

Competition policy priorities for 2021

Following four years of focusing, with significant results, on combating cartels and other harmful practices to consumers and firms, the Portuguese Competition Authority (AdC) will continue in 2021 to defend economic activity from such practices. Despite the pandemic, the Authority was able to carry out its mission during 2020. In 2021, it will be important not only to consolidate the AdC's investigation pace, but also to affirm with the legislative decision-maker the principle of an economy open to competition so that such principle underlies the economic recovery.

The priorities of the AdC in 2021 are, in summary:

- . to support the Portuguese economy by keeping a focus on detecting and sanctioning abuses and other anti-competitive behavior that exploit the current situation, to the detriment of households and firms;
- . to investigate signs of abuse and collusion in a digital environment, given the partial shift in the risk of anticompetitive behavior to electronic commerce;
- . contribute to the economic recovery by promoting the elimination of structural and legal barriers, such as those to professional mobility and to corporate innovation.

For the AdC, 2021 will bring more effective powers to combat behavior harmful to consumer welfare. The transposition of the ECN+ Directive will confirm the importance for EU Member States, of eradicating abuse of dominance and collusion between firms. This principle was

affirmed more than 60 years ago in the Treaty of Rome; it was confirmed in the Treaty on the Functioning of the European Union; and it is now reinforced in terms of the means to defend such principle. It is a reinforcement that is accompanied by a sense of responsibility and a strict safeguard of defense rights.

Throughout 2020, the Authority focused on ensuring the continuity of its mission and the fulfillment of its priorities, in order to protect firms and consumers from an unexpected context which potentially put them in a fragile situation.

This context is not yet over. Thus, in 2021, the AdC will remain vigilant in detecting abuses or anti-competitive behavior that exploit the current situation, for example in terms of price fixing or market sharing, at any level of the supply chain, including in electronic commerce. Such behavior tends, in the current context, to aggravate the situation of households and the economy.

In line with the European competition network (ECN), of which the AdC is an active member, the Authority demonstrated to be available, in 2020 and in an exceptional context, to provide individual companies with informal guidance so as not to discourage them to adopt forms of cooperation that aim to benefit consumers and the economy, as long as these were temporary, proportionate and objectively necessary to face scarcity of supply. While it is not excluded that such situations may reoccur, it is important to remind firms, sector associations and also public sphere decision-makers that companies must be free to act in the market in an independent manner.

In 2021, the AdC will continue to focus on consumer welfare and on the most harmful types of behavior. The year will unfold with economic difficulties hitting several households as well as

firms. In this context, it is important to enforce competition rules, as these enable (1) greater choice in terms of price and quality; (2) greater economic initiative.

Circumstances of the past months, which required significant social distancing, have resolutely boosted e-commerce. This happened alongside the digitization of numerous markets, a trend which will continue fast-paced throughout 2021. With such developments, the risk of abuse and collusion has all the likelihood of being partly displaced to the digital environment.

With this in mind, the reasons which underpinned the creation, in 2020, of an inter-departmental digital task force will remain valid in 2021. It will thus be the AdC's priority to protect and enhance competitive dynamics in the digital economy. The Authority will be ready to investigate strong signs of market foreclosure to new players through exclusionary strategies.

Competition issues in the digital space have also been chosen as a priority, among others, by the European Commission. In the first half of 2021, the AdC will be providing support to Portugal's Presidency of the European Union on competition policy matters.

In 2021, the AdC will seek to contribute to the economic recovery by reinforcing recommendations aimed at eliminating unnecessary barriers to corporate and professional initiative. By eliminating barriers in different careers, unemployment may be more easily reduced, allowing for professional retraining. By eliminating barriers to innovative firms, the economy may recover from the past year with sufficient agility and resilience for the next decade. Contributing to such agility means removing, *inter alia*, structural and legal barriers that hinder innovation, efficiency and growth. The numerous barriers identified in 2018 for a set of liberal professions in Portugal by the OECD, together with the AdC, still persist to date.

Thus, in these as in other areas, the AdC will be available to contribute, with a view on competition impact, to the public decision-making process. And will continue, whenever relevant, to issue opinions during the legislative process.

In addition, and in line with the recommendations issued in 2020 for the telecommunications sector, the Authority will continue to advocate for stronger competition in areas where consumer mobility is reduced.

In 2021, the AdC will continue to conduct its merger control activity based on an independent and rigorous consumer welfare analysis. Within the scope of the European Commission's initiatives, the AdC takes part in the related debate, including the review of the current legislative instruments and guidelines in several areas.

Conscious that its recent activity has generated accrued visibility on anti-competitive behavior and interest on factors that promote competition and innovation, the AdC will carry out regular initiatives aimed at the community at large, including companies, associations, regulators, students and the State. These initiatives aim to increase society's awareness about behavior expected to avoid or adopt (do's and don'ts), to encourage the reporting of infringements and to prevent the adoption of legislative barriers contrary to Union law.

To sum up, in 2021 the AdC will keep a focus on improving conditions for strong competition in the Portuguese economy. By doing this, it will seek to materialize opportunities which arise through the digital economy and will strive to contribute to economic recovery.

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