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Distinguishing normal competition from firm behaviour that harms the process of competition poses a conundrum for regulators and courts. In Australia a "purpose or effects" test is used to detect conduct by a firm with substantial market power that substantially lessens competition in a market or markets, if the conduct occurs after 6 November 2017. A recently proposed alternative is to replace this framework and the increasingly controversial market structure analytics which complement it with a market manipulation test. If adopted, market manipulation of the efficient operation of the market mechanism would constitute market misconduct. This article evaluates this contribution in the context of existing Australian law and jurisprudence, and concludes that while quite promising, it is not yet developed enough to achieve its stated objectives. Its present significance lies in its re-conceptualisation of key concepts in the competition misconduct jurisprudence.

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