_apple_music_streaming.pdf accessed 11 May 2022.

⁴¹ For a brief overview of the Commission’s investigation, see European Commission, ‘Commission Sends Statement of Objections to Apple on App Store Rules for Music Streaming Providers’ (2021) IP/21/2061 https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2061.

how they behave and interact with the products and services of companies that might come under the antitrust spotlight. With the support of its members, BEUC has, and will continue to, provide competition authorities with a realistic view of how consumer-facing markets work in practice, not in theory, and to dispel the *Homo economicus* paradigm.

3. Recommendations for competitions authorities

19. We would like to offer three key recommendations for competition agencies when they face future cases where consumers' behaviour is critical to the concerns at issue.

20. **Dialogue between NCAs and consumer organisations.** First, the examples presented illustrate that consumer organisations have practical expertise and knowledge of how certain consumer-facing markets function and how consumers behave in those markets. They can provide competition agencies with insights into problems faced by consumers in markets and how to remedy them. Competition authorities have gradually integrated insights from behavioural economics in their work and have started to consider consumers' *actual* behaviour rather than their *expected* behaviour. Nonetheless, there is still scope to improve the cooperation between competitions authorities and consumer organisations. The latter are ready to contribute their expertise and factual evidence to help and support the work on competition authorities.

21. **Resources and tools for NCAs.** Second, competition authorities should have the necessary experts, resources, and tools to assess consumer behaviour where it is part of a competition case. This is essential when consumer biases can influence the definition of the relevant market, the market power of the companies involved, the anti-competitive effects of the conduct, or the design of remedies. Authorities should rely on solid behavioural economics literature, use previous and existing surveys and studies, or might even need to conduct their own experiments and testing—this is especially important in the context of remedies where ill-designed remedies might be at best ineffective, and at worst counterproductive.⁴² The anti-competitive effects generated by practices in consumer-facing markets and their more direct harmful impact on consumers should encourage competition authorities to dedicate sufficient resources to tackling those concerns, and this should be reflected in their enforcement priorities.

⁴² For a discussion of the importance and difficulty of designing effective remedies, see BEUC, 'Abuse of Dominance in Digital Markets – Contribution from BEUC' (n 16) 5–11.