

Trends in cartel enforcement
2022 International Cartel Workshop

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Margarida Matos Rosa

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Good morning and welcome to Lisbon.

Congratulations to the ABA and the IBA for organizing this international workshop.

Crisis cartels, economic recovery, and inflation

I am very pleased with this opportunity of watching the global antitrust community gathered to discuss cartels.

This is because anti-cartel enforcement has been the focus of the Portuguese Competition Authority for the past years.

I believe this year is special for all of us, enforcers, and practitioners in the private sector.

For a few reasons.

In the current context, we observe increased public spending in the context of recovery strategies. With increased public spending comes increased public procurement and thus a need for a focus, on enforcers' side, on bid-ridding.

Then, firms are reviewing their business models towards new digital and green standards.

Also, workers who were affected by lasting changes due to the Covid crisis are looking for new professional careers.

Finally, global supply chain disruptions and inflation are leading to higher prices.

This is a context that may provide incentives to collusive behavior.

Therefore, enforcers and, you practitioners alike, we must keep high vigilance for the so-called crisis cartels.

We are all aware that crisis cartels are those in which firms affected by a crisis agree to reduce overcapacity and maintain high prices. And this occurs when households and firms alike are under financial strain.

We must therefore do our best so that taxpayers, consumers, workers, and entrepreneurs are not harmed by cartels.

What role is there for competition policy in this complex scenario?

As enforcers, we are meant to prevent, detect, investigate, and when adequate, sanction cartels.

At the Portuguese Competition Authority, only in the past 5 years, we have sanctioned dozens of companies and associations.

We have kept our focus on sectors which are close to consumer needs and sectors that have a horizontal impact on the economy. Food retail, labor markets, telecoms, banking and insurance, public procurement in education, health, or infrastructure. Just to name a few.

You can see why this Workshop is so close to our heart.

Now, you may have seen how Lisbon's city center is lively and open for business. But countries all over the world are still rolling out their recovery plans. This is a fantastic opportunity for competition principles to be incorporated into many public policies. While this is not a topic to be addressed at this workshop, it is worth mentioning that economic recovery and anti-cartel enforcement intersect in many ways.

I mentioned crisis cartels. No-poach agreements and the combat against bid-rigging are other examples.

The AdC has published an Issues Paper on "Labor market agreements and competition policy" along with a guidebook for firms to avoid anticompetitive agreements in such markets. We have also issued a sanctioning decision, and other investigations are underway.

Our view is that employers must adopt an independent and competitive conduct. This will foster efficiency and innovation, which are even more essential in a context of economic recovery.

Another aspect that concurs to a more resilient economic recovery is combatting bid-rigging in public procurement.

We will discuss this in further detail in the next panel.

Let me now turn to the issue of inflation and anti-cartel enforcement.

I might be stating the obvious when I say that anti-cartel enforcement contributes to controlling price levels. While it does not solve inflationary pressures, it is key in deterring conduct that could otherwise make inflation worse.

Competition agencies are aware that, in the current inflationary context, temporary supply chain disruptions or any form of public price announcement may be used to disguise a cartel.

This behavior may even be called "inflation-washing". Competition agencies worldwide are particularly vigilant in this respect.

New whistleblower tool

Finally, a word on the competition enforcers' toolboxes.

Over the years, competition agencies have developed new resources and expertise. This is crucial to keep pace with business models, namely in the digital sphere. But also, to achieve more effective ways to detect cartels.

At the AdC, we have just launched our whistleblower tool for suspected antitrust behavior¹.

This tool will provide further guarantees of anonymity for those wishing to come forward with evidence.

Concluding remarks

Let me conclude by saying that competition authorities are not the only ones standing in the way of cartels.

Cartels may also be avoided by timely legal counseling.

What is more, legal counselling may be key in ending illegal conduct and in prompting cooperation with antitrust agencies.

I wish you a fantastic experience at this workshop.

Thank you.

¹ <https://www.concorrenca.pt/en/faq/how-can-i-report-anti-competitive-practices>