

## Competition policy priorities in 2022

In recent years, the Portuguese Competition Authority (AdC) has kept combating cartels and other most harmful behavior as its main priority. Simultaneously, it prioritized economic areas of significant importance to households and firms. This focus, which has yielded continuous and consistent results, is to be kept in 2022.

Moreover, as pandemic contingencies remain and supply chains are strained, the AdC will maintain its efforts to contribute to a resilient economic recovery; one that is structurally beneficial to consumers.

In 2022, the AdC's priorities are as follows:

- Continue to defend the Portuguese economy from anticompetitive behavior, prioritizing the most harmful behavior, such as cartels. Keep a strong focus on investigating behavior which, in current circumstances, has a more detrimental impact to households and firms;
- Investigate, through the AdC's digital task force, strong evidence of abuse, namely by exclusion, and collusion in digital ecosystems;
- Considering current tensions and disruptions in supply chains, contribute to their normal flow, namely by combating anticompetitive behavior;
- Embed competition considerations in current efforts by policy-makers, so as to contribute to a resilient and innovative economic recovery: one that is structurally beneficial to consumers and firms.
- Promote open labor markets which convey more opportunities to workers and which preserve incentives to innovate;
- Continue to communicate the benefits of competition policy to stakeholders, prioritizing outreach initiatives with a stronger

impact in a structurally more innovative and competitive economic recovery.



In 2022, the AdC's priority of defending the Portuguese economy from the most harmful behavior to consumer welfare will be kept. Such behavior includes price fixing and market sharing. With the current social and economic context marked by economic recovery efforts, it is important to enhance competition enforcement as a source of productivity and innovation. A vigorous activity from the AdC contributes to a pro-competitive economic background that supports domestic growth and, subsequently, can catalyze economic development and consumer welfare.

The recent pandemic crisis has accelerated digital transformation, particularly in relation to communication, remote work and e-commerce. Data indicate that more than 51% of consumers<sup>1</sup> in Portugal purchased on-line in 2020.

At the same time, several traditional sectors underwent some form of digitization, which accrued to the risk of abusive or collusive behavior in digital settings. For this reason, the AdC's digital task force, launched in 2020, will remain active in its

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<sup>1</sup> National Statistics Institute (November 2021) at [Statistics Portugal - Web Portal \(ine.pt\)](https://inec.pt/).

mission to detect and investigate such behavior, as well as to monitor digital competition policy initiatives. By prioritizing this area, the AdC aims to protect the competitive dynamics of the market, including innovation and contestability.

This priority is shared by the European Commission, for example through the Digital Markets Act (DMA), whose legislative process is scheduled to be completed in 2022. This marks a priority, for the European Union (EU), in ensuring fairer, open and loyal digital markets. The AdC will continue to contribute to the negotiation of the DMA at EU level next year.

In 2022, the AdC will maintain the appropriate contribution, within its remit, to economic recovery, in particular one that can be structurally beneficial to consumers and businesses. More specifically, the AdC will reinforce the importance of embedding competition into the design and implementation of economic recovery policies. As a driver of productivity and innovation, competition is essential for economic growth.

As indicated in its June 2021 report<sup>2</sup>, the AdC will continue to highlight the importance of (i) removing unnecessary barriers to economic and professional initiative, (ii) ensuring pro-competitive procurement procedures and (iii) being competitively neutral in the State's financial support to firms.

In a context where securing economic recovery and employment play a dominant role, the AdC will also contribute to promoting labor markets which convey new opportunities and support a resilient, innovative and inclusive economy. In 2022, in line with its Report and Guide to best practices on anticompetitive labor market agreements<sup>3</sup>, the AdC will be attentive to *no-poach* and wage-fixing agreements which may arise in any sector. It will also pursue outreach initiatives that raise awareness, among professionals, for this type of anticompetitive behavior.

In view of current tensions in global supply chains, the AdC will contribute to its normal flow by combating anticompetitive behavior that disrupts them or distorts them, in its jurisdiction, to the detriment of consumers. Moreover, through its advocacy work on open and competitive markets, the AdC can indeed contribute to more diversified and secure supply chains. This can avoid disruption that upsets all or part of the value chain.

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<sup>2</sup> AdC (2021), The role of competition in the implementing the economic recovery strategy: [AdC marks European Competition Day by highlighting the contribution of competition to economic recovery | Autoridade da Concorrência \(concorrencia.pt\)](#)

<sup>3</sup> AdC (2021), Labor market agreements and competition policy: [The AdC publishes final Report and Best Practices Guide on anticompetitive agreements in the labor market | Autoridade da Concorrência \(concorrencia.pt\)](#)

With regards to merger control, in the follow-up of the simplification of the notification procedure implemented in 2021, the AdC will continue to seek to be swift and effective in its operation. It will maintain its competition-centered analysis, carried out with independence and accuracy, thus contributing to the proper functioning of markets. Furthermore, the AdC will continue to pay attention to mergers which fail to comply with the obligation of prior notification, or which were implemented prior to their approval (*gun-jumping*).

Finally, in 2022, the AdC will also intensify its communication with stakeholders on the benefits of competition, given that in recent years its action has captured society's growing interest. The AdC will thus organize regular outreach initiatives aimed at the community as a whole, including businesses, associations and students. Combating bid-rigging in public procurement<sup>4</sup>, will continue to be one such initiative given the considerable channeling of public expenditure and investment in the context of economic recovery policies, namely in health and infrastructure.

It should be noted that it is foreseen that the ECN+ Directive<sup>5</sup> will occur in the course of 2022. This will enhance the action of the AdC, in particular by strengthening its powers. The effectiveness of its action should thus be enhanced, similarly to the other EU Member States. The ECN+ Directive yields EU competition authorities scope for a more effective implementation of EU competition rules, in particular Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). This contributes to the proper functioning of the internal market. The transposition of the ECN+ Directive reflects the importance given by EU Member States in ensuring an effective investigation of breaches in compliance to competition law, as well as ensuring deterrent sanctioning policies, all within strict compliance with due process.

December 27, 2021.

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<sup>4</sup> AdC (2021), [Fighting bid-rigging in public procurement | Autoridade da Concorrência \(concorrencia.pt\)](https://www.concorrencia.pt/en/press-releases/2021/09/2021-09-23-fighting-bid-rigging-in-public-procurement)

<sup>5</sup> Directive (EU) 2019/1 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0001>