

Press Release

Lisbon Commercial Court rules on Competition Authority case against pharmaceutical companies

On 7 January 2010, Lisbon Commercial Court communicated the text of its verdict in the case against the undertakings Abbott Laboratórios Lda, Menarini Diagnósticos Lda and Johnson & Johnson Lda. In this verdict (available for consultation in its entirety at the Competition Authority site, www.concorrenca.pt) the court ruled that, in total, 63 breaches of the competition rules were proven.

The court confirmed the CA's decision, in which it declared these undertakings guilty of 63 breaches of the national competition rules. The decisions of the CA and Lisbon Commercial Court are in agreement on the number (63) of breaches of the national competition-law rules committed by the undertakings, as well as on the objective and subjective elements of the defendants' conduct and on the seriousness of each of the 63 breaches carried out.

In the case judged in the Lisbon Commercial Court, the above 3 defendants contested the ruling by the CA, which had fined them a total of € 10 470 435.44. The court imposed the following fines on the same defendants: Abbott (35 breaches) €3 000 000.00; Menarini (27 breaches) €2 000 000.00 and Johnson & Johnson (1 breach) €70 000,00. These fines amount to a total of €5 000 070.00.

According to the verdict handed down by Lisbon Commercial Court, the exact values of the unlawful economic gains accruing to the defendants from the breaches were not proven; as a consequence, the exact value of the damage caused to the public treasury by the same conduct was also unproven. Thus, in setting the amount of the fine, the Court considered the high degree of the defendants' guilt, on the one hand, and, on the other, the fact that the breaches afforded the defendants unlawful economic gains that resulted in a loss to the public treasury.

Lisbon, 12 January 2010